

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 1217**

**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

ADOPTED MARCH 5, 2018

**Sponsored by:**

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**District 27 (Essex and Morris)**

**Assemblyman LOUIS D. GREENWALD**

**District 6 (Burlington and Camden)**

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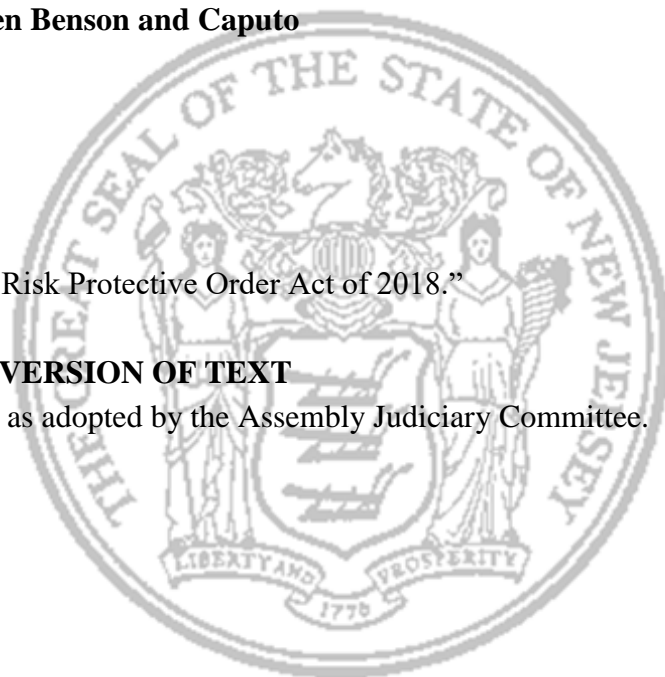
**Assemblymen Benson and Caputo**

**SYNOPSIS**

“Extreme Risk Protective Order Act of 2018.”

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Assembly Judiciary Committee.



**(Sponsorship Updated As Of: 3/13/2018)**

1 AN ACT concerning extreme risk protection orders and  
2 supplementing and amending various parts of the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. (New section) This act shall be known and may be cited as  
8 the “Extreme Risk Protective Order Act of 2018.”

9

10 2. (New section) As used in P.L. , c. (C. ) (pending  
11 before the Legislature as this bill):

12 “Ammunition” means ammunition or cartridge cases, primers,  
13 bullets, or propellant powder designed for use in any firearm, but  
14 does not include any shotgun shot or pellet not designed for use as  
15 the single, complete projectile load for one shotgun hull or casing or  
16 any unloaded, non-metallic shotgun hull or casing not having a  
17 primer.

18 “Deadly weapon” shall have the same meaning as in subsection  
19 c. of N.J.S.2C:11-1.

20 “Family or household member” means a spouse, domestic  
21 partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3),  
22 partner in a civil union couple as defined in section 2 of P.L.2006,  
23 c.103 (C.37:1-29), or former spouse, former domestic partner, or  
24 former partner in a civil union couple, or any other person who is a  
25 present household member or was at any time a household member;  
26 a person with whom the respondent has a child in common, or with  
27 whom the respondent anticipates having a child in common if one  
28 of the parties is pregnant; or a current or former dating partner.

29 “Firearm” shall have the same meaning as in N.J.S.2C:39-1.

30 “Law enforcement agency” means a department, division,  
31 bureau, commission, board or other authority of the State or of any  
32 political subdivision thereof which employs law enforcement  
33 officers.

34 “Law enforcement officer” means a person whose public duties  
35 include the power to act as an officer for the detection,  
36 apprehension, arrest, and conviction of offenders against the laws of  
37 this State.

38 “Petitioner” means a family or household member or law  
39 enforcement officer.

40 “Recent” means within six months prior to the date the petition  
41 was filed.

42

43 3. (New section) a. A law enforcement officer who, in good  
44 faith, does not file a petition for an extreme risk protective order or

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 temporary extreme risk protection order shall be immune from  
2 criminal or civil liability.

3 b. A law enforcement agency shall be immune from civil or  
4 criminal liability for any damage or deterioration of firearms or  
5 ammunition stored or transported pursuant to section 6 or 7 of  
6 P.L. , c. (C. ) (pending before the Legislature as this bill)  
7 unless the damage or deterioration resulted from recklessness, gross  
8 negligence, or intentional misconduct by the law enforcement  
9 agency.

10

11 4. (New section) a. A petitioner may file a petition for a  
12 temporary extreme risk protective order in the Superior Court in  
13 accordance with the Rules of Court alleging that the respondent  
14 poses a significant danger of bodily injury to self or others by  
15 having custody or control of, owning, possessing, purchasing, or  
16 receiving a firearm. The petition shall be heard by the Superior  
17 Court in an expedited manner.

18 Filing a petition pursuant to this section shall not prevent a  
19 petitioner from filing a criminal complaint based on the  
20 circumstances forming the basis of the petition.

21 A petitioner may apply for relief under this section in a court  
22 where the respondent resides, or where the petitioner resides in  
23 accordance with the Rules of Court.

24 b. A petition for a temporary extreme risk protective order shall  
25 include an affidavit including the number, types, physical  
26 description, and locations of any firearms and ammunition currently  
27 believed by the petitioner to be controlled or possessed by the  
28 respondent.

29 c. The court shall not charge a fee to file the petition.

30 d. Petition forms shall be readily available at the courts, and at  
31 State, county, and municipal police stations.

