

ASSEMBLY BILL NO. 4218
(Second Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 4218 (Second Reprint) with my recommendations for reconsideration.

One of the highest responsibilities of government is to protect our most vulnerable. Too often, that promise is broken in our neighborhoods, our homes, and our streets, when acts of domestic violence shatter the lives of the innocent. While New Jersey has enacted some of the toughest measures to combat domestic violence, our vigilance demands that we continually reassess our safeguards, and reevaluate our penalties. Most importantly, we should favor new and sensible improvements to our laws rather than restatements of existing protections.

The present bill substantially restates New Jersey's existing laws that govern firearms and domestic violence. New Jersey law defines domestic violence to include acts such as harassment, lewdness, criminal trespass, assault, sexual assault, terroristic threats, and kidnapping. This bill requires a person convicted of a domestic violence offense, or who is subject to a domestic violence restraining order, to immediately surrender any firearms or firearm licenses. Under existing New Jersey law, however, persons convicted of domestic violence, and persons subject to a domestic violence restraining order, are immediately prohibited from purchasing, owning, or possessing a firearm, and from possessing any permits to purchase a firearm. Unlawfully possessing a firearm is a second-degree offense punishable by a minimum of five years imprisonment during which time the person is ineligible for parole.

This bill also requires a prosecutor who elects not to charge the alleged perpetrator of a domestic violence offense to notify the alleged victim of the victim's ability to petition a court to revoke the firearm licenses of the alleged perpetrator prior to returning any seized firearms or firearm licenses. Currently, when law enforcement responds to an incident and finds probable cause sufficient to support that an act of domestic violence transpired, the officer is required to arrest the perceived perpetrator. The officer is required to determine if there are weapons on the premises, and to seize any weapon that may expose the victim to serious bodily injury. Current law also requires the seizure of the accused's firearms purchaser identification card and permits to purchase a handgun, all of which are delivered to the county prosecutor.

Finally, under current law, victims of domestic violence may also seek a restraining order by filing a complaint with the Family Part of the Chancery Division of a New Jersey Superior Court. When a domestic violence restraining order is granted by the reviewing court, the court is required to prohibit the defendant from purchasing, owning, or possessing a firearm as well as receiving or retaining a firearms permit. The violation of a domestic violence restraining order constitutes contempt, a fourth-degree offense punishable by a maximum sentence of eighteen months and maximum fine of \$10,000. The penalties for second and subsequent violations of these restraining orders include a minimum thirty-day jail sentence. Thus, a review of existing law confirms that current protections, and the proposed protections in this bill, amount to the same result: a person against whom a domestic violence restraining order is issued cannot possess a firearm, purchase a firearm, or even hold a license or permit to purchase a firearm, without committing a crime.

I support the deterrence of all needless violence within our society including domestic violence, which disproportionately affects women and children. During my tenure as Governor, I have supported a comprehensive approach to addressing the level of violence within our society and recently signed legislation to further penalize aggravated assault perpetuated against domestic violence victims. For that reason, rather than restate existing laws, I propose significant amendments that will meaningfully deter future acts of violence.

First, we should enhance the criminal penalties imposed against those who are convicted of domestic violence. The perpetrators of violent physical acts, including homicide, aggravated assault, criminal restraint, kidnapping, criminal sexual contact and sexual assault, against domestic violence victims should receive enhanced criminal penalties to penalize and deter such conduct. To demonstrate society's unconditional condemnation of such conduct, I recommend that perpetrators receive the maximum available prison sentence under our laws. Second, our laws should be strengthened to impose longer periods of parole ineligibility for perpetrators of domestic abuse. The effect of imposing maximum incarceration periods will be undermined if physically violent abusers become eligible for parole too quickly. Therefore, I also recommend that our sentencing provisions require such perpetrators spend a minimum of eighteen months in a correctional facility, with greater periods of parole ineligibility for more serious offenses, before becoming eligible for parole.

Finally, we must empower victims of domestic violence. Victims should be eligible for expedited processing of firearm license applications so that the victims may better defend themselves against future instances of abuse. Accordingly, I recommend expedited review of permits to purchase and carry a

firearm for victims of domestic abuse as recently proposed by the Attorney General.

