

ASSEMBLY, No. 1317

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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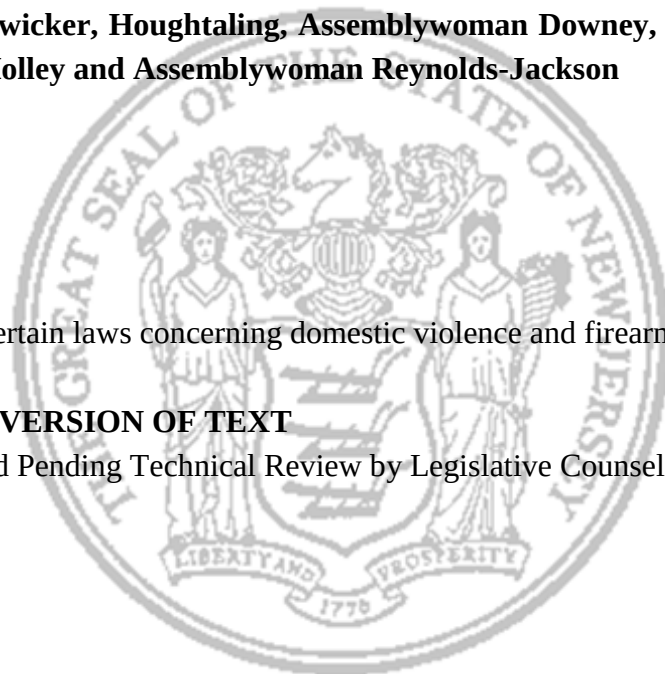
**Assemblymen Caputo, Johnson, Assemblywomen Jasey, Jimenez,
Assemblymen Giblin, McKeon, Assemblywoman Tucker, Assemblymen
Coughlin, Zwicker, Houghtaling, Assemblywoman Downey, Assemblymen
Conaway, Holley and Assemblywoman Reynolds-Jackson**

SYNOPSIS

Revises certain laws concerning domestic violence and firearms.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning domestic violence and firearms and amending
2 and supplementing 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. Section 5 of P.L.1991, c.261 (C.2C:25-21) is amended to
8 read as follows:

9 5. a. When a person claims to be a victim of domestic
10 violence, and where a law enforcement officer responding to the
11 incident finds probable cause to believe that domestic violence has
12 occurred, the law enforcement officer shall arrest the person who is
13 alleged to be the person who subjected the victim to domestic
14 violence and shall sign a criminal complaint if:

15 (1) The victim exhibits signs of injury caused by an act of
16 domestic violence;

17 (2) A warrant is in effect;

18 (3) There is probable cause to believe that the person has
19 violated N.J.S.2C:29-9, and there is probable cause to believe that
20 the person has been served with the order alleged to have been
21 violated. If the victim does not have a copy of a purported order,
22 the officer may verify the existence of an order with the appropriate
23 law enforcement agency; or

24 (4) There is probable cause to believe that a weapon as defined
25 in N.J.S.2C:39-1 has been involved in the commission of an act of
26 domestic violence.

27 b. A law enforcement officer may arrest a person; or may sign
28 a criminal complaint against that person, or may do both, where
29 there is probable cause to believe that an act of domestic violence
30 has been committed, but where none of the conditions in subsection
31 a. of this section applies.

32 c. (1) As used in this section, the word "exhibits" is to be
33 liberally construed to mean any indication that a victim has suffered
34 bodily injury, which shall include physical pain or any impairment
35 of physical condition. Where the victim exhibits no visible sign of
36 injury, but states that an injury has occurred, the officer should
37 consider other relevant factors in determining whether there is
38 probable cause to make an arrest.

39 (2) In determining which party in a domestic violence incident
40 is the victim where both parties exhibit signs of injury, the officer
41 should consider the comparative extent of the injuries, the history of
42 domestic violence between the parties, if any, and any other
43 relevant factors.

44 (3) No victim shall be denied relief or arrested or charged under

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 this act with an offense because the victim used reasonable force in
2 self defense against domestic violence by an attacker.

3 d. (1) In addition to a law enforcement officer's authority to
4 seize any weapon that is contraband, evidence or an instrumentality
5 of crime, a law enforcement officer who has probable cause to
6 believe that an act of domestic violence has been committed shall:

7 (a) question persons present to determine whether there are
8 weapons on the premises; and

9 (b) upon observing or learning that a weapon is present on the
10 premises, seize any weapon that the officer reasonably believes
11 would expose the victim to a risk of serious bodily injury. If a law
12 enforcement officer seizes any firearm pursuant to this paragraph,
13 the officer shall also seize any **firearm** firearms purchaser
14 identification card or permit to purchase a handgun issued to the
15 person accused of the act of domestic violence.

16 (2) A law enforcement officer shall deliver all weapons,
17 firearms purchaser identification cards and permits to purchase a
18 handgun seized pursuant to this section to the county prosecutor and
19 shall append an inventory of all seized items to the domestic
20 violence report.

21 (3) Weapons seized in accordance with the "Prevention of
22 Domestic Violence Act of 1991", P.L.1991, c.261 (C.2C:25-17 et
23 seq.) shall be returned to the owner except upon order of the
24 Superior Court. The prosecutor who has possession of the seized
25 weapons may, upon notice to the owner, petition a judge of the
26 Family Part of the Superior Court, Chancery Division, within 45
27 days of seizure, to obtain title to the seized weapons, or to revoke
28 any and all permits, licenses and other authorizations for the use,
29 possession, or ownership of such weapons pursuant to the law
30 governing such use, possession, or ownership, or may object to the
31 return of the weapons on such grounds as are provided for the initial
32 rejection or later revocation of the authorizations, or on the grounds
33 that the owner is unfit or that the owner poses a threat to the public
34 in general or a person or persons in particular.

35 A hearing shall be held and a record made thereof within 45 days
36 of the notice provided above. No formal pleading and no filing fee
37 shall be required as a preliminary to such hearing. The hearing
38 shall be summary in nature. Appeals from the results of the hearing
39 shall be to the Superior Court, Appellate Division, in accordance
40 with the law.

41 If the prosecutor does not institute an action within 45 days of
42 seizure, the seized weapons shall be returned to the owner. Before
43 the weapons are returned, the prosecutor shall inform the victim of
44 domestic violence of the availability of restraining orders in
45 accordance with the "Prevention of Domestic Violence Act of
46 1991," P.L.1991, c.261 (C.2C:25-17 et seq.) and the authority of a
47 private citizen to apply to the court to seek revocation of the

1 accused person's firearms purchaser identification card or permit to
2 purchase a handgun pursuant to subsection f. of N.J.S.2C:58-3.