32 e. A judge shall issue the order if the court finds good cause to  
33 believe that the respondent poses an immediate and present danger  
34 of causing bodily injury to the respondent or others by having  
35 custody or control of, owning, possessing, purchasing, or receiving  
36 a firearm.

37 f. In determining whether to issue an order pursuant to this  
38 section, the court shall consider whether the respondent has:

39 (1) any history of threats or acts of violence by the respondent  
40 directed toward self or others;

41 (2) any history of use, attempted use, or threatened use of  
42 physical force by the respondent against another person;

43 (3) any recent violation of a restraining order issued pursuant to  
44 the "Prevention of Domestic Violence Act of 1991," P.L.1991,  
45 c.261 (C.2C:25-17 et seq.);

46 (4) any recent violation of a protective order issued pursuant to  
47 the "Sexual Assault Survivor Protection Act of 2015," P.L.2015,  
48 c.147 (C.2C:14-13 et al.);

1 (5) ever been convicted of a violent disorderly persons or petty  
2 disorderly persons offense, stalking offense pursuant to section 1 of  
3 P.L.1992, c.209 (C.2C:12-10), or domestic violence offense  
4 enumerated in section 3 of P.L.1991, c.261 (C.2C:25-19);

5 (6) ever been convicted of an offense involving cruelty to  
6 animals; or

7 (7) any history of drug or alcohol abuse and recovery from this  
8 abuse.

9 g. In determining whether to issue an order pursuant to this  
10 section, the court also may consider any factors related to whether  
11 the respondent presents an increased risk of violence, including, but  
12 not limited to, whether the respondent has any:

13 (1) history of violating a restraining order issued pursuant to the  
14 "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261  
15 (C.2C:25-17 et seq.);

16 (2) history of violating a protective order issued pursuant to the  
17 "Sexual Assault Survivor Protection Act of 2015," P.L.2015, c.147  
18 (C.2C:14-13 et al.)

19 (3) prior arrests for a violent disorderly persons or petty  
20 disorderly persons offense, stalking offense pursuant to section 1 of  
21 P.L.1992, c.209 (C.2C:12-10), or domestic violence offense  
22 enumerated in section 3 of P.L.1991, c.261 (C.2C:25-19); or

23 (4) recent acquisitions of a firearm, ammunition, or other deadly  
24 weapon.

25 h. The temporary extreme risk protective order shall prohibit  
26 the respondent from having custody or control of, owning,  
27 purchasing, possessing, or receiving firearms or ammunition, and  
28 from securing or holding a firearms purchaser identification card or  
29 permit to purchase a handgun pursuant to N.J.S.2C:58-3, or a  
30 permit to carry a handgun pursuant to N.J.S.2C:58-4 during the  
31 period the protective order is in effect and shall order the  
32 respondent to surrender firearms and ammunition in the  
33 respondent's custody or control, or which the respondent possesses  
34 or owns, and any firearms purchaser identification card, permit to  
35 purchase a handgun, or permit to carry a handgun held by the  
36 respondent in accordance with section 7 of P.L. , c. (C. )  
37 (pending before the Legislature as this bill). Any card or permit  
38 issued to the respondent shall be immediately revoked pursuant to  
39 subsection f. of N.J.S.2C:58-3.

40 i. A temporary extreme risk protective order issued under this  
41 section shall remain in effect until a court issues a further order.

42 j. The court that issues the temporary extreme risk protective  
43 order shall immediately forward a copy of the order and petition to  
44 the appropriate law enforcement agency which shall immediately,  
45 or as soon as practicable, serve it on the respondent, and to the law  
46 enforcement agency of the municipality in which the petitioner  
47 resides or is sheltered. If personal service cannot be effected upon  
48 the respondent, the court may order other appropriate substituted

1 service. At no time shall the petitioner be asked or required to serve  
2 any order on the respondent. The law enforcement agency serving  
3 the order shall not charge a fee or seek reimbursement from the  
4 petitioner for service of the order.

5 k. Notice of temporary extreme risk protective orders issued  
6 pursuant to this section shall be sent by the clerk of the court or  
7 other person designated by the court to the appropriate chiefs of  
8 police, members of the State Police, and any other appropriate law  
9 enforcement agency or court.

10 l. Any temporary extreme risk protective order issued pursuant  
11 to this section shall be in effect throughout the State, and shall be  
12 enforced by all law enforcement officers.

13

14 5. (New section) a. A hearing for an extreme risk protective  
15 order shall be held in accordance with the Rules of Court within 10  
16 days of the filing of a petition pursuant to section 4 of P.L. ,  
17 c. (C. ) (pending before the Legislature as this bill) in the  
18 county where the temporary extreme risk protective order was filed,  
19 unless good cause is shown for the hearing to be held in another  
20 county. A copy of the petition shall be served on the respondent in  
21 accordance with the Rules of Court.

22 b. If the court finds by a preponderance of the evidence at the  
23 hearing that the respondent poses a significant danger of bodily  
24 injury to the respondent's self or others by having custody or  
25 control of, owning, possessing, purchasing, or receiving a firearm,  
26 the court shall issue a one-year extreme risk protective order.

27 c. When deciding whether to issue the order, the court shall  
28 consider the factors enumerated in subsection f. of section 4 of  
29 P.L. , c. (C. ) (pending before the Legislature as this bill) and  
30 may consider, but is not limited to, the factors enumerated in  
31 subsection g. of section 4 of P.L. , c. (C. ) (pending before  
32 the Legislature as this bill), as well as any other relevant evidence.