I urge the Legislature to join with me in a bipartisan manner to broaden this bill's approach to reducing domestic violence while simultaneously empowering victims to protect themselves through lawful means. Together, we can enact a more comprehensive approach and reduce the harm that domestic violence inflicts on victims, families, and our society.

Accordingly, I herewith return Assembly Bill No. 4218 (Second Reprint) and recommend that it be amended as follows:

<u>Page 2, Section 1, Lines 7-43:</u>	Delete in their entirety
<u>Page 3, Section 1, Lines 1-48:</u>	Delete in their entirety
<u>Page 4, Section 1, Lines 1-46:</u>	Delete in their entirety
<u>Page 5, Section 2, Lines 1-47:</u>	Delete in their entirety
<u>Page 6, Section 2, Lines 1-35:</u>	Delete in their entirety
<u>Page 6, Section 3, Lines 37-46:</u>	Delete in their entirety
<u>Page 7, Section 3, Lines 1-48:</u>	Delete in their entirety
<u>Page 8, Section 3, Lines 1-47:</u>	Delete in their entirety
<u>Page 9, Section 3, Lines 1-47:</u>	Delete in their entirety
<u>Page 10, Section 3, Lines 1-5:</u>	Delete in their entirety
<u>Page 10, Section 4, Lines 7-48:</u>	Delete in their entirety
<u>Page 11, Section 4, Lines 1-46:</u>	Delete in their entirety
<u>Page 12, Section 4, Lines 1-48:</u>	Delete in their entirety
<u>Page 13, Section 4, Lines 1-48:</u>	Delete in their entirety
<u>Page 14, Section 4, Lines 1-48:</u>	Delete in their entirety
<u>Page 15, Section 4, Lines 1-29:</u>	Delete in their entirety

- Page 15, Section 5, Lines 31-47: Delete in their entirety
- Page 16, Section 5, Lines 1-8: Delete in their entirety
- Page 16, Section 6, Line 10: Delete "6." and insert "1."
- Page 19, Section 6, Lines 8-12: Delete in their entirety and insert "The chief police officer or the superintendent shall prioritize and investigate on an expedited basis, and approve or disapprove without undue delay, an application for a firearms purchaser identification card or permit to purchase a handgun pursuant to this section if the application is submitted in accordance with, and the applicant meets the criteria set forth in, subsection m. of this section."
- Page 19, Section 6, Line 33: Delete "or permit to purchase a"
- Page 19, Section 6, Line 34: Delete "handgun"
- Page 19, Section 6, Line 35: Delete "or permit"
- Page 19, Section 6, Line 36: Delete "of the card or permit" and insert "thereof"
- Page 19, Section 6, Line 37: Delete "the card or" and insert "such"
- Page 19, Section 6, Line 39: Delete "the" and insert "such"
- Page 19, Section 6, Line 40: Delete "a card or permit" and insert "such card"
- Page 21, Section 6, Line 27: Delete "Law enforcement records of firearms purchaser" and insert "An application for a firearms purchaser identification card or for a permit to purchase a handgun shall be prioritized and be investigated on an expedited basis and approved or disapproved without undue delay, within 14 days if possible, when the applicant identifies specific threats or previous attacks which demonstrate a special danger to the applicant's life that cannot be avoided by means

other than by issuance of a firearms identification card and a permit to purchase a handgun, including but not limited to the following circumstances:

(1) The applicant has been the victim of an act of violence that resulted in the infliction of serious or significant bodily injury, or was credibly threatened with an act of violence that if carried out would result in the infliction of serious or significant bodily injury, or subjected to an incident in which the actor was armed with and used a deadly weapon or threatened by word or gesture to use a deadly weapon as defined in subsection c. of N.J.S.2C:11-1 against the applicant, and there is a substantial likelihood, based on the information presented in the applicant's written certification of need and any other information revealed in the investigation of the application, that the applicant will in the foreseeable future be subjected to another such incident; or

(2) The applicant is protected by a court order or under a condition imposed by the court restraining another person from contact with the applicant, and there is a substantial likelihood, based on the information presented in the applicant's written certification of need and any other information revealed in the investigation of the application, that the applicant will in the foreseeable future be subjected to an act of violence that if carried out would result in the infliction of serious or significant bodily injury, or be subjected to an incident in which the actor is armed with and would use a deadly weapon or threaten by word or gesture to use a deadly weapon as defined in subsection c. of N.J.S.2C:11-1 against the applicant."

