

# ★ DELAWARE COALITION AGAINST GUN VIOLENCE

## **Senate Bill 83: STRENGTHENING DOMESTIC VIOLENCE PROTECTION**

**FACT: Domestic abuse situations are 5 times more likely to be fatal if the abuser has access to a gun.**

Between 1996 and 2013, guns in Delaware were used in 40 homicides of intimate partners, plus 13 homicides of other people in domestic violence incidents (family members, children, and bystanders killed in these shootings). Guns were also used in 17 domestic violence-related suicides. Half of fatal and near-fatal domestic violence incidents in Delaware involve a shooting.

**THE BOTTOM LINE: Reducing abusers' access to guns will save lives.**

**Senate Bill 83 will expand already-existing protections for domestic abuse victims by:**

- Prohibiting gun possession by a person convicted of misdemeanor dating-partner violence within the past 5 years
- Prohibiting gun possession by a person convicted of a violent misdemeanor against a former cohabitant (person who lived with the perpetrator) during the past 5 years
- Prohibiting gun purchases by an abuser while he or she is subject to an emergency Protection From Abuse order
- Ensuring that domestic abusers ordered to surrender their guns do so by requiring them to identify to the court how they have done so, and clarifying the procedure for surrender

## **PROTECTING VICTIMS OF DATING PARTNER VIOLENCE**

Current Delaware law prohibits people convicted of “misdemeanor crimes of domestic violence” within the last five years from possessing firearms, but this term does not include dating-partner violence. Twelve other states already prohibit gun possession for convicted abusers of dating partners.<sup>1</sup>

About 50% of intimate partner homicides in Delaware involve couples who were never married, according to 2014 report from the Delaware Domestic Violence Fatal Incident Review Team.

Delaware law acknowledges the problem of dating partner violence by allowing victims to seek Protection From Abuse (PFA) orders against their abusers. But Delaware law currently does not prohibit gun possession by convicted dating abusers.

SB 83 would incorporate the definition of “substantive dating relationship” in the PFA law into the definition of “misdemeanor crime of domestic violence,” so that people convicted of dating partner violence cannot own firearms.

## **PROTECTING VICTIMS WHO HAVE FLED THEIR HOMES**

SB 83 would temporarily prohibit gun possession by a person convicted of victimizing a cohabitant within five years after they lived together. Current Delaware law only prohibits gun possession by a person convicted of victimizing a cohabitant if they lived together at the time of the crime. This means that an abuser does not lose his or her gun eligibility if he or she is convicted of a crime that occurred after (or because) the victim moved out. SB 83 would extend the current five-year gun prohibition to this situation.

## **PROVIDING VICTIMS WITH IMMEDIATE PROTECTION**

When a victim tells the abuser the relationship is over, the abuser often responds with anger and violence, causing the victim to seek a protective order. A report from the Delaware Domestic Violence Fatal Incident Review Team (2014) noted that almost

half (46%) of intimate partner homicides in Delaware occurred when the victim attempted to leave or had ended the relationship with the abuser.

A victim who seeks a Protection From Abuse order may be granted an “ex parte” order to cover the period before a hearing only if the court, after evaluating the evidence the victim provides, finds “immediate and present danger.” Generally these orders last no more than 10 days, at which point a full hearing occurs.

SB 83 would prohibit the purchase of a gun by someone during the period when he or she is subject to an ex parte PFA order. Nineteen other states already prohibit gun purchases by at least some people who are subject to ex parte domestic violence protective orders.<sup>2</sup>

## **ENSURING THAT ABUSERS SURRENDER THEIR GUNS**

SB 83 would help ensure that domestic abusers surrender firearms when they are ordered to do so. Under current law, when PFA orders are issued, a court may order the abuser to temporarily surrender her/his firearms.

SB 83 would establish a process to ensure that domestic abusers who lose their gun eligibility due to a PFA order have surrendered their guns. More specifically, an abuser would have to provide a statement identifying how they have disposed of any firearms and ammunition that they previously owned.

The bill would also help ensure that guns are surrendered pursuant to a PFA order by clarifying that the abuser must turn over these weapons immediately upon the request of a law enforcement officer or, if no request is made, within 24 hours at a staffed police station. Current provisions already provide that the law enforcement agency then stores the firearm(s) and returns them when the order expires and the defendant regains his or her gun eligibility.

<sup>1</sup> CA, CT, HI, IL, MD, MN, NE, NJ, NY, TX, WA, WV.

<sup>2</sup> AZ, CA, HI, IL, MA, MI, MT, NE, NH, NJ, NY, NC, ND, PA, TX, UT, VA, WA, WV.