

## State Statutes Permitting Weapon Seizures at Domestic Violence Scenes

### Hawaii

Any police officer who has reasonable grounds to believe that a person has recently assaulted or threatened to assault a family or household member may seize all firearms and ammunition that the police officer has reasonable grounds to believe were used or threatened to be used in the commission of the offense. The police officer may seize any firearms or ammunition that are in plain view of the officer or were discovered pursuant to a consensual search, as necessary for the protection of the officer or any family or household member.

### Illinois

a) Whenever a law enforcement officer has reason to believe that a person has been abused by a family or household member, the officer shall immediately use all reasonable means to prevent further abuse, including (1) Arresting the abusing party, where appropriate; (2) If there is probable cause to believe that particular weapons were used to commit the incident of abuse, subject to constitutional limitations, seizing and taking inventory of the weapons;

### Montana

(1) A peace officer who responds to a call relating to partner or family member assault shall seize the weapon used or threatened to be used in the alleged assault.

### Nebraska

(1) Incident to an arrest under section 28-323, a peace officer:

- (a) Shall seize all weapons that are alleged to have been involved or threatened to be used; and
- (b) May seize any firearm and ammunition in the plain view of the officer or that is discovered pursuant to a search authorized or consented to by the person being searched or in charge of the premises being searched, as necessary for the protection of the officer or any other person.

### New Hampshire

Whenever any peace officer has probable cause to believe that a person has been abused, as defined in RSA 173-B:1, that officer shall use all means within reason to prevent further abuse including, but not limited to: (a) Confiscating any deadly weapons involved in the alleged domestic abuse and any firearms and ammunition in the defendant's control, ownership, or possession.

## New Jersey

(1) In addition to a law enforcement officer's authority to seize any weapon that is contraband, evidence or an instrumentality of crime, a law enforcement officer who has probable cause to believe that an act of domestic violence has been committed shall: (b) upon observing or learning that a weapon is present on the premises, seize any weapon that the officer reasonably believes would expose the victim to a risk of serious bodily injury.

## Ohio

If a peace officer described in division (A) of this section responds to a report of an alleged incident of the offense of domestic violence or an alleged incident of the offense of violating a protection order and if the circumstances of the incident involved the use or threatened use of a deadly weapon or any person involved in the incident brandished a deadly weapon during or in relation to the incident, the deadly weapon that was used, threatened to be used, or brandished constitutes contraband, and, to the extent possible, the officer shall seize the deadly weapon as contraband pursuant to Chapter 2981.

## Oklahoma

Each peace officer of this state shall seize any weapon or instrument when such officer has probable cause to believe such weapon or instrument has been used to commit an act of domestic abuse as defined by Section 60.1 of this title, provided an arrest is made, if possible, at the same time.

## Pennsylvania

The arresting police officer shall seize all weapons used by the defendant in the commission of the alleged offense.

## Tennessee

(1) If a law enforcement officer has probable cause to believe that a criminal offense involving domestic abuse against a victim, as defined in § 36-3-601, has occurred, the officer shall seize all weapons that are alleged to have been used by the abuser or threatened to be used by the abuser in the commission of a crime.

(2) Incident to an arrest for a crime involving domestic abuse against a victim, as defined in § 36-3-601, a law enforcement officer may seize a weapon that is in plain view of the officer or discovered pursuant to a consensual search, if necessary for the protection of the officer or other persons; provided, that a law enforcement officer is not required to remove a weapon such officer believes is needed by the victim for self defense

## Utah

A law enforcement officer who responds to an allegation of domestic violence shall use all reasonable means to protect the victim and prevent further violence, including . . . confiscating the weapon or weapons involved in the alleged domestic violence

## West Virginia

Whenever any person is arrested pursuant to the provisions of this article or for a violation of an order issued pursuant to section five hundred nine or subsections (b) and (c), of section six hundred eight, article five of this chapter the arresting officer, subject to the requirements of the Constitutions of this state and of the United States:

- (1) Shall seize all weapons that are alleged to have been involved or threatened to be used in the commission of domestic violence;
- (2) May seize a weapon that is in plain view of the officer or was discovered pursuant to a consensual search, as necessary for the protection of the officer or other persons; and
- (3) May seize all weapons that are possessed in violation of a valid protective order

## Alaska

If a peace officer investigating a crime involving domestic violence determines that it is necessary to protect the victim or the victim's family from domestic violence or to protect the officer or the public during the investigation, the officer may (1) seize a deadly weapon in plain view of the officer, and (2) if a deadly weapon was actually possessed during or used in the domestic violence, seize all deadly weapons owned, used, possessed, or within the control of the alleged perpetrator.

## Arizona

A peace officer may question the persons who are present to determine if a firearm is present on the premises. On learning or observing that a firearm is present on the premises, the peace officer may temporarily seize the firearm if the firearm is in plain view or was found pursuant to a consent to search and if the officer reasonably believes that the firearm would expose the victim or another person in the household to a risk of serious bodily injury or death. A firearm that is owned or possessed by the victim shall not be seized unless there is probable cause to believe that both parties independently have committed an act of domestic violence.

## Connecticut

Whenever a peace officer determines that a family violence crime has been committed, such officer may seize any firearm or electronic defense weapon, as defined in section 53a-3, at the location where the crime is alleged to have been committed that is in the possession of any person arrested for the commission of such crime or suspected of its commission or that is in plain view.

## Indiana

A law enforcement officer may confiscate and remove a firearm, ammunition, or a deadly weapon from the scene if the law enforcement officer has: (1) probable cause to believe that a crime involving domestic or family violence has occurred; (2) a reasonable belief that the firearm, ammunition, or deadly weapon: (A) exposes the victim to an immediate risk of serious bodily injury; or (B) was an instrumentality of the crime involving domestic or family violence; and (3) observed the firearm, ammunition, or deadly weapon at the scene during the response.

## Maryland

When responding to the scene of an alleged act of domestic violence, as described in this subtitle, a law enforcement officer may remove a firearm from the scene if:

- (1) the law enforcement officer has probable cause to believe that an act of domestic violence has occurred; and
- (2) the law enforcement officer has observed the firearm on the scene during the response.