33 d. An extreme risk protective order issued pursuant to this  
34 section shall prohibit the respondent from having custody or control  
35 of, owning, purchasing, possessing, or receiving a firearm.

36

37 6. (New section) a. Upon request by a petitioner, and after  
38 notice to the respondent and a hearing, the court may extend an  
39 extreme risk protective order issued pursuant to section 5 of P.L. ,  
40 c. , (C. ) (pending before the Legislature as this bill). A petition  
41 for an extension may be filed any time within three months  
42 preceding the expiration of the current protective order. The  
43 protective order may be extended for one year if the court makes  
44 the same findings by a preponderance of the evidence as required  
45 for granting the initial order issued pursuant to section 5 of P.L. ,  
46 c. (C. ) (pending before the Legislature as this bill). The court  
47 shall consider the factors enumerated in subsection f. of section 4 of  
48 P.L. , c. (C. ) (pending before the Legislature as this bill) and

1 may consider, but is not limited to, the factors enumerated in  
2 subsection g. of section 4 of P.L. , c. (C. ) (pending before the  
3 Legislature as this bill), as well as any other relevant evidence.

4 b. The court may terminate an order upon petition by the  
5 respondent after a hearing at which the respondent shall bear the  
6 burden of proving by a preponderance of the evidence that the  
7 respondent no longer poses a significant danger of causing bodily  
8 injury to the respondent's self or to other persons by having custody  
9 or control of, owning, possessing, purchasing, or receiving a  
10 firearm. The respondent may file no more than one petition to  
11 terminate an order while the order is in effect.

12

13 7. (New section) a. When a temporary extreme risk protective  
14 order or extreme risk protective order is issued pursuant to section  
15 4, 5, or 6 of P.L. , c. (C. ) (pending before the Legislature as  
16 this bill), the court shall order the respondent to surrender to the  
17 local law enforcement agency all firearms and ammunition in the  
18 respondent's custody or control, or which the respondent owns or  
19 possesses, and any firearms purchaser identification card, permit to  
20 purchase a handgun, or permit to carry a handgun held by the  
21 respondent.

22 b. Upon being served with the protective order, the respondent  
23 immediately shall surrender, in a safe manner, all firearms and  
24 ammunition in the respondent's custody or control, or which the  
25 respondent owns or possesses, and any firearms purchaser  
26 identification card, permit to purchase a handgun, or permit to carry  
27 a handgun held by the respondent to the control of a law  
28 enforcement officer.

29 (1) If the protective order indicates that the respondent owns or  
30 possesses any firearms or ammunition, the law enforcement officer  
31 who serves the order shall request that all firearms and ammunition  
32 immediately be surrendered.

33 (2) If a law enforcement officer is unable to personally serve the  
34 order, the respondent shall surrender all firearms and ammunition to  
35 the control of the respondent's local law enforcement agency within  
36 24 hours of being served with the order. Alternatively, the  
37 respondent may surrender or sell all firearms and ammunition in a  
38 safe manner to a federally licensed firearms dealer.

39 (3) The law enforcement officer or licensed firearms dealer  
40 taking possession of any firearms or ammunition pursuant to this  
41 subsection shall issue a receipt identifying all firearms and  
42 ammunition that have been surrendered by the respondent. The  
43 officer or dealer shall provide a copy of the receipt to the  
44 respondent at the time of surrender.

45 (4) If the respondent surrenders firearms and ammunition to a  
46 law enforcement officer or surrenders or sells firearms and  
47 ammunition to a licensed dealer pursuant to paragraph (2) of this  
48 subsection, the respondent shall, within 48 hours after being served

1 with the order file the receipt with the court that issued the  
2 protective order and file a copy of the receipt with the law  
3 enforcement agency that served the order. Failure to timely file the  
4 receipt or copy of the receipt shall constitute contempt of the order.

5 c. The court which issued the protective order may issue a  
6 search warrant for a firearm or ammunition that is in the custody or  
7 control of, owned, or possessed by a respondent who is subject to a  
8 restraining order issued pursuant to section 4 or 5 or 6 of P.L. ,  
9 c. (C. ) (pending before the Legislature as this bill) if the  
10 respondent has lawfully been served with that order and has failed  
11 to surrender the firearm or ammunition as required by this section.

12 d. If the respondent has surrendered a firearm or ammunition to  
13 a law enforcement agency, within 30 days of the expiration of the  
14 order or upon termination of the order, the respondent may petition  
15 the agency for the return of any surrendered firearms or  
16 ammunition. Within 30 days of receiving a petition for the return of  
17 surrendered firearms or ammunition and after the expiration or  
18 termination of the order, the agency shall return the firearm or  
19 ammunition unless:

- 20 (1) the firearm has been reported as stolen;  
21 (2) the respondent is prohibited from possessing a firearm under  
22 State or federal law; or  
23 (3) the protective order is extended pursuant to the provisions of  
24 section 6 of P.L. , c. (C. ) (pending before the Legislature as  
25 this bill).

26 e. If a person other than the respondent claims title to any  
27 firearm or ammunition surrendered pursuant to this section, and the  
28 law enforcement agency determines that the person is the lawful  
29 owner of the firearm or ammunition, the firearm or ammunition  
30 shall be returned to that person.

31 f. If the respondent has surrendered a firearm or ammunition to  
32 a federally licensed firearms dealer, after expiration or termination  
33 of the order, the respondent may request the law enforcement  
34 agency, in writing, to authorize the return of the firearm or  
35 ammunition from the dealer. The dealer shall transfer the firearm  
36 or ammunition to the respondent in accordance with procedures  
37 required when a firearm or ammunition is being sold from the  
38 dealer's inventory.

