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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

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**Bill No:** AB 2822                      **Hearing Date:** May 28, 2024  
**Author:** Gabriel  
**Version:** March 11, 2024  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** SJ

**Subject:** *Domestic violence*

## HISTORY

**Source:** Author

**Prior Legislation:** SB 40 (Roth), Ch. 331, Stats. 2017  
AB 469 (Cohn), Ch. 483, Stats. 2001

**Support:** Alliance for Community Empowerment; Brady California; Brady Campaign; She is Hope LA

**Opposition:** None known

**Assembly Floor Vote:** 75 - 0

## PURPOSE

*The purpose of this bill is to add a requirement that a law enforcement officer make a notation in a domestic violence incident report if the officer removes a firearm or other deadly weapon from the location of the domestic violence location.*

*Existing law* provides that any person who willfully inflicts corporal injury resulting in a traumatic condition upon a victim, as described, is guilty of a felony punishable by imprisonment in state prison for two, three, or four years, or in county jail for not more than one year, or by a fine of up to \$6,000, or by both fine and imprisonment. (Pen. Code, § 273.5, subd. (a).)

*Existing law* defines a “victim” as one or more of the following:

- The offender’s spouse or former spouse;
- The offender’s cohabitant or former cohabitant;
- The offender’s fiancé or fiancée, or someone with the offender has or previously had, an engagement or dating relationship; and,
- The mother or father of the offender’s child. (Pen. Code, § 273.5, subd. (b).)

*Existing law* provides that battery against a spouse, a person with whom the defendant is cohabitating with, a person who is the defendant’s child, former spouse, fiancé, or fiancée, or a

person with whom the defendant currently has, or previously had, a dating or engagement relationship, is punishable by a fine not exceeding \$2,000, or by imprisonment in county jail for a period of not more than one year, or by both fine and imprisonment. (Pen. Code, § 243, subd. (e)(1).)

*Existing law* requires a law enforcement officer at the scene of a domestic violence incident involving a threat to human life or physical assault to take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual or other lawful search as necessary for the protection of the peace officer or other persons present. (Pen. Code, § 18250.)

*Existing law* requires each law enforcement agency to develop a system for recording domestic violence-related calls for assistance made to the department, including whether weapons were involved, or whether the incident involved strangulation or suffocation. Requires all domestic violence-related calls to be supported with a written incident report. Requires each local law enforcement agency to report and submit the total number of domestic violence calls received and the number of cases of involving weapons, strangulation, or suffocation to the Attorney General on a monthly basis. (Pen. Code, § 13730, subd. (a).)

*Existing law* requires the Attorney General to report annually to the Governor, the Legislature, and the public the total number of domestic violence-related calls received by law enforcement agencies, the number of cases involving weapons, the number of cases involving strangulation or suffocation, and a breakdown of calls received by agency, city, and county. (Pen. Code, § 13730, subd. (b).)

*Existing law* requires each local law enforcement agency to develop an incident report that includes a domestic violence identification code. Requires a written report for all domestic violence incidents and requires the report to include at least all of the following:

- Whether the officer or officers who responded to the call observed any signs that the alleged abuser was under the influence of alcohol or a controlled substance;
- Whether the officer or officers who responded to the call determined if any law enforcement agency has previously responded to a call at the same address involving the same alleged abuser and victim;
- Whether the officer or officers who responded to the call found it necessary, for the protection of the peace officer or other persons present, to inquire of the victim, the alleged abuser, or both, whether a firearm or other deadly weapon was present at the location, and, if there is an inquiry, whether that inquiry disclosed the presence of the firearm or other deadly weapon; and,
- Whether there were indications that the incident involved strangulation or suffocation. (Pen. Code, § 13730, subd. (c)(1)-(4).)

*This bill* adds a requirement that a law enforcement officer make a notation in a domestic violence incident report if the officer removes a firearm or other deadly weapon from the location of the domestic violence location.

## COMMENTS

### 1. Need For This Bill

According to the author:

AB 2822 is a common-sense measure to address the all-too-often deadly intersection of domestic violence and gun violence by requiring law enforcement to note if they have removed a gun from the scene, as required by existing law. More than a million acts of domestic violence occur in the United States every year, and the presence of a firearm vastly increases the chance that violence will escalate to homicide. This bill will help ensure that we are keeping guns out of the hands of abusive partners and reducing incidents of gun violence and intimate partner violence.

### 2. Domestic Violence Incident Reports

Under current law, a law enforcement officer who responds to the scene of a domestic violence incident that involves a threat to human life or physical assault is required to take temporary custody of any firearm or other deadly weapon in plain sight. (Pen. Code, § 18250.) Firearms and other deadly weapons discovered as the result of a consensual or otherwise lawful search must also be taken into temporary custody. (*Ibid.*) Current law additionally requires a responding law enforcement officer to complete a written report for all domestic violence incidents, and specifies that the report must include all of the following:

- Whether the officer or officers who responded to the call observed any signs that the alleged abuser was under the influence of alcohol or a controlled substance;
- Whether the officer or officers who responded to the call determined if any law enforcement agency has previously responded to a call at the same address involving the same alleged abuser and victim;
- Whether the officer or officers who responded to the call found it necessary, for the protection of the peace officer or other persons present, to inquire of the victim, the alleged abuser, or both, whether a firearm or other deadly weapon was present at the location, and, if there is an inquiry, whether that inquiry disclosed the presence of the firearm or other deadly weapon; and,
- Whether there were indications that the incident involved strangulation or suffocation. (Pen. Code, § 13730, subd. (c).)

This bill adds a requirement that the report include whether a law enforcement officer removed a firearm or other deadly weapon from the location of the domestic violence location.

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