3 After the hearing the court shall order the return of the firearms,
4 weapons and any authorization papers relating to the seized
5 weapons to the owner if the court determines the owner is not
6 subject to any of the disabilities set forth in **【N.J.S.2C:58-3c.】**
7 subsection c. of N.J.S.2C:58-3 and finds that the complaint has been
8 dismissed at the request of the complainant and the prosecutor
9 determines that there is insufficient probable cause to indict; or if
10 the defendant is found not guilty of the charges; or if the court
11 determines that the domestic violence situation no longer exists.
12 Nothing in this act shall impair the right of the State to retain
13 evidence pending a criminal prosecution. Nor shall any provision
14 of this act be construed to limit the authority of the State or a law
15 enforcement officer to seize, retain or forfeit property pursuant to
16 chapter 64 of Title 2C of the New Jersey Statutes.

17 If, after the hearing, the court determines that the weapons are
18 not to be returned to the owner, the court may:

19 (a) With respect to weapons other than firearms, order the
20 prosecutor to dispose of the weapons if the owner does not arrange
21 for the transfer or sale of the weapons to an appropriate person
22 within 60 days; or

23 (b) Order the revocation of the owner's firearms purchaser
24 identification card or any permit, license or authorization, in which
25 case the court shall order the owner to surrender any firearm seized
26 and all other firearms possessed to the prosecutor and shall order
27 the prosecutor to dispose of the firearms if the owner does not
28 arrange for the sale of the firearms to a registered dealer of the
29 firearms within 60 days; or

30 (c) Order such other relief as it may deem appropriate. When
31 the court orders the weapons forfeited to the State or the prosecutor
32 is required to dispose of the weapons, the prosecutor shall dispose
33 of the property as provided in N.J.S.2C:64-6.

34 (4) A civil suit may be brought to enjoin a wrongful failure to
35 return a seized firearm where the prosecutor refuses to return the
36 weapon after receiving a written request to do so and notice of the
37 owner's intent to bring a civil action pursuant to this section.
38 Failure of the prosecutor to comply with the provisions of this act
39 shall entitle the prevailing party in the civil suit to reasonable costs,
40 including attorney's fees, provided that the court finds that the
41 prosecutor failed to act in good faith in retaining the seized weapon.

42 (5) No law enforcement officer or agency shall be held liable in
43 any civil action brought by any person for failing to learn of, locate
44 or seize a weapon pursuant to this act, or for returning a seized
45 weapon to its owner.

46 (cf: P.L.2003, c.277, s.1)

1 2. Section 11 of P.L.1991, c.261 (C.2C:25-27) is amended to
2 read as follows:

3 11. a. When a defendant is found guilty of a crime or offense
4 involving domestic violence and a condition of sentence restricts
5 the defendant's ability to have contact with the victim, the victim's
6 friends, co-workers, or relatives, or an animal owned, possessed,
7 leased, kept, or held by either party or a minor child residing in the
8 household, that condition shall be recorded in an order of the court
9 and a written copy of that order shall be provided to the victim by
10 the clerk of the court or other person designated by the court. In
11 addition to restricting a defendant's ability to have contact with the
12 victim, the victim's friends, co-workers, or relatives, or an animal
13 owned, possessed, leased, kept, or held by either party or a minor
14 child residing in the household, the court may require the defendant
15 to receive professional counseling from either a private source or a
16 source appointed by the court, and if the court so orders, the court
17 shall require the defendant to provide documentation of attendance
18 at the professional counseling. In any case where the court order
19 contains a requirement that the defendant receive professional
20 counseling, no application by the defendant to dissolve the
21 restraining order shall be granted unless, in addition to any other
22 provisions required by law or conditions ordered by the court, the
23 defendant has completed all required attendance at such counseling.

24 b. In addition the court may enter an order directing the
25 possession of an animal owned, possessed, leased, kept, or held by
26 either party or a minor child residing in the household. Where a
27 person has abused or threatened to abuse such animal, there shall be
28 a presumption that possession of the animal shall be awarded to the
29 non-abusive party.

30 c. (1) When a defendant is found guilty of a crime or offense
31 involving domestic violence, the court shall inform the defendant
32 that he is prohibited from purchasing, owning, possessing, or
33 controlling a firearm pursuant to section 6 of P.L.1979, c.179
34 (C.2C:39-7) and from receiving or retaining a firearms purchaser
35 identification card or permit to purchase a handgun pursuant to
36 N.J.S.2C:58-3. The court shall order the defendant to arrange for
37 the immediate surrender to a law enforcement officer of any firearm
38 that has not already been seized or surrendered and any firearms
39 purchaser identification card or permit to purchase a handgun
40 possessed by the defendant provided, however, that no later than
41 five business days after the order is entered, the defendant may
42 arrange to sell any surrendered firearm to a licensed retail dealer of
43 firearms who shall be authorized to take possession of that
44 purchased firearm from the law enforcement agency to which it was
45 surrendered no later than 10 business days after the order is entered.
46 Any card or permit issued to the defendant shall be deemed
47 immediately revoked. The court shall establish a process for
48 notifying the appropriate authorities of the conviction requiring the

1 revocation of the card or permit. A law enforcement officer
2 accepting a surrendered firearm shall provide the defendant with a
3 receipt listing the date of surrender, the name of defendant, and
4 items that have been surrendered, including the serial number,
5 manufacturer, and model of the surrendered firearm. The defendant
6 shall provide a copy of this receipt to the prosecutor within 48 hours
7 of service of the order, and shall attest under penalty that any
8 firearms owned or possessed at the time of the order have been
9 transferred in accordance with this section and that the defendant
10 currently does not possess any firearms. The defendant
11 alternatively may attest under penalty that he did not own or
12 possess a firearm at the time of the order and currently does not
13 possess a firearm. If the court, upon motion of the prosecutor, finds
14 probable cause that the defendant has failed to surrender any
15 firearm, card or permit, the court may order a search for and
16 removal of these items at any location where the judge has
17 reasonable cause to believe these items are located. The judge shall
18 state with specificity the reasons for and the scope of the search and
19 seizure authorized by the order.

20 (2) A law enforcement officer who receives a firearm that is
21 surrendered, but not purchased and taken possession of by a
22 licensed retail dealer of firearms within 10 business days of when
23 the order is entered as set forth in paragraph (1) of this subsection
24 may dispose of the surrendered firearm in accordance with the
25 provisions of N.J.S.2C:64-6. A firearm purchased by a licensed
26 retail dealer from a defendant shall become part of the inventory of
27 the dealer.