39  
40 8. (New section) A respondent who has surrendered any  
41 firearm or ammunition to a law enforcement agency pursuant to  
42 P.L. , c. (C. ) (pending before the Legislature as this bill)  
43 who does not want the firearm or ammunition returned or is no  
44 longer eligible to own or possess a firearm or ammunition may sell  
45 or transfer title of the firearm or ammunition to a federally licensed  
46 firearms dealer. The agency shall transfer possession of the firearm  
47 or ammunition to a licensed dealer only after the dealer has  
48 displayed written proof of transfer of the firearm or ammunition

1 from the respondent to the dealer and the agency has verified the  
2 transfer with the respondent.

3  
4 9 (New section) A law enforcement agency holding any  
5 firearm or ammunition surrendered pursuant to P.L. , c. (C. )  
6 (pending before the Legislature as this bill) for more than one year  
7 after the expiration or termination of the extreme risk protective  
8 order may destroy the firearm or ammunition in accordance with the  
9 policies and procedures of the agency for destruction of firearms or  
10 ammunition.

11  
12 10. (New section) Except as provided in section 11 of P.L. ,  
13 c. (C. ) (pending before the Legislature as this bill), a violation  
14 by the respondent of an order issued pursuant to section 4 or 5 of  
15 P.L. , c. (C. ) (pending before the Legislature as this bill)  
16 shall constitute an offense under subsection e. of N.J.S.2C:29-9 and  
17 each order shall so state. All contempt proceedings conducted  
18 pursuant to N.J.S.2C:29-9 involving an extreme risk protective  
19 order shall be heard by the Superior Court. All contempt  
20 proceedings brought pursuant to P.L. , c. (C. ) (pending  
21 before the Legislature as this bill) shall be made in accordance with  
22 the Rules of Court.

23  
24 11. (New section) If a law enforcement officer finds probable  
25 cause that a respondent is in contempt of an order entered pursuant  
26 to P.L. , c. (C. ) (pending before the Legislature as this bill),  
27 the respondent shall be arrested and taken into custody.

28  
29 12. (New section) a. The Administrative Office of the Courts  
30 shall include all persons who have had protective orders entered  
31 against them pursuant to P.L. , c. (C. ) (pending before the  
32 Legislature as this bill), and all persons who have been charged  
33 with a violation of an extreme risk protective order in the Domestic  
34 Violence Central Registry established pursuant to P.L.1999, c.421  
35 (C.2C:25-34 et seq.). All records made pursuant to this section  
36 shall be kept confidential in accordance with the Rules of Court.

37 b. Any person who disseminates or discloses a record or report  
38 of the central registry for a purpose other than the purposes  
39 authorized in this section or as otherwise authorized by law or the  
40 Supreme Court of the State of New Jersey is guilty of a crime of the  
41 fourth degree.

42  
43 13. N.J.S.2C:29-9 is amended to read as follows:  
44 2C:29-9. Contempt. a. A person is guilty of a crime of the  
45 fourth degree if **he** the person purposely or knowingly disobeys a  
46 judicial order or protective order, pursuant to section 1 of P.L.1985,  
47 c.250 (C.2C:28-5.1), or hinders, obstructs, or impedes the  
48 effectuation of a judicial order or the exercise of jurisdiction over



1 any person, thing, or controversy by a court, administrative body, or  
2 investigative entity.

3 b. (1) Except as provided in paragraph (2) of this subsection, a  
4 person is guilty of a crime of the fourth degree if that person  
5 purposely or knowingly violates any provision in an order entered  
6 under the provisions of the "Prevention of Domestic Violence Act  
7 of 1991," P.L.1991, c.261 (C.2C:25-17 et al.) or an order entered  
8 under the provisions of a substantially similar statute under the laws  
9 of another state or the United States when the conduct which  
10 constitutes the violation could also constitute a crime or a  
11 disorderly persons offense.

12 Orders entered pursuant to paragraphs (3), (4), (5), (8) and (9) of  
13 subsection b. of section 13 of P.L.1991, c.261 (C.2C:25-29) or  
14 substantially similar orders entered under the laws of another state  
15 or the United States shall be excluded from the provisions of this  
16 paragraph.

17 (2) In all other cases a person is guilty of a disorderly persons  
18 offense if that person purposely or knowingly violates an order  
19 entered under the provisions of the "Prevention of Domestic  
20 Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et al.) or an  
21 order entered under the provisions of a substantially similar statute  
22 under the laws of another state or the United States.

23 Orders entered pursuant to paragraphs (3), (4), (5), (8) and (9) of  
24 subsection b. of section 13 of P.L.1991, c.261 (C.2C:25-29) or  
25 substantially similar orders entered under the laws of another state  
26 or the United States shall be excluded from the provisions of this  
27 paragraph.

28 c. A person is guilty of a crime of the third degree if that  
29 person purposely or knowingly violates any provision in an order  
30 entered under the provisions of section 3 of P.L.1996, c.39  
31 (C.2C:12-10.1) or section 2 of P.L.1999, c.47 (C.2C:12-10.2) or an  
32 order entered under the provisions of a substantially similar statute  
33 under the laws of another state or the United States when the  
34 conduct which constitutes the violation could also constitute a  
35 crime or a disorderly persons offense.