Page 21, Section 6, Line 38:

Insert new sections 2 and 3 to read as follows:

"2. N.J.S.2C:58-4 is amended to read as follows:

a. Scope and duration of authority. Any person who holds a valid permit to carry a handgun issued pursuant to this section shall be authorized to carry a handgun in all parts of this State, except as prohibited by section 2C:39-5e. One permit shall be sufficient for all handguns owned by the holder thereof, but the permit shall apply only to a handgun carried by the actual and legal holder of the permit.

All permits to carry handguns shall expire 2 years from the date of issuance or, in the case of an employee of an armored car company, upon termination of his employment by the company occurring prior thereto whichever is earlier in time, and they may thereafter be renewed every 2 years in the same manner and subject to the same conditions as in the case of original applications.

b. Application forms. All applications for permits to carry handguns, and all applications for renewal of such permits, shall be made on the forms prescribed by the superintendent. Each application shall set forth the full name, date of birth, sex, residence, occupation, place of business or employment, and physical description of the applicant, and such other information as the superintendent may prescribe for the determination of the applicant's eligibility for a permit and for the proper enforcement of this chapter. The application shall be signed by the applicant under oath, and shall be indorsed by three reputable persons who have known the applicant for at least 3 years preceding the date of application, and who shall certify thereon that the applicant is a person of good moral character and behavior.

c. Investigation and approval. Each application

shall in the first instance be submitted to the chief police officer of the municipality in which the applicant resides, or to the superintendent, (1) if the applicant is an employee of an armored car company, or (2) if there is no chief police officer in the municipality where the applicant resides, or (3) if the applicant does not reside in this State. The chief police officer, or the superintendent, as the case may be, shall cause the fingerprints of the applicant to be taken and compared with any and all records maintained by the municipality, the county in which it is located, the State Bureau of Identification and the Federal Bureau of Identification. He shall also determine and record a complete description of each handgun the applicant intends to carry.

No application shall be approved by the chief police officer or the superintendent unless the applicant demonstrates that he is not subject to any of the disabilities set forth in 2C:58-3c., that he is thoroughly familiar with the safe handling and use of handguns, and that he has a justifiable need to carry a handgun. If the application is not approved by the chief police officer or the superintendent within 60 days of filing, it shall be deemed to have been approved, unless the applicant agrees to an extension of time in writing.

The chief police officer or the superintendent shall prioritize and investigate on an expedited basis, and approve or disapprove without undue delay, within 14 days if possible, an application for a permit to carry handguns pursuant to this section if the application is submitted in accordance with, and the applicant meets the criteria set forth in, subsection g. of this section.

d. Issuance by Superior Court; fee. If the

application has been approved by the chief police officer or the superintendent, as the case may be, the applicant shall forthwith present it to the Superior Court of the county in which the applicant resides, or to the Superior Court in any county where he intends to carry a handgun, in the case of a nonresident or employee of an armored car company. The court shall issue the permit to the applicant if, but only if, it is satisfied that the applicant is a person of good character who is not subject to any of the disabilities set forth in section 2C:58-3c., that he is thoroughly familiar with the safe handling and use of handguns, and that he has a justifiable need to carry a handgun. The court may at its discretion issue a limited-type permit which would restrict the applicant as to the types of handguns he may carry and where and for what purposes such handguns may be carried. At the time of issuance, the applicant shall pay to the county clerk of the county where the permit was issued a permit fee of \$20.00.

e. Appeals from denial of applications. Any person aggrieved by the denial by the chief police officer or the superintendent of approval for a permit to carry a handgun may request a hearing in the Superior Court of the county in which he resides or in any county in which he intends to carry a handgun, in the case of a nonresident, by filing a written request for such a hearing within 30 days of the denial. Copies of the request shall be served upon the superintendent, the county prosecutor and the chief police officer of the municipality where the applicant resides, if he is a resident of this State. The hearing shall be held within 30 days of the filing of the request, and no formal pleading or filing fee shall be required. Appeals from the determination at such a hearing shall be in accordance with law and the rules governing the courts of this State.