28 (cf: P.L.2011, c.213, s.2)

29

30 3. Section 12 of P.L.1991, c.261 (C.2C:25-28) is amended to
31 read as follows:

32 12. a. A victim may file a complaint alleging the commission of
33 an act of domestic violence with the Family Part of the Chancery
34 Division of the Superior Court in conformity with the Rules of
35 Court. The court shall not dismiss any complaint or delay
36 disposition of a case because the victim has left the residence to
37 avoid further incidents of domestic violence. Filing a complaint
38 pursuant to this section shall not prevent the filing of a criminal
39 complaint for the same act.

40 On weekends, holidays and other times when the court is closed,
41 a victim may file a complaint before a judge of the Family Part of
42 the Chancery Division of the Superior Court or a municipal court
43 judge who shall be assigned to accept complaints and issue
44 emergency, ex parte relief in the form of temporary restraining
45 orders pursuant to this act.

46 A plaintiff may apply for relief under this section in a court
47 having jurisdiction over the place where the alleged act of domestic
48 violence occurred, where the defendant resides, or where the

- 1 plaintiff resides or is sheltered, and the court shall follow the same
2 procedures applicable to other emergency applications. Criminal
3 complaints filed pursuant to this act shall be investigated and
4 prosecuted in the jurisdiction where the offense is alleged to have
5 occurred. Contempt complaints filed pursuant to N.J.S.2C:29-9
6 shall be prosecuted in the county where the contempt is alleged to
7 have been committed and a copy of the contempt complaint shall be
8 forwarded to the court that issued the order alleged to have been
9 violated.
- 10 b. The court shall waive any requirement that the petitioner's
11 place of residence appear on the complaint.
- 12 c. (1) The clerk of the court, or other person designated by the
13 court, shall assist the parties in completing any forms necessary for
14 the filing of a summons, complaint, answer or other pleading.
- 15 (2) The plaintiff may provide information concerning firearms
16 to which the defendant has access, including the location of these
17 firearms, if known, on a form to be prescribed by the
18 Administrative Director of the Courts.
- 19 (3) Information provided by the plaintiff concerning firearms to
20 which the defendant has access shall be kept confidential and shall
21 not be disseminated or disclosed, provided that nothing in this
22 subsection shall prohibit dissemination or disclosure of this
23 information in a manner consistent with and in furtherance of the
24 purpose for which the information was provided.
- 25 d. Summons and complaint forms shall be readily available at
26 the clerk's office, at the municipal courts and at municipal and State
27 police stations.
- 28 e. As soon as the domestic violence complaint is filed, both the
29 victim and the abuser shall be advised of any programs or services
30 available for advice and counseling.
- 31 f. A plaintiff may seek emergency, ex parte relief in the nature
32 of a temporary restraining order. A municipal court judge or a
33 judge of the Family Part of the Chancery Division of the Superior
34 Court may enter an ex parte order when necessary to protect the
35 life, health or well-being of a victim on whose behalf the relief is
36 sought.
- 37 g. If it appears that the plaintiff is in danger of domestic
38 violence, the judge shall, upon consideration of the plaintiff's
39 domestic violence complaint, order emergency ex parte relief, in the
40 nature of a temporary restraining order. A decision shall be made
41 by the judge regarding the emergency relief forthwith.
- 42 h. A judge may issue a temporary restraining order upon sworn
43 testimony or complaint of an applicant who is not physically
44 present, pursuant to court rules, or by a person who represents a
45 person who is physically or mentally incapable of filing personally.
46 A temporary restraining order may be issued if the judge is satisfied
47 that exigent circumstances exist sufficient to excuse the failure of

1 the applicant to appear personally and that sufficient grounds for
2 granting the application have been shown.

3 i. An order for emergency, ex parte relief shall be granted
4 upon good cause shown and shall remain in effect until a judge of
5 the Family Part issues a further order. Any temporary order
6 hereunder is immediately appealable for a plenary hearing de novo
7 not on the record before any judge of the Family Part of the county
8 in which the plaintiff resides or is sheltered if that judge issued the
9 temporary order or has access to the reasons for the issuance of the
10 temporary order and sets forth in the record the reasons for the
11 modification or dissolution. The denial of a temporary restraining
12 order by a municipal court judge and subsequent administrative
13 dismissal of the complaint shall not bar the victim from refileing a
14 complaint in the Family Part based on the same incident and
15 receiving an emergency, ex parte hearing de novo not on the record
16 before a Family Part judge, and every denial of relief by a
17 municipal court judge shall so state.

18 j. Emergency relief may include forbidding the defendant from
19 returning to the scene of the domestic violence, forbidding the
20 defendant from possessing any firearm or other weapon enumerated
21 in subsection r. of N.J.S.2C:39-1, ordering the search for and
22 seizure of **any such** any firearm or other weapon at any location
23 where the judge has reasonable cause to believe the weapon is
24 located and the seizure of any firearms purchaser identification card
25 or permit to purchase a handgun issued to the defendant and any
26 other appropriate relief. Other appropriate relief may include but is
27 not limited to an order directing the possession of any animal
28 owned, possessed, leased, kept, or held by either party or a minor
29 child residing in the household and providing that the animal shall
30 not be disposed of prior to entry of a final order pursuant to section
31 13 of P.L.1991, c.261 (C.2C:25-29).

32 The judge shall state with specificity the reasons for and scope of
33 any search and seizure authorized by the order. The provisions of
34 this subsection prohibiting a defendant from possessing a firearm or
35 other weapon shall not apply to any law enforcement officer while
36 actually on duty, or to any member of the Armed Forces of the
37 United States or member of the National Guard while actually on
38 duty or traveling to or from an authorized place of duty.

39 k. The judge may permit the defendant to return to the scene of
40 the domestic violence to pick up personal belongings and effects
41 but shall, in the order granting relief, restrict the time and duration
42 of such permission and provide for police supervision of such visit.

43 l. An order granting emergency relief, together with the
44 complaint or complaints, shall immediately be forwarded to the
45 appropriate law enforcement agency for service on the defendant,
46 and to the police of the municipality in which the plaintiff resides or
47 is sheltered, and shall immediately be served upon the defendant by
48 the police, except that an order issued during regular court hours

1 may be forwarded to the sheriff for immediate service upon the
2 defendant in accordance with the Rules of Court. If personal
3 service cannot be effected upon the defendant, the court may order
4 other appropriate substituted service. At no time shall the plaintiff
5 be asked or required to serve any order on the defendant.

6 m. (Deleted by amendment, P.L.1994, c.94.)

7 n. Notice of temporary restraining orders issued pursuant to
8 this section shall be sent by the clerk of the court or other person
9 designated by the court to the appropriate chiefs of police, members
10 of the State Police and any other appropriate law enforcement
11 agency or court.