36 d. (1) Except as provided in paragraph (2) of this subsection, a  
37 person is guilty of a crime of the fourth degree if that person  
38 purposely or knowingly violates any provision in an order entered  
39 under the provisions of P.L.2015, c.147 (C.2C:14-13 et al.) or an  
40 order entered under the provisions of a substantially similar statute  
41 under the laws of another state or the United States when the  
42 conduct which constitutes the violation could also constitute a  
43 crime or a disorderly persons offense.

44 (2) In all other cases a person is guilty of a disorderly persons  
45 offense if that person purposely or knowingly violates an order  
46 entered under the provisions of P.L.2015, c.147 (C.2C:14-13 et al.)  
47 or an order entered under the provisions of a substantially similar  
48 statute under the laws of another state or the United States.

1       e. A person is guilty of a crime of the fourth degree if the  
 2 person purposely or knowingly violates any provision of an order  
 3 entered under the provisions of the “Extreme Risk Protective Order  
 4 Act of 2018,” P.L. , c. (C. ) (pending before the Legislature  
 5 as this bill) or an order entered under the provisions of a  
 6 substantially similar statute under the laws of another state or the  
 7 United States.

8       As used in this section, "state" means a state of the United States,  
 9 the District of Columbia, Puerto Rico, the United States Virgin  
 10 Islands, or any territory or insular possession subject to the  
 11 jurisdiction of the United States. The term includes an Indian tribe  
 12 or band, or Alaskan native village, which is recognized by a federal  
 13 law or formally acknowledged by a state.  
 14 (cf: P.L.2016, c.93, s.3)

15  
 16       14. Section 6 of P.L.1979, c.179 (C.2C:39-7) is amended to  
 17 read as follows:

18       6. Certain Persons Not to Have Weapons.

19       a. Except as provided in subsection b. of this section, any  
 20 person, having been convicted in this State or elsewhere of the  
 21 crime of aggravated assault, arson, burglary, escape, extortion,  
 22 homicide, kidnapping, robbery, aggravated sexual assault, sexual  
 23 assault, bias intimidation in violation of N.J.S.2C:16-1 or  
 24 endangering the welfare of a child pursuant to N.J.S.2C:24-4,  
 25 whether or not armed with or having in his possession any weapon  
 26 enumerated in subsection r. of N.J.S.2C:39-1, or any person  
 27 convicted of a crime pursuant to the provisions of N.J.S.2C:39-3,  
 28 N.J.S.2C:39-4 or N.J.S.2C:39-9, or any person who has ever been  
 29 committed for a mental disorder to any hospital, mental institution  
 30 or sanitarium unless he possesses a certificate of a medical doctor  
 31 or psychiatrist licensed to practice in New Jersey or other  
 32 satisfactory proof that he is no longer suffering from a mental  
 33 disorder which interferes with or handicaps him in the handling of a  
 34 firearm, or any person who has been convicted of other than a  
 35 disorderly persons or petty disorderly persons offense for the  
 36 unlawful use, possession or sale of a controlled dangerous  
 37 substance as defined in N.J.S.2C:35-2 who purchases, owns,  
 38 possesses or controls any of the said weapons is guilty of a crime of  
 39 the fourth degree.

40       b. (1) A person having been convicted in this State or  
 41 elsewhere of the crime of aggravated assault, arson, burglary,  
 42 escape, extortion, homicide, kidnapping, robbery, aggravated sexual  
 43 assault, sexual assault, bias intimidation in violation of  
 44 N.J.S.2C:16-1, endangering the welfare of a child pursuant to  
 45 N.J.S.2C:24-4, stalking pursuant to P.L.1992, c.209 (C.2C:12-10)  
 46 or a crime involving domestic violence as defined in section 3 of  
 47 P.L.1991, c.261 (C.2C:25-19), whether or not armed with or having  
 48 in his possession a weapon enumerated in subsection r. of

1 N.J.S.2C:39-1, or a person having been convicted of a crime  
2 pursuant to the provisions of N.J.S.2C:35-3 through N.J.S.2C:35-6,  
3 inclusive; section 1 of P.L.1987, c.101 (C.2C:35-7); N.J.S.2C:35-  
4 11; N.J.S.2C:39-3; N.J.S.2C:39-4; or N.J.S.2C:39-9 who purchases,  
5 owns, possesses or controls a firearm is guilty of a crime of the  
6 second degree and upon conviction thereof, the person shall be  
7 sentenced to a term of imprisonment by the court. The term of  
8 imprisonment shall include the imposition of a minimum term,  
9 which shall be fixed at five years, during which the defendant shall  
10 be ineligible for parole. If the defendant is sentenced to an  
11 extended term of imprisonment pursuant to N.J.S.2C:43-7, the  
12 extended term of imprisonment shall include the imposition of a  
13 minimum term, which shall be fixed at, or between, one-third and  
14 one-half of the sentence imposed by the court or five years,  
15 whichever is greater, during which the defendant shall be ineligible  
16 for parole.

17 (2) A person having been convicted in this State or elsewhere of  
18 a disorderly persons offense involving domestic violence, whether  
19 or not armed with or having in his possession a weapon enumerated  
20 in subsection r. of N.J.S.2C:39-1, who purchases, owns, possesses  
21 or controls a firearm is guilty of a crime of the third degree.

22 (3) A person whose firearm is seized pursuant to the "Prevention  
23 of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et  
24 seq.) and whose firearm has not been returned, or who is subject to  
25 a court order prohibiting the possession of firearms issued pursuant  
26 to the "Prevention of Domestic Violence Act of 1991," P.L.1991 ,  
27 c.261 (C.2C:25-17 et seq.) who purchases, owns, possesses or  
28 controls a firearm is guilty of a crime of the third degree, except  
29 that the provisions of this paragraph shall not apply to any law  
30 enforcement officer while actually on duty, or to any member of the  
31 Armed Forces of the United States or member of the National  
32 Guard while actually on duty or traveling to or from an authorized  
33 place of duty.

