

# SENATE, No. 160

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Senator VIN GOPAL**

**District 11 (Monmouth)**

**Senator JOSEPH P. CRYAN**

**District 20 (Union)**

**Co-Sponsored by:**

**Senators Scutari and Turner**

**SYNOPSIS**

Requires firearms seizure when mental health professional determines patient poses threat of harm to self or others.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 4/13/2018)**

1 AN ACT concerning mental health professionals' duty to warn and  
2 protect and amending P.L.1991, c.270.

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

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7 1. Section 1 of P.L.1991, c.270 (C.2A:62A-16) is amended to  
8 read as follows:

9 1. a. Any person who is licensed in the State of New Jersey to  
10 practice psychology, psychiatry, medicine, nursing, clinical social  
11 work, or marriage counseling, whether or not compensation is  
12 received or expected, is immune from any civil liability for a  
13 patient's violent act against another person or against himself unless  
14 the practitioner has incurred a duty to warn and protect the potential  
15 victim as set forth in subsection b. of this section and fails to  
16 discharge that duty as set forth in subsection c. of this section.

17 b. A duty to warn and protect is incurred when the following  
18 conditions exist:

19 (1) The patient has communicated to that practitioner a threat of  
20 imminent, serious physical violence against a readily identifiable  
21 individual or against himself and the circumstances are such that a  
22 reasonable professional in the practitioner's area of expertise would  
23 believe the patient intended to carry out the threat; or

24 (2) The circumstances are such that a reasonable professional in  
25 the practitioner's area of expertise would believe the patient  
26 intended to carry out an act of imminent, serious physical violence  
27 against a readily identifiable individual or against himself.

28 c. A licensed practitioner of psychology, psychiatry, medicine,  
29 nursing, clinical social work or marriage counseling shall discharge  
30 the duty to warn and protect as set forth in subsection b. of this  
31 section by doing any one or more of the following:

32 (1) Arranging for the patient to be admitted voluntarily to a  
33 psychiatric unit of a general hospital, a short-term care facility, a  
34 special psychiatric hospital or a psychiatric facility, under the  
35 provisions of P.L.1987, c.116 (C.30:4-27.1 et seq.);

36 (2) Initiating procedures for involuntary commitment to  
37 treatment of the patient to an outpatient treatment provider, a short-  
38 term care facility, a special psychiatric hospital or a psychiatric  
39 facility, under the provisions of P.L.1987, c.116 (C.30:4-27.1 et  
40 seq.);

41 (3) Advising a local law enforcement authority of the patient's  
42 threat and the identity of the intended victim;

43 (4) Warning the intended victim of the threat, or, in the case of  
44 an intended victim who is under the age of 18, warning the parent  
45 or guardian of the intended victim; 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 (5) If the patient is under the age of 18 and threatens to commit  
2 suicide or bodily injury upon himself, warning the parent or  
3 guardian of the patient.

4 d. A practitioner who is licensed in the State of New Jersey to  
5 practice psychology, psychiatry, medicine, nursing, clinical social  
6 work or marriage counseling who, in complying with subsection c.  
7 of this section, discloses a privileged communication, is immune  
8 from civil liability in regard to that disclosure.

9 e. If a licensed practitioner of psychology, psychiatry,  
10 medicine, nursing, clinical social work, or marriage counseling who  
11 currently is providing treatment services determines, in the exercise  
12 of reasonable professional judgment, that the patient is likely to  
13 engage in conduct that would result in serious harm to self or  
14 others, the licensee shall report, as soon as practicable to the  
15 Attorney General the patient's name and other non-clinical  
16 identifying information which the Attorney General shall only use  
17 to determine whether the patient has been issued a firearms  
18 purchaser identification card, permit to purchase a handgun, or any  
19 other permit or license authorizing possession of a firearm. If the  
20 patient has been issued a card or permit, the Attorney General shall  
21 arrange for any firearm possessed by the patient to be seized  
22 pending a hearing. The Attorney General shall issue guidelines  
23 governing the seizure of firearms pursuant to this subsection.

24 A licensed practitioner who, in complying with this subsection,  
25 discloses a privileged communication is immune from civil liability  
26 in regard to that disclosure.

27 (cf: P.L.2009, c.112, s.21)

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29 2. This act shall take effect immediately.

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### STATEMENT

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34 This bill requires the Attorney General to seize a firearm that is  
35 in the possession of a person determined by a mental health  
36 professional to be likely to engage in conduct that poses a threat of  
37 serious harm to the patient or another person.

38 Specifically, the bill requires licensed medical professionals in  
39 this State, including psychologists, psychiatrists, medical doctors,  
40 nurses, clinical social workers, and marriage counselors, to report to  
41 the Attorney General when, in their reasonable professional  
42 judgment, a patient they are treating is likely to engage in conduct  
43 that would result in serious harm to that patient or others. The  
44 Attorney General would receive the patient's name and other non-  
45 clinical identifying information to be used solely for the purpose of  
46 determining whether the patient has been issued a firearms  
47 purchaser identification card, permit to purchase a handgun, or any  
48 other permit or license authorizing possession of a firearm. If the

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1 patient has been issued a card or permit, the Attorney General is  
2 required to arrange for any firearm possessed by the patient to be  
3 seized pending a hearing.

4 The bill clarifies that a licensed medical professional who  
5 discloses a privileged communication in complying with the bill's  
6 provisions is immune from civil liability in regard to that  
7 disclosure.