12 o. (Deleted by amendment, P.L.1994, c.94.)

13 p. Any temporary or final restraining order issued pursuant to
14 this act shall be in effect throughout the State, and shall be enforced
15 by all law enforcement officers.

16 q. Prior to the issuance of any temporary or final restraining
17 order issued pursuant to this section, the court shall order that a
18 search be made of the domestic violence central registry with regard
19 to the defendant's record, and require the appropriate law
20 enforcement agency to conduct a reasonable search of any available
21 records of firearm ownership, including records of a firearms
22 purchaser identification card, permit to purchase a handgun, and
23 handguns sold when these records have been made available under
24 subsection m. of N.J.S.2C:58-3. The search for records of firearm
25 ownership shall not delay issuance of the restraining order.

26 r. The law enforcement officer who receives firearms that are
27 surrendered or removes firearms in furtherance of an order issued
28 pursuant to this section shall ensure that these firearms are properly
29 stored for the duration of the order, and may charge the defendant
30 for the reasonable costs of storing these firearms. If the order is
31 dismissed, any card or permit surrendered by or removed from a
32 defendant pursuant to this section shall be returned to the defendant
33 unless the defendant is subject to any of the disabilities set forth in
34 subsection c. of N.J.S. 2C:58-3, and any firearm surrendered by or
35 removed from a defendant pursuant to this section shall be returned
36 to the defendant subject to the forfeiture procedure set forth in
37 paragraph (3) of subsection d. of section 5 of P.L.1991, c.261
38 (C.2C:25-21).

39 (cf: P.L.2011, c.213, s.3)

40
41 4. Section 13 of P.L.1991, c.261 (C.2C:25-29) is amended to
42 read as follows:

43 13. a. A hearing shall be held in the Family Part of the
44 Chancery Division of the Superior Court within 10 days of the
45 filing of a complaint pursuant to section 12 of P.L.1991,
46 c.261 (C.2C:25-28) in the county where the ex parte restraints were
47 ordered, unless good cause is shown for the hearing to be held
48 elsewhere. A copy of the complaint shall be served on the

1 defendant in conformity with the Rules of Court. If a criminal
2 complaint arising out of the same incident which is the subject
3 matter of a complaint brought under P.L.1981, c.426 (C.2C:25-1 et
4 seq.) or P.L.1991, c.261 (C.2C:25-17 et seq.) has been filed,
5 testimony given by the plaintiff or defendant in the domestic
6 violence matter shall not be used in the simultaneous or subsequent
7 criminal proceeding against the defendant, other than domestic
8 violence contempt matters and where it would otherwise be
9 admissible hearsay under the rules of evidence that govern where a
10 party is unavailable. At the hearing the standard for proving the
11 allegations in the complaint shall be by a preponderance of the
12 evidence. The court shall consider but not be limited to the
13 following factors:

14 (1) The previous history of domestic violence between the
15 plaintiff and defendant, including threats, harassment and physical
16 abuse;

17 (2) The existence of immediate danger to person or property;

18 (3) The financial circumstances of the plaintiff and defendant;

19 (4) The best interests of the victim and any child;

20 (5) In determining custody and parenting time the protection of
21 the victim's safety; and

22 (6) The existence of a verifiable order of protection from
23 another jurisdiction.

24 An order issued under this act shall only restrain or provide
25 damages payable from a person against whom a complaint has been
26 filed under this act and only after a finding or an admission is made
27 that an act of domestic violence was committed by that person. The
28 issue of whether or not a violation of this act occurred, including an
29 act of contempt under this act, shall not be subject to mediation or
30 negotiation in any form. In addition, where a temporary or final
31 order has been issued pursuant to this act, no party shall be ordered
32 to participate in mediation on the issue of custody or parenting time.

33 b. In proceedings in which complaints for restraining orders
34 have been filed, the court shall grant any relief necessary to prevent
35 further abuse. In addition to any other provisions, any restraining
36 order issued by the court shall bar the defendant from purchasing,
37 owning, possessing or controlling a firearm and from receiving or
38 retaining a firearms purchaser identification card or permit to
39 purchase a handgun pursuant to N.J.S.2C:58-3 during the period in
40 which the restraining order is in effect or two years, whichever is
41 greater, **【except that this provision】**, and shall order the defendant
42 to arrange for the immediate surrender to a law enforcement officer
43 of any firearm that has not already been seized or surrendered and
44 any firearms purchaser identification card or permit to purchase a
45 handgun possessed by the defendant provided, however, that no
46 later than five business days after the order is entered, the defendant
47 may arrange to sell any surrendered firearm to a retail dealer of
48 firearms who shall be authorized to take possession of that

1 purchased firearm from the law enforcement agency to which it was
2 surrendered no later than 10 business days after the order is entered.
3 Any card or permit issued to the defendant shall be deemed
4 immediately suspended. The court shall establish a process for
5 notifying the appropriate authorities of the restraining order
6 requiring the suspension of the card or permit. The law
7 enforcement officer accepting surrendered firearms shall provide
8 the defendant with a receipt listing the date of surrender, the name
9 of the defendant, items that have been surrendered, including the
10 serial number, manufacturer, and model of all surrendered firearms.
11 The defendant shall provide a copy of this receipt to the court
12 within 48 hours of service of the order and shall attest under penalty
13 that any firearms owned or possessed at the time of the order have
14 been transferred in accordance with this section and that the
15 defendant does not currently possess any firearms. A defendant
16 alternatively may attest under penalty that he did not own or
17 possess a firearm at the time of the order and currently does not
18 possess a firearm. If the court, upon motion of the prosecutor, finds
19 probable cause that the defendant has failed to surrender any
20 firearm, card or permit, the court may order a search for and
21 removal of these items at any location where the judge has
22 reasonable cause to believe these items are located. The judge shall
23 state with specificity the reasons for and the scope of the search and
24 seizure authorized by the order. The provisions of this subsection
25 requiring the surrender or removal of a firearm, card, or permit shall
26 not apply to any law enforcement officer while actually on duty, or
27 to any member of the Armed Forces of the United States or member
28 of the National Guard while actually on duty or traveling to or from
29 an authorized place of duty. At the hearing the judge of the Family
30 Part of the Chancery Division of the Superior Court may issue an
31 order granting any or all of the following relief:

32 (1) An order restraining the defendant from subjecting the
33 victim to domestic violence, as defined in this act.