34 (4) A person who is subject to a court order prohibiting the  
35 custody, control, ownership, purchase, possession, or receipt of a  
36 firearm or ammunition issued pursuant to the "Extreme Risk  
37 Protective Order Act of 2018," P.L. , c. (C. ) (pending before  
38 the Legislature as this bill) who purchases, acquires, owns,  
39 possesses, or controls a firearm or ammunition is guilty of a crime  
40 of the third degree.

41 c. Whenever any person shall have been convicted in another  
42 state, territory, commonwealth or other jurisdiction of the United  
43 States, or any country in the world, in a court of competent  
44 jurisdiction, of a crime which in said other jurisdiction or country is  
45 comparable to one of the crimes enumerated in subsection a. or b.  
46 of this section, then that person shall be subject to the provisions of  
47 this section.

48 (cf: P.L.2003, c.277, s.3)

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15. N.J.S.2C:58-3 is amended to read as follows:

2C:58-3. a. Permit to purchase a handgun. No person shall sell, give, transfer, assign or otherwise dispose of, nor receive, purchase, or otherwise acquire a handgun unless the purchaser, assignee, donee, receiver or holder is licensed as a dealer under this chapter or has first secured a permit to purchase a handgun as provided by this section.

b. Firearms purchaser identification card. No person shall sell, give, transfer, assign or otherwise dispose of nor receive, purchase or otherwise acquire an antique cannon or a rifle or shotgun, other than an antique rifle or shotgun, unless the purchaser, assignee, donee, receiver or holder is licensed as a dealer under this chapter or possesses a valid firearms purchaser identification card, and first exhibits the card to the seller, donor, transferor or assignor, and unless the purchaser, assignee, donee, receiver or holder signs a written certification, on a form prescribed by the superintendent, which shall indicate that he presently complies with the requirements of subsection c. of this section and shall contain his name, address and firearms purchaser identification card number or dealer's registration number. The certification shall be retained by the seller, as provided in paragraph (4) of subsection a. of N.J.S.2C:58-2, or, in the case of a person who is not a dealer, it may be filed with the chief of police of the municipality in which he resides or with the superintendent.

c. Who may obtain. No person of good character and good repute in the community in which he lives, and who is not subject to any of the disabilities set forth in this section or other sections of this chapter, shall be denied a permit to purchase a handgun or a firearms purchaser identification card, except as hereinafter set forth. No handgun purchase permit or firearms purchaser identification card shall be issued:

(1) To any person who has been convicted of any crime, or a disorderly persons offense involving an act of domestic violence as defined in section 3 of P.L.1991, c.261 (C.2C:25-19), whether or not armed with or possessing a weapon at the time of the offense;

(2) To any drug dependent person as defined in section 2 of P.L.1970, c.226 (C.24:21-2), to any person who is confined for a mental disorder to a hospital, mental institution or sanitarium, or to any person who is presently an habitual drunkard;

(3) To any person who suffers from a physical defect or disease which would make it unsafe for him to handle firearms, to any person who has ever been confined for a mental disorder, or to any alcoholic unless any of the foregoing persons produces a certificate of a medical doctor or psychiatrist licensed in New Jersey, or other satisfactory proof, that he is no longer suffering from that particular disability in a manner that would interfere with or handicap him in the handling of firearms; to any person who knowingly falsifies any

- 1 information on the application form for a handgun purchase permit  
 2 or firearms purchaser identification card;
- 3 (4) To any person under the age of 18 years for a firearms  
 4 purchaser identification card and to any person under the age of 21  
 5 years for a permit to purchase a handgun;
- 6 (5) To any person where the issuance would not be in the  
 7 interest of the public health, safety or welfare;
- 8 (6) To any person who is subject to a restraining order issued  
 9 pursuant to the "Prevention of Domestic Violence Act of 1991,"  
 10 P.L.1991, c.261 (C.2C:25-17 et seq.) prohibiting the person from  
 11 possessing any firearm;
- 12 (7) To any person who as a juvenile was adjudicated delinquent  
 13 for an offense which, if committed by an adult, would constitute a  
 14 crime and the offense involved the unlawful use or possession of a  
 15 weapon, explosive or destructive device or is enumerated in  
 16 subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2);
- 17 (8) To any person whose firearm is seized pursuant to the  
 18 "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261  
 19 (C.2C:25-17 et seq.) and whose firearm has not been returned; **[or]**
- 20 (9) To any person named on the consolidated Terrorist Watchlist  
 21 maintained by the Terrorist Screening Center administered by the  
 22 Federal Bureau of Investigation; or
- 23 (10) To any person who is subject to a court order prohibiting  
 24 the custody, control, ownership, purchase, possession, or receipt of  
 25 a firearm or ammunition issued pursuant to the "Extreme Risk  
 26 Protective Order Act of 2018," P.L. , c. (C. ) (pending before  
 27 the Legislature as this bill).
- 28 d. Issuance. The chief of police of an organized full-time  
 29 police department of the municipality where the applicant resides or  
 30 the superintendent, in all other cases, shall upon application, issue  
 31 to any person qualified under the provisions of subsection c. of this  
 32 section a permit to purchase a handgun or a firearms purchaser  
 33 identification card.
- 34 Any person aggrieved by the denial of a permit or identification  
 35 card may request a hearing in the Superior Court of the county in  
 36 which he resides if he is a resident of New Jersey or in the Superior  
 37 Court of the county in which his application was filed if he is a  
 38 nonresident. The request for a hearing shall be made in writing  
 39 within 30 days of the denial of the application for a permit or  
 40 identification card. The applicant shall serve a copy of his request  
 41 for a hearing upon the chief of police of the municipality in which  
 42 he resides, if he is a resident of New Jersey, and upon the  
 43 superintendent in all cases. The hearing shall be held and a record  
 44 made thereof within 30 days of the receipt of the application for a  
 45 hearing by the judge of the Superior Court. No formal pleading and  
 46 no filing fee shall be required as a preliminary to a hearing.  
 47 Appeals from the results of a hearing shall be in accordance with  
 48 law.

