

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 2360

STATE OF NEW JERSEY

DATED: JANUARY 29, 2015

The Senate Law and Public Safety Committee reports favorably Senate Bill No. 2360.

As reported by the committee, Senate Bill No. 2360 provides for certain law enforcement officials to be notified when a person applies to the court to have a mental health record expunged for the purposes of purchasing a firearm.

Current law requires licensed firearms retailers to conduct a background check of prospective firearms purchasers using the National Instant Criminal Background Check System (NICS). A NICS check determines if the person is eligible to purchase a firearm under federal and State law. Pursuant to P.L.2013, c.115, the Administrative Office of the Courts (AOC), in cooperation with the Attorney General and the State Police, has transmitted almost 425,000 records of mental health adjudications dating back to the 1970s to NICS. Prospective purchasers who were formerly committed to a mental institution, but who have since recovered and now seek to legally purchase a firearm, may be found ineligible due to a mental health record in NICS.

To have a mental health record removed from NICS, a person is required to file an expungement application in the state that transmitted the record to NICS. In this State, expungement of a mental health adjudication is governed by P.L.1953, c.268 (C:30:4-80.8 et seq.). Persons with a mental health record who are recovered, substantially improved, or in substantial remission, may apply to the court to have that record expunged. When considering an application to have the record expunged, the court is required to hear evidence as to the circumstances of the petitioner's commitment or determination, the petitioner's mental health record and criminal history, and the petitioner's reputation in the community. If the court finds that the petitioner will not likely act in a manner dangerous to the public safety and that the grant of relief is not contrary to the public interest, the court is required to grant relief and expunge the record. The AOC and the State Police amend the record in NICS to reflect the expungement.

Law enforcement officials currently are not involved in the determination of whether a mental health record of a prospective firearms purchaser should be expunged. Since law enforcement officials may be aware of information which is not readily accessible

to the court, such as pending charges, the purchaser's criminal history, or any aberrant behavior within the community, this bill authorizes law enforcement participation in this determination. Specifically, the bill requires the applicant for expungement to serve notice on law enforcement officials in his or her current state of residence if the purpose of the expungement is to remove the mental health adjudication record from NICS to allow for the purchase of a firearm. Upon being served, these law enforcement officials would have the option to provide information to the court concerning the applicant's criminal history or behavior for consideration during the expungement proceedings.