34 (2) An order granting exclusive possession to the plaintiff of the
35 residence or household regardless of whether the residence or
36 household is jointly or solely owned by the parties or jointly or
37 solely leased by the parties. This order shall not in any manner
38 affect title or interest to any real property held by either party or
39 both jointly. If it is not possible for the victim to remain in the
40 residence, the court may order the defendant to pay the victim's rent
41 at a residence other than the one previously shared by the parties if
42 the defendant is found to have a duty to support the victim and the
43 victim requires alternative housing.

44 (3) An order providing for parenting time. The order shall
45 protect the safety and well-being of the plaintiff and minor children
46 and shall specify the place and frequency of parenting time.
47 Parenting time arrangements shall not compromise any other
48 remedy provided by the court by requiring or encouraging contact

1 between the plaintiff and defendant. Orders for parenting time may
2 include a designation of a place of parenting time away from the
3 plaintiff, the participation of a third party, or supervised parenting
4 time.

5 (a) The court shall consider a request by a custodial parent who
6 has been subjected to domestic violence by a person with parenting
7 time rights to a child in the parent's custody for an investigation or
8 evaluation by the appropriate agency to assess the risk of harm to
9 the child prior to the entry of a parenting time order. Any denial of
10 such a request must be on the record and shall only be made if the
11 judge finds the request to be arbitrary or capricious.

12 (b) The court shall consider suspension of the parenting time
13 order and hold an emergency hearing upon an application made by
14 the plaintiff certifying under oath that the defendant's access to the
15 child pursuant to the parenting time order has threatened the safety
16 and well-being of the child.

17 (4) An order requiring the defendant to pay to the victim
18 monetary compensation for losses suffered as a direct result of the
19 act of domestic violence. The order may require the defendant to
20 pay the victim directly, to reimburse the Victims of Crime
21 Compensation Office for any and all compensation paid by the
22 Victims of Crime Compensation Office directly to or on behalf of
23 the victim, and may require that the defendant reimburse any parties
24 that may have compensated the victim, as the court may determine.
25 Compensatory losses shall include, but not be limited to, loss of
26 earnings or other support, including child or spousal support, out-
27 of-pocket losses for injuries sustained, cost of repair or replacement
28 of real or personal property damaged or destroyed or taken by the
29 defendant, cost of counseling for the victim, moving or other travel
30 expenses, reasonable attorney's fees, court costs, and compensation
31 for pain and suffering. Where appropriate, punitive damages may be
32 awarded in addition to compensatory damages.

33 (5) An order requiring the defendant to receive professional
34 domestic violence counseling from either a private source or a
35 source appointed by the court and, in that event, requiring the
36 defendant to provide the court at specified intervals with
37 documentation of attendance at the professional counseling. The
38 court may order the defendant to pay for the professional
39 counseling. No application by the defendant to dissolve a final
40 order which contains a requirement for attendance at professional
41 counseling pursuant to this paragraph shall be granted by the court
42 unless, in addition to any other provisions required by law or
43 conditions ordered by the court, the defendant has completed all
44 required attendance at such counseling.

45 (6) An order restraining the defendant from entering the
46 residence, property, school, or place of employment of the victim or
47 of other family or household members of the victim and requiring
48 the defendant to stay away from any specified place that is named

1 in the order and is frequented regularly by the victim or other
2 family or household members.

3 (7) An order restraining the defendant from making contact with
4 the plaintiff or others, including an order forbidding the defendant
5 from personally or through an agent initiating any communication
6 likely to cause annoyance or alarm including, but not limited to,
7 personal, written, or telephone contact with the victim or other
8 family members, or their employers, employees, or fellow workers,
9 or others with whom communication would be likely to cause
10 annoyance or alarm to the victim.

11 (8) An order requiring that the defendant make or continue to
12 make rent or mortgage payments on the residence occupied by the
13 victim if the defendant is found to have a duty to support the victim
14 or other dependent household members; provided that this issue has
15 not been resolved or is not being litigated between the parties in
16 another action.

17 (9) An order granting either party temporary possession of
18 specified personal property, such as an automobile, checkbook,
19 documentation of health insurance, an identification document, a
20 key, and other personal effects.

21 (10) An order awarding emergency monetary relief, including
22 emergency support for minor children, to the victim and other
23 dependents, if any. An ongoing obligation of support shall be
24 determined at a later date pursuant to applicable law.

25 (11) An order awarding temporary custody of a minor child. The
26 court shall presume that the best interests of the child are served by
27 an award of custody to the non-abusive parent.

28 (12) An order requiring that a law enforcement officer
29 accompany either party to the residence or any shared business
30 premises to supervise the removal of personal belongings in order
31 to ensure the personal safety of the plaintiff when a restraining
32 order has been issued. This order shall be restricted in duration.

33 (13) (Deleted by amendment, P.L.1995, c.242).

34 (14) An order granting any other appropriate relief for the
35 plaintiff and dependent children, provided that the plaintiff consents
36 to such relief, including relief requested by the plaintiff at the final
37 hearing, whether or not the plaintiff requested such relief at the time
38 of the granting of the initial emergency order.

39 (15) An order that requires that the defendant report to the intake
40 unit of the Family Part of the Chancery Division of the Superior
41 Court for monitoring of any other provision of the order.

42 (16) In addition to the order required by this subsection
43 prohibiting the defendant from possessing any firearm, the court
44 may also issue an order prohibiting the defendant from possessing
45 any other weapon enumerated in subsection r. of N.J.S.2C:39-1 and
46 ordering the search for and seizure of any [firearm or] other
47 weapon at any location where the judge has reasonable cause to
48 believe the weapon is located. The judge shall state with specificity

1 the reasons for and scope of the search and seizure authorized by
2 the order.

3 (17) An order prohibiting the defendant from stalking or
4 following, or threatening to harm, to stalk or to follow, the
5 complainant or any other person named in the order in a manner
6 that, taken in the context of past actions of the defendant, would put
7 the complainant in reasonable fear that the defendant would cause
8 the death or injury of the complainant or any other person.
9 Behavior prohibited under this act includes, but is not limited to,
10 behavior prohibited under the provisions of P.L.1992,
11 c.209 (C.2C:12-10).

12 (18) An order requiring the defendant to undergo a psychiatric
13 evaluation.

14 (19) An order directing the possession of any animal owned,
15 possessed, leased, kept, or held by either party or a minor child
16 residing in the household. Where a person has abused or threatened
17 to abuse such animal, there shall be a presumption that possession
18 of the animal shall be awarded to the non-abusive party.

19 c. Notice of orders issued pursuant to this section shall be sent
20 by the clerk of the Family Part of the Chancery Division of the
21 Superior Court or other person designated by the court to the
22 appropriate chiefs of police, members of the State Police and any
23 other appropriate law enforcement agency.