1 e. Applications. Applications for permits to purchase a  
2 handgun and for firearms purchaser identification cards shall be in  
3 the form prescribed by the superintendent and shall set forth the  
4 name, residence, place of business, age, date of birth, occupation,  
5 sex and physical description, including distinguishing physical  
6 characteristics, if any, of the applicant, and shall state whether the  
7 applicant is a citizen, whether he is an alcoholic, habitual drunkard,  
8 drug dependent person as defined in section 2 of P.L.1970, c.226  
9 (C.24:21-2), whether he has ever been confined or committed to a  
10 mental institution or hospital for treatment or observation of a  
11 mental or psychiatric condition on a temporary, interim or  
12 permanent basis, giving the name and location of the institution or  
13 hospital and the dates of confinement or commitment, whether he  
14 has been attended, treated or observed by any doctor or psychiatrist  
15 or at any hospital or mental institution on an inpatient or outpatient  
16 basis for any mental or psychiatric condition, giving the name and  
17 location of the doctor, psychiatrist, hospital or institution and the  
18 dates of the occurrence, whether he presently or ever has been a  
19 member of any organization which advocates or approves the  
20 commission of acts of force and violence to overthrow the  
21 Government of the United States or of this State, or which seeks to  
22 deny others their rights under the Constitution of either the United  
23 States or the State of New Jersey, whether he has ever been  
24 convicted of a crime or disorderly persons offense, whether the  
25 person is subject to a restraining order issued pursuant to the  
26 "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261  
27 (C.2C:25-17 et seq.) prohibiting the person from possessing any  
28 firearm, whether the person is subject to a restraining order issued  
29 pursuant to the "Extreme Risk Protective Order Act of 2018."  
30 P.L. , c. (C. ) (pending before the Legislature as this bill)  
31 prohibiting the person from possessing any firearm, and other  
32 information as the superintendent shall deem necessary for the  
33 proper enforcement of this chapter. For the purpose of complying  
34 with this subsection, the applicant shall waive any statutory or other  
35 right of confidentiality relating to institutional confinement. The  
36 application shall be signed by the applicant and shall contain as  
37 references the names and addresses of two reputable citizens  
38 personally acquainted with him.

39 Application blanks shall be obtainable from the superintendent,  
40 from any other officer authorized to grant a permit or identification  
41 card, and from licensed retail dealers.

42 The chief police officer or the superintendent shall obtain the  
43 fingerprints of the applicant and shall have them compared with any  
44 and all records of fingerprints in the municipality and county in  
45 which the applicant resides and also the records of the State Bureau  
46 of Identification and the Federal Bureau of Investigation, provided  
47 that an applicant for a handgun purchase permit who possesses a  
48 valid firearms purchaser identification card, or who has previously

1 obtained a handgun purchase permit from the same licensing  
2 authority for which he was previously fingerprinted, and who  
3 provides other reasonably satisfactory proof of his identity, need not  
4 be fingerprinted again; however, the chief police officer or the  
5 superintendent shall proceed to investigate the application to  
6 determine whether or not the applicant has become subject to any of  
7 the disabilities set forth in this chapter.

8 f. Granting of permit or identification card; fee; term; renewal;  
9 revocation. The application for the permit to purchase a handgun  
10 together with a fee of \$2, or the application for the firearms  
11 purchaser identification card together with a fee of \$5, shall be  
12 delivered or forwarded to the licensing authority who shall  
13 investigate the same and, unless good cause for the denial thereof  
14 appears, shall grant the permit or the identification card, or both, if  
15 application has been made therefor, within 30 days from the date of  
16 receipt of the application for residents of this State and within 45  
17 days for nonresident applicants. A permit to purchase a handgun  
18 shall be valid for a period of 90 days from the date of issuance and  
19 may be renewed by the issuing authority for good cause for an  
20 additional 90 days. A firearms purchaser identification card shall  
21 be valid until such time as the holder becomes subject to any of the  
22 disabilities set forth in subsection c. of this section, whereupon the  
23 card shall be void and shall be returned within five days by the  
24 holder to the superintendent, who shall then advise the licensing  
25 authority. Failure of the holder to return the firearms purchaser  
26 identification card to the superintendent within the five days shall  
27 be an offense under subsection a. of N.J.S.2C:39-10. Any firearms  
28 purchaser identification card may be revoked by the Superior Court  
29 of the county wherein the card was issued, after hearing upon  
30 notice, upon a finding that the holder thereof no longer qualifies for  
31 the issuance of the permit. The county prosecutor of any county,  
32 the chief police officer of any municipality or any citizen may apply  
33 to the court at any time for the revocation of the card.

34 There shall be no conditions or requirements added to the form  
35 or content of the application, or required by the licensing authority  
36 for the issuance of a permit or identification card, other than those  
37 that are specifically set forth in this chapter.

