

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## ASSEMBLY, No. 1181

# STATE OF NEW JERSEY

DATED: MAY 21, 2018

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 1181 (1R).

This bill requires law enforcement, upon order of the court, to seize a firearm that is in the possession of a person determined by certain licensed health care professionals to be likely to engage in conduct that poses a threat of serious harm to the patient or another person.

Specifically, the bill applies to professionals licensed in the State of New Jersey to practice psychology, psychiatry, medicine, nursing, clinical social work, or marriage and family therapy who have incurred a duty to warn or protect a potential victim under current law.

Under current law, a duty to warn and protect is incurred when: (1) the patient has communicated to that practitioner a threat of imminent, serious physical violence against a readily identifiable person or against himself or herself and the circumstances are such that a reasonable professional in the practitioner's area of expertise would believe the patient intended to carry out the threat; or (2) the circumstances are such that a reasonable professional in the practitioner's area of expertise would believe the patient intended to carry out an act of imminent, serious physical violence against a readily identifiable person or against himself or herself.

The bill requires these licensed health care professionals who incur a duty to warn or protect to submit to law enforcement officials the patient's name and other non-clinical identifying information for the purpose of determining whether the patient has been issued a firearms purchaser identification card, permit to purchase a handgun, or any other permit or license authorizing possession of a firearm. Specifically, the bill requires a health care professional to contact the municipal police department in which the patient resides or the Superintendent of State Police if the patient resides in a municipality that does not have a full-time police department.

The bill also requires the chief law enforcement officer or superintendent, as appropriate, to use the information provided by the health care professional to determine whether the patient has been issued a card or permit authorizing possession of a firearm or has access to a firearm.

If the patient has been issued a card or permit, or has access to a firearm, the chief law enforcement officer or superintendent may use that information to assist in determining whether the patient has become subject to any of the disabilities that disqualify a person from owning a firearm. A person is disqualified from being issued a firearm purchaser identification card (FPIC) or permit to purchase a handgun (PPH) under current law if the person: (1) has been convicted of any crime or disorderly persons offense involving domestic violence; (2) is drug dependent; (3) has been confined for a mental disorder; (4) is a habitual drunkard or alcoholic; (5) suffers from a physical defect or disease which would make it unsafe for the person to handle a firearm; (6) knowingly falsifies any information on the application form for a FPIC or a PPH; (7) refuses to waive statutory or other rights of confidentiality relating to institutional confinement; (8) is subject to a domestic violence court order prohibiting firearms possession; or (9) is named on the FBI's Terrorist Watchlist.

The FPIC or PPH of a patient who is disqualified from owning a firearm under the bill is void and is to be returned to the superintendent within five days. The FPIC or PPH also may be revoked by the Superior Court in accordance with current law.

The bill permits the court to order the patient to surrender any firearm owned by the patient to the county prosecutor and order the prosecutor to dispose of the firearms. The court may order a search for and removal of firearms if there is probable cause that the patient has failed to surrender the firearms. The bill requires the court to state with specificity the reasons for and the scope of the search and seizure. The bill also provides that a seized or surrendered firearm which is legally owned by a person who is not the patient is to be immediately returned to the legal owner upon a written request sent to the prosecutor attesting that the patient does not have access to the firearm.

The bill allows a patient who submits to the Superior Court a certificate of a medical doctor or psychiatrist licensed in New Jersey, or other satisfactory proof, that the patient is no longer suffering from a medical disorder that would interfere with the safe handling of firearms, to have the patient's FPIC, PPH, or other permit or license reinstated.

Under current law, a licensed health care professional who discloses a privileged communication is immune from civil liability in regard to that disclosure. This immunity applies to disclosure of privileged communications under the provisions of the bill.

As reported, this bill is identical to Senate Bill No. 160 (1R), as also reported by the committee.

**FISCAL IMPACT:**

This bill has not been certified as requiring a fiscal note.