ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5647

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 13, 2021

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 5647.

As amended and reported by the committee, Assembly Bill No. 5647, titled the "New Jersey Safe Storage of Firearms Act," establishes penalties for improper storage of a firearm; requires a warning to be issued to firearms purchasers; requires the Attorney General to establish a public awareness campaign regarding the risks associated with improper storage; and makes an appropriation.

The amended bill also repeals the provisions of current law establishing penalties for a minor's access of an improperly stored firearm. Current law imposes storage requirements and penalties if a minor accesses a loaded firearm that is not in use. However, there currently are no general requirements for storing a firearm when not in use.

This amended bill requires a legal owner of a firearm to: (1) store or secure a firearm that is not in use at a premises under the owner's control unloaded, in a gun safe or securely locked box or container; and (2) store ammunition separately from the firearm. The provisions of the amended bill do not apply to active law enforcement officers authorized to carry a firearm pursuant to law, provided that when a person under the age of 18 is on premises under the control of the officer, the firearm must be:

(a) stored in a gun safe or securely locked box or container; or

(b) stored in a location which a reasonable person would believe to be secure or inaccessible to a person under the age of 18.

The amended bill also provides that its provisions do not apply to a lawful owner or a licensed retail dealer that displays the firearm, unloaded, for the purposes of sale or exhibition, provided that any firearm on the premises under the lawful owner's or licensed retail dealer's control, and that is not on display for the purposes of sale or exhibition, must be stored in a manner as defined by the bill.

Under the amended bill, the failure of a firearm owner to properly store a firearm in accordance with the provisions of the bill will give rise to a permissive inference that the legal owner acted knowingly or recklessly in engaging in conduct which creates a substantial risk of serious bodily injury or death to another person.

The amended bill requires the court to notify a person convicted of a crime or offense involving an improperly stored firearm that he or she is prohibited from purchasing, owning, possessing, or controlling a firearm, and from receiving or retaining a permit to purchase a handgun (PPH) or a firearms purchaser identification card (FPIC). The court also is required to order a defendant to arrange for the immediate surrender to a law enforcement officer of any firearm that has not already been seized or surrendered, as well as any PPH or FPIC.

Within five days of the entry of an order, the defendant may arrange to sell a surrendered firearm to a licensed retail dealer. The dealer then has 10 days to take possession of the firearm. A law enforcement officer accepting a surrendered firearm is to provide the defendant with a receipt to be presented to the prosecutor as proof that the firearm was surrendered. If a firearm is surrendered to a law enforcement officer, but not sold to a licensed retail dealer, the officer is authorized to dispose of the firearm in accordance with the State's civil asset forfeiture laws.

In addition, the amended bill requires a retail dealer or employee to notify a firearms purchaser and post signage, explaining the New Jersey Safe Storage of Firearms Act and warning of the dangers associated with having a firearm in the home and the penalties imposed for unlawful access of an improperly stored firearm.

The provisions of the amended bill also require the Attorney General to establish a public awareness campaign to inform and educate the public about the provisions of the bill, including the requirements and penalties imposed under the bill, and the dangers associated with the presence of a loaded, unsecured firearm in the home. The public awareness campaign is to be implemented in media outlets which include, but are not limited to: Statewide newspapers, radio, public service announcements, social media, television ads, and other media outlets deemed appropriate by the Attorney General. The amended bill appropriates $500,000 to fund the public awareness campaign.

The amended bill also requires the Attorney General to collect and analyze data related to implementation of the bill, including the number of violations that have occurred and the disposition of each violation. The Attorney General is required to study the overall impact of the amended bill, considering the effectiveness of the bill. The Attorney General also is required to submit an annual report to the Legislature summarizing the analysis and study conducted pursuant to the bill, and make the report available to the public on the Internet website of the Department of Law and Public Safety. The report is to be submitted and published by November 1st of each year.

Finally, the amended bill repeals current law governing a minor's access to a firearm, to be replaced with the requirements and penalties established under the bill.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) clarify that the purpose of the bill is to require and promote the safe storage of firearms in this State in order to prevent unlawful access; (2) provide that ammunition is required to be stored separately from the firearm;

(3) provide that the provisions of the bill do not apply to active law enforcement officers, provided that when a person under the age of 18 is on premises under the control of the law enforcement officer, the firearm must be:

(a) stored in a gun safe or securely locked box or container; or

(b) stored in a location which a reasonable person would believe to be secure or inaccessible to a person under the age of 18;

(4) provide that the provisions of the bill do not apply to a lawful owner or licensed retail dealer that displays an unloaded firearm for the purposes of sale or exhibition, provided that any firearm on the premises under the person's control, and not on display for sale or exhibition, is stored pursuant to the bill;

(5) provide that the failure of a firearm owner to properly store a firearm in accordance with the provisions of the bill will give rise to a permissive inference that the legal owner acted knowingly or recklessly in engaging in conduct which creates a substantial risk of serious bodily injury or death to another person;

(6) delete the civil penalties for first and second offenses;

(7) delete the provision that had required the Attorney General to establish a list of approved entities for which a person may perform a sentence of court-ordered community service;;

(8) delete the provision of the bill requiring the Attorney General to study the effectiveness of the community service requirements;

(9) clarify that probable cause is the standard to be applied by the court when a prosecutor seeks an order requiring a search for and removal of firearms of a defendant who has failed to surrender a firearm, card, or permit;

(10) provide that a defendant would be prohibited from purchasing, owning, possessing, or controlling a firearm and from receiving or retaining an FPIC or PPH if the defendant is convicted of a crime or offense involving the unlawful storage and access of a firearm; and

(11) make technical changes to the bill.