38 g. Disposition of fees. All fees for permits shall be paid to the  
39 State Treasury if the permit is issued by the superintendent, to the  
40 municipality if issued by the chief of police, and to the county  
41 treasurer if issued by the judge of the Superior Court.

42 h. Form of permit; quadruplicate; disposition of copies. The  
43 permit shall be in the form prescribed by the superintendent and  
44 shall be issued to the applicant in quadruplicate. Prior to the time  
45 he receives the handgun from the seller, the applicant shall deliver  
46 to the seller the permit in quadruplicate and the seller shall  
47 complete all of the information required on the form. Within five  
48 days of the date of the sale, the seller shall forward the original

1 copy to the superintendent and the second copy to the chief of  
2 police of the municipality in which the purchaser resides, except  
3 that in a municipality having no chief of police, the copy shall be  
4 forwarded to the superintendent. The third copy shall then be  
5 returned to the purchaser with the pistol or revolver and the fourth  
6 copy shall be kept by the seller as a permanent record.

7 i. Restriction on number of firearms person may purchase.  
8 Only one handgun shall be purchased or delivered on each permit  
9 and no more than one handgun shall be purchased within any 30-  
10 day period, but this limitation shall not apply to:

11 (1) a federal, State, or local law enforcement officer or agency  
12 purchasing handguns for use by officers in the actual performance  
13 of their law enforcement duties;

14 (2) a collector of handguns as curios or relics as defined in Title  
15 18, United States Code, section 921 (a) (13) who has in his  
16 possession a valid Collector of Curios and Relics License issued by  
17 the federal Bureau of Alcohol, Tobacco, Firearms and Explosives;

18 (3) transfers of handguns among licensed retail dealers,  
19 registered wholesale dealers and registered manufacturers;

20 (4) transfers of handguns from any person to a licensed retail  
21 dealer or a registered wholesale dealer or registered manufacturer;

22 (5) any transaction where the person has purchased a handgun  
23 from a licensed retail dealer and has returned that handgun to the  
24 dealer in exchange for another handgun within 30 days of the  
25 original transaction, provided the retail dealer reports the exchange  
26 transaction to the superintendent; or

27 (6) any transaction where the superintendent issues an  
28 exemption from the prohibition in this subsection pursuant to the  
29 provisions of section 4 of P.L.2009, c.186 (C.2C:58-3.4).

30 The provisions of this subsection shall not be construed to afford  
31 or authorize any other exemption from the regulatory provisions  
32 governing firearms set forth in chapter 39 and chapter 58 of Title  
33 2C of the New Jersey Statutes;

34 A person shall not be restricted as to the number of rifles or  
35 shotguns he may purchase, provided he possesses a valid firearms  
36 purchaser identification card and provided further that he signs the  
37 certification required in subsection b. of this section for each  
38 transaction.

39 j. Firearms passing to heirs or legatees. Notwithstanding any  
40 other provision of this section concerning the transfer, receipt or  
41 acquisition of a firearm, a permit to purchase or a firearms  
42 purchaser identification card shall not be required for the passing of  
43 a firearm upon the death of an owner thereof to his heir or legatee,  
44 whether the same be by testamentary bequest or by the laws of  
45 intestacy. The person who shall so receive, or acquire the firearm  
46 shall, however, be subject to all other provisions of this chapter. If  
47 the heir or legatee of the firearm does not qualify to possess or carry  
48 it, he may retain ownership of the firearm for the purpose of sale for



1 a period not exceeding 180 days, or for a further limited period as  
2 may be approved by the chief law enforcement officer of the  
3 municipality in which the heir or legatee resides or the  
4 superintendent, provided that the firearm is in the custody of the  
5 chief law enforcement officer of the municipality or the  
6 superintendent during that period.

7 k. Sawed-off shotguns. Nothing in this section shall be  
8 construed to authorize the purchase or possession of any sawed-off  
9 shotgun.

10 l. Nothing in this section and in N.J.S.2C:58-2 shall apply to  
11 the sale or purchase of a visual distress signalling device approved  
12 by the United States Coast Guard, solely for possession on a private  
13 or commercial aircraft or any boat; provided, however, that no  
14 person under the age of 18 years shall purchase nor shall any person  
15 sell to a person under the age of 18 years a visual distress signalling  
16 device.

17 m. The provisions of subsections a. and b. of this section and  
18 paragraphs (4) and (5) of subsection a. of N.J.S.2C:58-2 shall not  
19 apply to the purchase of firearms by a law enforcement agency for  
20 use by law enforcement officers in the actual performance of the  
21 officers' official duties, which purchase may be made directly from  
22 a manufacturer or from a licensed dealer located in this State or any  
23 other state.

24 (cf: P.L.2016, c.74, s.1)

25

26 16. The Supreme Court may promulgate Rules of Court to  
27 effectuate the purposes of the "Extreme Risk Protective Order Act  
28 of 2018," P.L. , c. (C. ) (pending before the Legislature as  
29 this bill).

30

31 17. (New section) The Attorney General may adopt, pursuant to  
32 the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1  
33 et seq.), rules and regulations necessary to implement the provisions  
34 of the "Extreme Risk Protective Order Act of 2018," P.L. ,  
35 c. (C. ) (pending before the Legislature as this bill).

36

37 18. This act shall take effect on the first day of the seventh  
38 month next following enactment, but the Attorney General and the  
39 Administrative Director of the Courts may take any anticipatory  
40 action as shall be necessary to effectuate the purposes of this act.