24 d. Upon good cause shown, any final order may be dissolved or
25 modified upon application to the Family Part of the Chancery
26 Division of the Superior Court, but only if the judge who dissolves
27 or modifies the order is the same judge who entered the order, or
28 has available a complete record of the hearing or hearings on which
29 the order was based.

30 e. Prior to the issuance of any order pursuant to this section,
31 the court shall order that a search be made of the domestic violence
32 central registry, and require the appropriate law enforcement agency
33 to conduct a reasonable search of any available records of firearm
34 ownership, including records of firearms purchaser identification
35 cards, permits to purchase handguns, and handguns sold when such
36 records have been made available under subsection m. of
37 N.J.S.2C:58-3. The search for records of firearm ownership shall
38 not delay issuance of the restraining order.

39 f. The law enforcement officer who receives a firearm that is
40 surrendered or removes a firearm in furtherance of an order issued
41 pursuant to this section shall ensure that the firearm is properly
42 stored for the duration of the firearm prohibition under subsection
43 b. of this section and may charge the defendant for the reasonable
44 costs of storing the firearm. If the firearm prohibition under
45 subsection b. is terminated, any card or permit surrendered by or
46 removed from a defendant pursuant to this section shall be returned
47 to the defendant unless the defendant is subject to any of the
48 disabilities set forth in subsection c. of N.J.S.2C:58-3, and any

1 firearm surrendered by or removed from a defendant pursuant to
2 this section shall be returned to the defendant subject to the
3 forfeiture procedure set forth in paragraph (3) of subsection d. of
4 section 5 of P.L.1991, c.261 (C.2C:25-21).

5 (cf: P.L.2011, c.213, s.4)

6
7 5. (New section) A law enforcement officer or prosecutor who
8 takes possession of firearms in furtherance of an order issued
9 pursuant to sections 12 and 13 of P.L.1991, c.261 (C.2C:25-28 and
10 C.2C:25-29), or when a firearms purchaser identification card or
11 permit to purchase a handgun is revoked under section 11 of
12 P.L.1991, c.261 (C.2C:25-27) or subsection f. of N.J.S.2C:58-3 in
13 whole or in part because of the holder's involvement in domestic
14 violence, shall prepare an inventory of all firearms, cards, and
15 permits removed from the defendant. The prosecutor or law
16 enforcement officer shall compare this inventory with available
17 records of firearm ownership, including information provided by
18 the plaintiff or witnesses, and records of cards, permits, and
19 handguns sold to the extent such records have been made available
20 under subsection m. of N.J.S.2C:58-3. If there are discrepancies
21 between these records, the prosecutor or law enforcement officer
22 shall take appropriate action to ensure that the defendant does not
23 have access to a firearm, including but not limited to, seeking a
24 search warrant or initiating contempt proceedings pursuant to
25 section 15 of P.L.1991, c.261 (C.2C:25-31), if appropriate. If a
26 retail dealer of firearms takes possession of firearms in furtherance
27 of an order issued pursuant to section 13 of P.L.1991, c.261
28 (C.2C:25-29), the prosecutor shall ensure that an inventory is
29 prepared as described in this section and shall take appropriate
30 action to ensure the defendant no longer has access to firearms.

31
32 6. N.J.S.2C:58-3 is amended to read as follows:

33 2C:58-3. a. Permit to purchase a handgun. No person shall
34 sell, give, transfer, assign or otherwise dispose of, nor receive,
35 purchase, or otherwise acquire a handgun unless the purchaser,
36 assignee, donee, receiver or holder is licensed as a dealer under this
37 chapter or has first secured a permit to purchase a handgun as
38 provided by this section.

39 b. Firearms purchaser identification card. No person shall sell,
40 give, transfer, assign or otherwise dispose of nor receive, purchase
41 or otherwise acquire an antique cannon or a rifle or shotgun, other
42 than an antique rifle or shotgun, unless the purchaser, assignee,
43 donee, receiver or holder is licensed as a dealer under this chapter
44 or possesses a valid firearms purchaser identification card, and first
45 exhibits said card to the seller, donor, transferor or assignor, and
46 unless the purchaser, assignee, donee, receiver or holder signs a
47 written certification, on a form prescribed by the superintendent,
48 which shall indicate that he presently complies with the

1 requirements of subsection c. of this section and shall contain his
2 name, address and firearms purchaser identification card number or
3 dealer's registration number. The said certification shall be retained
4 by the seller, as provided in paragraph (4) of subsection a. of
5 N.J.S.2C:58-2, or, in the case of a person who is not a dealer, it may
6 be filed with the chief of police of the municipality in which he
7 resides or with the superintendent.

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

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

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

23 (3) To any person who suffers from a physical defect or disease
24 which would make it unsafe for him to handle firearms, to any
25 person who has ever been confined for a mental disorder, or to any
26 alcoholic unless any of the foregoing persons produces a certificate
27 of a medical doctor or psychiatrist licensed in New Jersey, or other
28 satisfactory proof, that he is no longer suffering from that particular
29 disability in such a manner that would interfere with or handicap
30 him in the handling of firearms; to any person who knowingly
31 falsifies any information on the application form for a handgun
32 purchase permit or firearms purchaser identification card;

33 (4) To any person under the age of 18 years for a firearms
34 purchaser identification card and to any person under the age of 21
35 years for a permit to purchase a handgun;

36 (5) To any person where the issuance would not be in the
37 interest of the public health, safety or welfare;

38 (6) To any person who is subject to a restraining order issued
39 pursuant to the "Prevention of Domestic Violence Act of 1991,"
40 P.L.1991, c.261 (C.2C:25-17 et seq.) prohibiting the person from
41 possessing any firearm;

42 (7) To any person who as a juvenile was adjudicated delinquent
43 for an offense which, if committed by an adult, would constitute a
44 crime and the offense involved the unlawful use or possession of a
45 weapon, explosive or destructive device or is enumerated in
46 subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2);

47 (8) To any person whose firearm is seized pursuant to the
48 "Prevention of Domestic Violence Act of 1991," P.L.1991,

1 c.261 (C.2C:25-17 et seq.) and whose firearm has not been
2 returned; or

3 (9) To any person named on the consolidated Terrorist
4 Watchlist maintained by Terrorist Screening Center administered by
5 the Federal Bureau of Investigation.

6 d. Issuance. The chief of police of an organized full-time
7 police department of the municipality where the applicant resides or
8 the superintendent, in all other cases, shall upon application, issue
9 to any person qualified under the provisions of subsection c. of this
10 section a permit to purchase a handgun or a firearms purchaser
11 identification card.

