

SENATE, No. 816

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator JOSEPH A. LAGANA

District 38 (Bergen and Passaic)

SYNOPSIS

Prohibits firearm possession by persons convicted of certain offenses.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning possession of a firearm and amending
2 P.L.1979, c.179.

3

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

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

9 6. Certain Persons Not to Have Weapons.

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

31 b. (1) A person having been convicted in this State or
32 elsewhere of the crime of aggravated assault, arson, burglary,
33 escape, extortion, homicide, kidnapping, robbery, aggravated sexual
34 assault, sexual assault, bias intimidation in violation of
35 N.J.S.2C:16-1, endangering the welfare of a child pursuant to
36 N.J.S.2C:24-4, stalking pursuant to P.L.1992, c.209 (C.2C:12-10)
37 or a crime involving domestic violence as defined in section 3 of
38 P.L.1991, c.261 (C.2C:25-19), whether or not armed with or having
39 in his possession a weapon enumerated in subsection r. of
40 N.J.S.2C:39-1, carjacking in violation of section 1 of P.L.1993,
41 c.221 (C.2C:15-2), gang criminality in violation of section 1 of
42 P.L.2007, c.341 (C.2C:33-29), racketeering in violation of
43 N.J.S.2C:41-2, terroristic threats in violation of N.J.S.2C:12-3,
44 unlawful possession of a machine gun in violation of subsection a.
45 of N.J.S.2C:39-5, unlawful possession of a handgun in violation of
46 paragraph (1) of subsection b. of N.J.S.2C:39-5, or a person having

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

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

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

33 c. Whenever any person shall have been convicted in another
34 state, territory, commonwealth or other jurisdiction of the United
35 States, or any country in the world, in a court of competent
36 jurisdiction, of a crime which in said other jurisdiction or country is
37 comparable to one of the crimes enumerated in subsection a. or b.
38 of this section, then that person shall be subject to the provisions of
39 this section.

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

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42 2. This act shall take effect immediately.

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45 STATEMENT

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47 This bill makes it a crime of the second degree for a person who
48 has been convicted of carjacking, gang criminality, racketeering,

1 terroristic threats, unlawful possession of a machine gun, or
2 unlawful possession of a handgun to purchase, own, possess or
3 control a firearm.

4 It currently is a crime of the second degree for a person to
5 purchase, own, possess, or control a firearm if that person has been
6 convicted of any of the following crimes: aggravated assault; arson;
7 burglary; escape; extortion; homicide; kidnapping; robbery;
8 aggravated sexual assault; sexual assault; bias intimidation;
9 endangering the welfare of a child; stalking; a crime involving
10 domestic violence; certain crimes related to unlawful possession of
11 weapons; and certain crimes related to controlled dangerous
12 substances.

13 In addition to a fine of up to \$150,000 generally applicable to
14 crimes of the second degree, a person who violates this provision is
15 subject to a mandatory minimum term of imprisonment of five
16 years without eligibility for parole.