

## 6. **State Laws Authorizing Law Enforcement to Remove Firearms or Ammunition at the Scene of a Domestic Violence Incident**

About a third of the states require or authorize law enforcement officers to remove firearms when they arrive at the scene of a domestic violence incident. These laws vary in terms of whether removal is required or simply authorized, which firearms must be removed, and the length of time that must pass after the incident before the firearms can be returned.

For laws regarding law enforcement removal of firearms from dangerous people generally, see the section entitled “Removal of Firearms from Individuals Shown to Be Dangerous” in our summary on [Categories of Prohibited People](#).

### a. *States Requiring or Authorizing the Removal of Firearms at the Scene of a Domestic Violence Incident:*

The following states require, rather than simply authorize, law enforcement to remove at least some firearms at the scene of a domestic violence incident:

California<sup>118</sup>  
Hawaii<sup>119</sup>  
Illinois<sup>120</sup>  
Montana<sup>121</sup>  
Nebraska<sup>122</sup>  
New Hampshire<sup>123</sup>  
New Jersey<sup>124</sup>  
Ohio<sup>125</sup>  
Oklahoma<sup>126</sup>  
Pennsylvania<sup>127</sup>  
Tennessee<sup>128</sup>  
Utah<sup>129</sup>  
West Virginia<sup>130</sup>

The following states authorize, but do not require, law enforcement to remove firearms at the scene of a domestic violence incident: Alaska,<sup>131</sup> Arizona,<sup>132</sup> Connecticut,<sup>133</sup> Indiana,<sup>134</sup> and Maryland.<sup>135</sup>

b. *Firearms Subject to Removal:* The most comprehensive approach requires law enforcement to remove all firearms in the abuser’s possession, ownership or control.

- In New Hampshire, law enforcement must remove all firearms and ammunition in an abuser’s control, ownership, or possession whenever law enforcement has probable cause to believe that a person has been abused.<sup>136</sup>
- Connecticut authorizes, but does not require, the removal of all firearms and ammunition at the location where domestic violence is alleged to have been committed if the firearms or ammunition are in the possession of the suspect or in plain view.<sup>137</sup>

Other states allow the removal of only certain firearms, or allow the removal of firearms only if certain conditions are met:

- In New Jersey, law enforcement must remove firearms observed at the scene if law enforcement has probable cause to believe domestic violence has occurred and reasonably believes these firearms expose the victim to danger.<sup>138</sup>
- In California, law enforcement officers who are at the scene of a domestic violence incident involving a threat to human life or a physical assault must take temporary custody of any firearm in plain sight or discovered pursuant to a consensual or other lawful search.<sup>139</sup>
- In Hawaii, a police officer who believes that a person recently assaulted or threatened to assault a family or household member must seize all firearms and ammunition that were used or threatened to be used in the commission of the offense, and may seize all firearms in plain view, or discovered pursuant to a consensual search, as necessary for the protection of the officer or any family or household member.<sup>140</sup>

Many states, such as Oklahoma,<sup>141</sup> have even weaker laws, and only allow the seizure of firearms used in the incident, and only if the abuser is simultaneously arrested.

*c. Duration of the Removal:* State laws vary with respect to the duration of the removal of firearms from domestic abusers.

- Of the states that specify a duration, Ohio law is the strictest, requiring firearms seized at the scene of a domestic violence incident to be given (permanently) to law enforcement, sold at public auction, or destroyed, although this law only applies to firearms used, brandished, or threatened to be used in the incident.<sup>142</sup>
- Some states, such as Illinois and Maryland, direct that firearms may only be held so long as they are needed for evidence or until the proceedings against the abuser are concluded.<sup>143</sup>
- Some states require firearms to be held for a specified time period:
  - Arizona requires firearms seized at a domestic violence scene be held by law enforcement for at least 72 hours, and up to 6 months if a court finds that return of the firearm may endanger the victim.<sup>144</sup>
  - New Jersey gives the prosecutor 45 days in which to petition for title of a firearm seized at a domestic violence scene.<sup>145</sup>

[SOURCE: LAW CENTER TO PREVENT GUN VIOLENCE, <http://smartgunlaws.org/gun-laws/policy-areas/background-checks/domestic-violence-firearms/>]