12 Any person aggrieved by the denial of a permit or identification
13 card may request a hearing in the Superior Court of the county in
14 which he resides if he is a resident of New Jersey or in the Superior
15 Court of the county in which his application was filed if he is a
16 nonresident. The request for a hearing shall be made in writing
17 within 30 days of the denial of the application for a permit or
18 identification card. The applicant shall serve a copy of his request
19 for a hearing upon the chief of police of the municipality in which
20 he resides, if he is a resident of New Jersey, and upon the
21 superintendent in all cases. The hearing shall be held and a record
22 made thereof within 30 days of the receipt of the application for
23 such hearing by the judge of the Superior Court. No formal
24 pleading and no filing fee shall be required as a preliminary to such
25 hearing. Appeals from the results of such hearing shall be in
26 accordance with law.

27 e. Applications. Applications for permits to purchase a
28 handgun and for firearms purchaser identification cards shall be in
29 the form prescribed by the superintendent and shall set forth the
30 name, residence, place of business, age, date of birth, occupation,
31 sex and physical description, including distinguishing physical
32 characteristics, if any, of the applicant, and shall state whether the
33 applicant is a citizen, whether he is an alcoholic, habitual drunkard,
34 drug dependent person as defined in section 2 of P.L.1970,
35 c.226 (C.24:21-2), whether he has ever been confined or committed
36 to a mental institution or hospital for treatment or observation of a
37 mental or psychiatric condition on a temporary, interim or
38 permanent basis, giving the name and location of the institution or
39 hospital and the dates of such confinement or commitment, whether
40 he has been attended, treated or observed by any doctor or
41 psychiatrist or at any hospital or mental institution on an inpatient
42 or outpatient basis for any mental or psychiatric condition, giving
43 the name and location of the doctor, psychiatrist, hospital or
44 institution and the dates of such occurrence, whether he presently or
45 ever has been a member of any organization which advocates or
46 approves the commission of acts of force and violence to overthrow
47 the Government of the United States or of this State, or which seeks
48 to deny others their rights under the Constitution of either the

1 United States or the State of New Jersey, whether he has ever been
2 convicted of a crime or disorderly persons offense, whether the
3 person is subject to a restraining order issued pursuant to the
4 "Prevention of Domestic Violence Act of 1991," P.L.1991,
5 c.261 (C.2C:25-17 et seq.) prohibiting the person from possessing
6 any firearm, and such other information as the superintendent shall
7 deem necessary for the proper enforcement of this chapter. For the
8 purpose of complying with this subsection, the applicant shall
9 waive any statutory or other right of confidentiality relating to
10 institutional confinement. The application shall be signed by the
11 applicant and shall contain as references the names and addresses of
12 two reputable citizens personally acquainted with him.

13 Application blanks shall be obtainable from the superintendent,
14 from any other officer authorized to grant such permit or
15 identification card, and from licensed retail dealers.

16 The chief police officer or the superintendent shall obtain the
17 fingerprints of the applicant and shall have them compared with any
18 and all records of fingerprints in the municipality and county in
19 which the applicant resides and also the records of the State Bureau
20 of Identification and the Federal Bureau of Investigation, provided
21 that an applicant for a handgun purchase permit who possesses a
22 valid firearms purchaser identification card, or who has previously
23 obtained a handgun purchase permit from the same licensing
24 authority for which he was previously fingerprinted, and who
25 provides other reasonably satisfactory proof of his identity, need not
26 be fingerprinted again; however, the chief police officer or the
27 superintendent shall proceed to investigate the application to
28 determine whether or not the applicant has become subject to any of
29 the disabilities set forth in this chapter.

30 As part of the investigation of an applicant for a firearms
31 purchaser identification card or permit to purchase a handgun
32 pursuant to this section, the chief police officer or the
33 superintendent also shall search the domestic violence central
34 registry with regard to the applicant's record.

35 f. Granting of permit or identification card; fee; term; renewal;
36 revocation. The application for the permit to purchase a handgun
37 together with a fee of \$2, or the application for the firearms
38 purchaser identification card together with a fee of \$5, shall be
39 delivered or forwarded to the licensing authority who shall
40 investigate the same and, unless good cause for the denial thereof
41 appears, shall grant the permit or the identification card, or both, if
42 application has been made therefor, within 30 days from the date of
43 receipt of the application for residents of this State and within 45
44 days for nonresident applicants. A permit to purchase a handgun
45 shall be valid for a period of 90 days from the date of issuance and
46 may be renewed by the issuing authority for good cause for an
47 additional 90 days. A firearms purchaser identification card shall
48 be valid until such time as the holder becomes subject to any of the

1 disabilities set forth in subsection c. of this section, whereupon the
2 card shall be void and shall be returned within five days by the
3 holder to the superintendent, who shall then advise the licensing
4 authority. Failure of the holder to return the firearms purchaser
5 identification card to the superintendent within the said five days
6 shall be an offense under subsection a. of N.J.S.2C:39-10. Any
7 firearms purchaser identification card or permit to purchase a
8 handgun may be revoked by the Superior Court of the county
9 wherein the card or permit was issued, after hearing upon notice,
10 upon a finding that the holder **【thereof】** of the card or permit no
11 longer qualifies for the issuance of **【such】** the card or permit. The
12 county prosecutor of any county, the chief police officer of any
13 municipality or any citizen may apply to **【such】** the court at any
14 time for the revocation of **【such】** a card or permit.

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

19 g. Disposition of fees. All fees for permits shall be paid to the
20 State Treasury if the permit is issued by the superintendent, to the
21 municipality if issued by the chief of police, and to the county
22 treasurer if issued by the judge of the Superior Court.

23 h. Form of permit; quadruplicate; disposition of copies. The
24 permit shall be in the form prescribed by the superintendent and
25 shall be issued to the applicant in quadruplicate. Prior to the time
26 he receives the handgun from the seller, the applicant shall deliver
27 to the seller the permit in quadruplicate and the seller shall
28 complete all of the information required on the form. Within five
29 days of the date of the sale, the seller shall forward the original
30 copy to the superintendent and the second copy to the chief of
31 police of the municipality in which the purchaser resides, except
32 that in a municipality having no chief of police, such copy shall be
33 forwarded to the superintendent. The third copy shall then be
34 returned to the purchaser with the pistol or revolver and the fourth
35 copy shall be kept by the seller as a permanent record.

