

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 4218

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 15, 2015

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4218 (1R), with committee amendments.

As amended, this bill enhances protections currently afforded victims of domestic violence by requiring attackers to surrender their firearms while domestic violence restraining orders are in effect or when they are convicted of a domestic violence crime or offense. The bill also requires firearms purchaser identification cards and permits to purchase handguns to be revoked if the holder of the card or permit is convicted of a domestic violence crime or offense. The bill further requires cross-referencing of records to assist in determining whether the alleged attacker owns a firearm and in removing those firearms.

Seizure of Weapon at Scene of Domestic Violence

The bill requires the prosecutor, prior to returning a firearm seized at the scene of a domestic violence incident, to inform the victim of the availability of restraining orders and the ability to seek revocation of the accused person's card or permit.

Domestic Violence Offenders

The bill revises the law regarding defendants convicted of domestic violence crimes and offenses by:

- Requiring the sentencing court to inform defendants convicted of a domestic violence crime or offense that they are prohibited from possessing a firearm.
- Requiring the court to order the defendant to arrange for the immediate surrender of firearms, firearms purchaser identification cards, and permits to purchase a handgun to a law enforcement officer. The bill allows the defendant five days from when the order of conviction is entered to arrange to sell a surrendered firearm to a licensed firearms dealer; the dealer has 10 days from the date of the order to take possession of the firearm from the law enforcement agency to which it was surrendered.

- Deeming any identification card and permit that has been issued to the defendant to be immediately revoked and requiring the court to establish a process for notifying the appropriate authorities of the revocation.
- Requiring a law enforcement officer to whom weapons are surrendered to provide the defendant with a receipt naming the defendant, the surrender date, and description of a surrendered item; and requiring the defendant to provide a copy of the receipt to the prosecutor within 48 hours.
- Requiring defendants to attest under penalty that they surrendered or do not possess a firearm.
- Permitting the court to order a search for and removal of firearms if there is probable cause that the defendant has failed to surrender firearms and requiring the court to state with specificity the reasons for and the scope of the search and seizure.

Domestic Violence Restraining Orders

The bill revises the laws governing temporary and final restraining orders issued pursuant to the provisions of the “Prevention of Domestic Violence Act of 1991” by:

- Specifying that the plaintiff may provide information concerning firearms to which the defendant has access, including the location of these firearms, if known, on a form to be prescribed by the Administrative Director of the Courts and clarifying the confidential nature of this information.
- Requiring the law enforcement officer to properly store surrendered or removed firearms and authorizing the officer to charge the defendant a fee for storage during a temporary restraining order.
- Specifying that if an order is dismissed, any firearms, cards and permits are to be returned to defendants who are not otherwise disqualified in accordance with the provisions of the “Prevention of Domestic Violence Act of 1991.”
- Requiring the court issuing a final restraining order to order the defendant to arrange for the immediate surrender of firearms, cards, and permits to a law enforcement officer. The amended bill allows the defendant five days from when the order is entered to arrange to sell a surrendered firearm to a licensed firearms dealer; the dealer has 10 days from the date of the order to take possession of the firearm from the law enforcement agency to which it was surrendered.
- Deeming the defendant’s cards and permits to be immediately suspended and requiring the court to establish a process for notifying the appropriate authorities of this suspension.
- Requiring a law enforcement officer to whom weapons are surrendered to provide the defendant with a receipt naming the defendant, the surrender date, and description of a surrendered item; and requiring the defendant to provide a copy of the receipt to the prosecutor within 48 hours.

- Requiring the defendant to attest under penalty that he surrendered or does not possess a firearm.
- Permitting the court to order a search for and removal of firearms if there is probable cause that the defendant has failed to surrender firearms and requiring the court to state with specificity the reasons for and the scope of the search and seizure.
- Requiring the court to order the appropriate law enforcement agency to make a reasonable search of records of firearm ownership before issuing a temporary or final restraining order.

Firearms Licensing

Current law governing firearms licensing requirements is revised by:

- Requiring law enforcement to search the State's central registry of domestic violence reports as part of the investigation of the applicant for a firearm purchaser identification card or permit to purchase a handgun.
- Requiring records relating to issuance of cards and permits, as well as firearms purchase records, to be made available to prosecutors and law enforcement agencies to enforce the State's domestic violence laws. Current law requires these records to be sent to certain law enforcement agencies, but does not specify how these records may be used.
- Requiring a law enforcement officer or prosecutor in possession of any firearms, cards, or permits surrendered or removed in whole or in part because of domestic violence to prepare an inventory of these items, cross-reference the inventory with records of firearm ownership, and if there are discrepancies, take appropriate action to ensure the defendant does not have access to a firearm.

As amended and reported, this bill is identical to Senate Bill No. 2786 (1R), as amended and reported by the Senate Law and Public Safety Committee on June 11, 2015.

FISCAL IMPACT:

The Office of Legislative Services anticipates increased costs to the court system, prosecutors and law enforcement agencies to administer the enhanced protection for the victims of domestic violence, but lacks sufficient information to quantify the increases in State and local government costs.

The courts must supervise the surrender of firearms, develop a system for notifying the relevant authorities of a convicted offender's surrender of identification cards and permits, and, with the prosecutors, hold hearings on whether to issue search warrants for unsurrendered firearms.

Law enforcement officers, or their agencies, have the responsibility of receiving, inventorying, storing and distributing surrendered firearms. They must check the inventory of surrendered firearms

against the records of those who have surrendered them to identify any firearms retained and conduct the searches, if any, for the unsurrendered firearms identified by comparing the inventory with the records.

The law enforcement agencies must make a reasonable search of records of firearm ownership prior to the issuance of a restraining order, and the agency must search the central registry of domestic violence reports as part of the investigation entailed by the ongoing issuance of identification cards and permits.

COMMITTEE AMENDMENTS:

The amendments:

(1) clarify that when a plaintiff files a domestic violence complaint, the plaintiff may, rather than shall, provide information concerning the accused person's access to firearms on a form provided by the Administrative Office of the Courts;

(2) clarify that the court is to require the appropriate law enforcement agency to conduct a reasonable search of records of firearm possession before a restraining order is issued, rather than "ensure" that the agency conducted the search; and

(3) other technical and clarifying amendments.