If the superintendent or chief police officer approves an application and the Superior Court denies the application and refuses to issue a permit, the applicant may appeal such denial in accordance with law and the rules governing the courts of this State.

f. Revocation of permits. Any permit issued under this section shall be void at such time as the holder thereof becomes subject to any of the disabilities set forth in section 2C:58-3c., and the holder of such a void permit shall immediately surrender the permit to the superintendent who shall give notice to the licensing authority.

Any permit may be revoked by the Superior Court, after hearing upon notice to the holder, if the court finds that the holder is no longer qualified for the issuance of such a permit. The county prosecutor of any county, the chief police officer of any municipality, the superintendent or any citizen may apply to the court at any time for the revocation of any permit issued pursuant to this section.

g. An application for a permit to carry handguns shall be prioritized and be investigated on an expedited basis and approved or disapproved without undue delay, within 14 days if possible, if the applicant is a private citizen who applies for a firearms purchaser identification card or a permit to purchase a handgun contemporaneously with the application for a permit to carry handguns or who has previously obtained a permit to purchase a handgun from the same licensing authority, and who:

(1) has been the victim of an act of violence that resulted in the infliction of serious or significant bodily injury, or was credibly threatened with an act of violence that if carried out would result in the infliction of serious or significant bodily injury,

or subjected to an incident in which the actor was armed with and used a deadly weapon or threatened by word or gesture to use a deadly weapon as defined in subsection c. of N.J.S.2C:11-1 against the applicant, and there is a substantial likelihood, based on the information presented in the applicant's written certification of need and any other information revealed in the investigation of the application, that the applicant will in the foreseeable future be subjected to another such incident; or

(2) is protected by a court order or under a condition imposed by the court restraining another person from contact with the applicant, and there is a substantial likelihood, based on the information presented in the applicant's written certification of need and any other information revealed in the investigation of the application, that the applicant will in the foreseeable future be subjected to an act of violence that if carried out would result in the infliction of serious or significant bodily injury, or be subjected to an incident in which the actor is armed with and would use a deadly weapon or threaten by word or gesture to use a deadly weapon as defined in subsection c. of N.J.S.2C:11-1 against the applicant.

An applicant who meets the criteria set forth in this subsection shall be deemed to have demonstrated justifiable need to carry a handgun as required by subsection c. of this section.

3. (New Section) a. Notwithstanding the provisions of subsection f. of N.J.S.2C:44-1, a person convicted of any of the following crimes of domestic violence, as defined in section 3 of P.L.1991, c.261 (C.2C:25-19), shall be sentenced in accordance with subsection b. of this section:

(1) Homicide, pursuant to N.J.S.2C:11-1 et seq.;

(2) Aggravated assault, pursuant to paragraph (1), (2), (3), (4), (6), (7) or (8) of subsection b. of N.J.S.2C:12-1;

(3) Assault by auto or vessel, pursuant to subsection c. of N.J.S.2C:12-1;

(4) Kidnapping, pursuant to N.J.S.2C:13-1;

(5) Criminal restraint, pursuant to N.J.S.2C:13-2;

(6) Sexual assault, pursuant to N.J.S.2C:14-2; or

(7) Criminal sexual contact, pursuant to N.J.S.2C:14-3.

b. (1) Unless the provisions of any other law provide for a higher mandatory minimum term of imprisonment, a person convicted of a crime of domestic violence as set forth in subsection a. of this section shall be sentenced to a term of imprisonment as follows: for a crime of the fourth degree, 18 months; for a crime of the third degree, five years; for a crime of the second degree, 10 years; and for a crime of the first degree, 20 years.

(2) The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at one-half of the sentence imposed by the court or 42 months, whichever is greater, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole."

Page 21, Section 7, Line 39:

Delete "7." and insert "4."

Respectfully,

/s/ Chris Christie

Governor

Attest:

/s/ Thomas P. Scrivo

Chief Counsel to the Governor