

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 3150

STATE OF NEW JERSEY

DATED: DECEMBER 5, 2022

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3150 (1R).

This bill establishes strict liability criminal penalties for firearm trafficking that results in bodily injury or death from the discharge of an illegally trafficked firearm used in the course of committing a crime. Under the bill, a person who commits a firearm trafficking violation resulting in a death would be guilty of a first degree crime. The bill also establishes a second degree crime of strict liability firearm trafficking that results in serious bodily injury or significant bodily injury. A crime of the first degree is punishable by 10 to 20 years imprisonment, a fine of up to \$200,000, or both. Second degree crimes are punishable by five to 10 years imprisonment, a fine of up to \$150,000, or both.

Under the bill, a firearm trafficking violation is defined as unlawfully transferring a handgun, rifle, or shotgun to any person who is not a licensed dealer or does not possess the requisite firearms purchaser identification card or permit to purchase a handgun. A firearm trafficking violation also includes unlawfully transferring a firearm to someone the transferor knows is disqualified from possessing a firearm under current law or is under the age of 18. Transporting a firearm into this State for the purpose of unlawfully transferring it or committing various federal firearm trafficking offenses also would be included as a firearm trafficking violation under the bill.

Under the bill, the act of selling, giving, transferring, assigning, or otherwise disposing of a firearm would be deemed a cause of death or serious or significant bodily injury when the:

- act is an antecedent but for which the death or serious or significant bodily injury would not have occurred;
- death or serious or significant bodily injury was not more than three years after the person's act; and
- death or serious or significant bodily injury was not dependent upon the conduct of another person which was so unrelated to the use of the firearm it did not have a just bearing on the actor's liability.

The bill also addresses the prosecution of strict liability for firearm trafficking violations. Under the bill, a trier of fact may infer that the defendant had the requisite mental state to commit a firearm trafficking violation if the defendant:

- transferred or planned to transfer the firearm within 45 days of the defendant's purchase and receipt of the firearm;
- sold three or more firearms to the other person within a one-year period;
- received compensation for the sale of the firearm to the other person that was significantly above the fair market value of the firearm;
- did not conduct the transaction through a licensed retail dealer pursuant; or
- did not abide by the criminal history record background check requirements under current law and did not provide a receipt or other documentation regarding the sale to the other person.

The bill provides that a defendant's actions outside of this State are sufficient for prosecution under the bill if the defendant knew or should have known that the recipient of the firearm intended to possess, transfer, dispose, sell, or otherwise transport the firearm in this State.

Under the bill, it would not be a defense to a prosecution that the death or serious or significant bodily injury took place in a jurisdiction other than this State. It also would not be a defense if the decedent or victim contributed to their own death or serious bodily injury.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate annual increase in State expenditures and revenues. The OLS lacks sufficient information to quantify the fiscal impacts as it is not possible to know how many individuals will be prosecuted, tried, and sentenced under the provisions of the bill.

The State may receive indeterminate annual revenue from fines and penalties imposed on individuals violating the provisions of the bill; however, the State's ability to collect criminal fines and penalties has historically been limited.