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

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

43 (2) a collector of handguns as curios or relics as defined in Title
44 18, United States Code, section 921 (a) (13) who has in his
45 possession a valid Collector of Curios and Relics License issued by
46 the federal Bureau of Alcohol, Tobacco, Firearms and Explosives;

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

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

3 (5) any transaction where the person has purchased a handgun
4 from a licensed retail dealer and has returned that handgun to the
5 dealer in exchange for another handgun within 30 days of the
6 original transaction, provided the retail dealer reports the exchange
7 transaction to the superintendent; or

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

11 The provisions of this subsection shall not be construed to afford
12 or authorize any other exemption from the regulatory provisions
13 governing firearms set forth in chapter 39 and chapter 58 of Title
14 2C of the New Jersey Statutes;

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

20 j. Firearms passing to heirs or legatees. Notwithstanding any
21 other provision of this section concerning the transfer, receipt or
22 acquisition of a firearm, a permit to purchase or a firearms
23 purchaser identification card shall not be required for the passing of
24 a firearm upon the death of an owner thereof to his heir or legatee,
25 whether the same be by testamentary bequest or by the laws of
26 intestacy. The person who shall so receive, or acquire said firearm
27 shall, however, be subject to all other provisions of this chapter. If
28 the heir or legatee of such firearm does not qualify to possess or
29 carry it, he may retain ownership of the firearm for the purpose of
30 sale for a period not exceeding 180 days, or for such further limited
31 period as may be approved by the chief law enforcement officer of
32 the municipality in which the heir or legatee resides or the
33 superintendent, provided that such firearm is in the custody of the
34 chief law enforcement officer of the municipality or the
35 superintendent during such period.

36 k. Sawed-off shotguns. Nothing in this section shall be
37 construed to authorize the purchase or possession of any sawed-off
38 shotgun.

39 l. Nothing in this section and in N.J.S.2C:58-2 shall apply to
40 the sale or purchase of a visual distress signalling device approved
41 by the United States Coast Guard, solely for possession on a private
42 or commercial aircraft or any boat; provided, however, that no
43 person under the age of 18 years shall purchase nor shall any person
44 sell to a person under the age of 18 years such a visual distress
45 signalling device.

46 m. Law enforcement records of firearms purchaser
47 identification cards and permits to purchase handguns issued or
48 revoked under this section, or suspended or revoked under the

1 "Prevention of Domestic Violence Act of 1991," (C.2C:25-17 et
2 seq.) and records of handgun sales that the superintendent receives
3 under subsection h. of this section shall be made available to
4 prosecutors and law enforcement agencies for the purposes of
5 enforcing the provisions of the "Prevention of Domestic Violence
6 Act of 1991," P.L.1991, c.261 (C.2C:25-17 et seq.).
7 (cf: P.L.2013, c.114, s.1)

8
9 7. This act shall take effect on the first day of the fourth month
10 next following enactment.

11 12 13 STATEMENT

14
15 This bill enhances protections currently afforded victims of
16 domestic violence by requiring attackers to surrender their firearms
17 while domestic violence restraining orders are in effect or when
18 they are convicted of a domestic violence crime or offense. The bill
19 also requires firearms purchaser identification cards and permits to
20 purchase handguns to be revoked if the holder of the card or permit
21 is convicted of a domestic violence crime or offense. The bill
22 further requires cross-referencing of records to assist in determining
23 whether the alleged attacker owns a firearm and in removing those
24 firearms.

25 26 Seizure of Weapon at Scene of Domestic Violence

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

31 32 Domestic Violence Offenders

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

- 35 • Requiring the sentencing court to inform defendants convicted of
36 a domestic violence crime or offense that they are prohibited from
37 possessing a firearm.
- 38 • Requiring the court to order the defendant to arrange for the
39 immediate surrender of firearms, firearms purchaser identification
40 cards, and permits to purchase a handgun to a law enforcement
41 officer. The bill allows the defendant five days from when the
42 order of conviction is entered to arrange to sell a surrendered
43 firearm to a licensed firearms dealer; the dealer has 10 days from
44 the date of the order to take possession of the firearm from the law
45 enforcement agency to which it was surrendered.
- 46 • Deeming any identification card and permit that has been issued
47 to the defendant to be immediately revoked and requiring the court

- 1 to establish a process for notifying the appropriate authorities of the
2 revocation.
- 3 • Requiring a law enforcement officer to whom weapons are
4 surrendered to provide the defendant with a receipt naming the
5 defendant, the surrender date, and description of a surrendered item;
6 and requiring the defendant to provide a copy of the receipt to the
7 prosecutor within 48 hours.
 - 8 • Requiring defendants to attest under penalty that they
9 surrendered or do not possess a firearm.
 - 10 • Permitting the court to order a search for and removal of firearms
11 if there is probable cause that the defendant has failed to surrender
12 firearms and requiring the court to state with specificity the reasons
13 for and the scope of the search and seizure.
- 14

15 Domestic Violence Restraining Orders

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

- 19 • Specifying that the plaintiff may provide information concerning
20 firearms to which the defendant has access, including the location
21 of these firearms, if known, on a form to be prescribed by the
22 Administrative Director of the Courts and clarifying the
23 confidential nature of this information.
- 24 • Requiring the law enforcement officer to properly store
25 surrendered or removed firearms and authorizing the officer to
26 charge the defendant a fee for storage during a temporary
27 restraining order.
- 28 • Specifying that if an order is dismissed, any firearms, cards and
29 permits are to be returned to defendants who are not otherwise
30 disqualified in accordance with the provisions of the “Prevention of
31 Domestic Violence Act of 1991.”
- 32 • Requiring the court issuing a final restraining order to order the
33 defendant to arrange for the immediate surrender of firearms, cards,
34 and permits to a law enforcement officer. The bill allows the
35 defendant five days from when the order is entered to arrange to sell
36 a surrendered firearm to a licensed firearms dealer; the dealer has
37 10 days from the date of the order to take possession of the firearm
38 from the law enforcement agency to which it was surrendered.
- 39 • Deeming the defendant’s cards and permits to be immediately
40 suspended and requiring the court to establish a process for
41 notifying the appropriate authorities of this suspension.
- 42 • Requiring a law enforcement officer to whom weapons are
43 surrendered to provide the defendant with a receipt naming the
44 defendant, the surrender date, and description of a surrendered item;
45 and requiring the defendant to provide a copy of the receipt to the
46 prosecutor within 48 hours.
- 47 • Requiring the defendant to attest under penalty that he
48 surrendered or does not possess a firearm.

- 1 • Permitting the court to order a search for and removal of firearms
- 2 if there is probable cause that the defendant has failed to surrender
- 3 firearms and requiring the court to state with specificity the reasons
- 4 for and the scope of the search and seizure.
- 5 • Requiring the court to order the appropriate law enforcement
- 6 agency to make a reasonable search of records of firearm ownership
- 7 before issuing a temporary or final restraining order.

8

9 Firearms Licensing

10 Current law governing firearms licensing requirements is revised

11 by:

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