

[Second Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1217

STATE OF NEW JERSEY
218th LEGISLATURE

ADOPTED MARCH 5, 2018

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SYNOPSIS

“Extreme Risk Protective Order Act of 2018.”

CURRENT VERSION OF TEXT

As reported by the Senate Law and Public Safety Committee on April 16, 2018, with amendments.

(Sponsorship Updated As Of: 3/27/2018)

1 AN ACT concerning extreme risk ²**[protection]** protective² order
2 and supplementing and amending various parts of the statutory
3 law.

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

7
8 1. (New section) This act shall be known and may be cited as
9 the “Extreme Risk Protective Order Act of 2018.”

10
11 2. (New section) As used in P.L. , c. (C.) (pending
12 before the Legislature as this bill):

13 “Ammunition” means ammunition or cartridge cases, primers,
14 bullets, or propellant powder designed for use in any firearm, but
15 does not include any shotgun shot or pellet not designed for use as
16 the single, complete projectile load for one shotgun hull or casing or
17 any unloaded, non-metallic shotgun hull or casing not having a
18 primer.

19 “Deadly weapon” shall have the same meaning as in subsection
20 c. of N.J.S.2C:11-1.

21 “Family or household member” means a spouse, domestic
22 partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3),
23 partner in a civil union couple as defined in section 2 of P.L.2006,
24 c.103 (C.37:1-29), or former spouse, former domestic partner, or
25 former partner in a civil union couple, or any other person who is a
26 present household member or was at any time a household member;
27 a person with whom the respondent has a child in common, or with
28 whom the respondent anticipates having a child in common if one
29 of the parties is pregnant; or a current or former dating partner.

30 “Firearm” shall have the same meaning as in N.J.S.2C:39-1.

31 “Law enforcement agency” means a department, division,
32 bureau, commission, board or other authority of the State or of any
33 political subdivision thereof which employs law enforcement
34 officers.

35 “Law enforcement officer” means a person whose public duties
36 include the power to act as an officer for the detection,
37 apprehension, arrest, and conviction of offenders against the laws of
38 this State.

39 “Petitioner” means a family or household member or law
40 enforcement officer.

41 “Recent” means within six months prior to the date the petition
42 was filed.

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted March 22, 2018.

²Senate SLP committee amendments adopted April 16, 2018.

1 3. (New section) a. A law enforcement officer who, in good
2 faith, does not file a petition for an extreme risk protective order or
3 temporary extreme risk ²~~protection~~ protective² order shall be
4 immune from criminal or civil liability.

5 b. A law enforcement agency shall be immune from civil or
6 criminal liability for any damage or deterioration of firearms or
7 ammunition stored or transported pursuant to section ²~~6 or~~² 7 ²or
8 8² of P.L. , c. (C.) (pending before the Legislature as this
9 bill) unless the damage or deterioration resulted from recklessness,
10 gross negligence, or intentional misconduct by the law enforcement
11 agency.

12
13 4. (New section) a. ¹~~A~~ Except as provided in subsection
14 ²~~m.~~ l.² of this section, a¹ petitioner may file a petition ¹, as
15 prescribed by the Administrative Director of the Courts,¹ for a
16 temporary extreme risk protective order in the ²~~Superior Court~~
17 court² in accordance with the Rules of Court ²~~or in any State,~~
18 county, or municipal law enforcement agency¹² alleging that the
19 respondent poses a significant danger of bodily injury to self or
20 others by having custody or control of, owning, possessing,
21 purchasing, or receiving a firearm. The petition shall be heard by
22 the ²~~Superior Court~~ court² in an expedited manner.

23 ²~~In the case of a petition filed in a~~ A² State, county, or
24 municipal law enforcement agency ²~~, a law enforcement officer or~~
25 employee² shall advise the petitioner of the procedure for
26 completing and signing a petition for a temporary extreme risk
27 protective order.¹

28 Filing a petition pursuant to this section shall not prevent a
29 petitioner from filing a criminal complaint ²or applying for a
30 restraining order pursuant to the “Prevention of Domestic Violence
31 Act of 1991,” P.L. 1991, c. 261 (C.2C:25-17 et seq.)² based on the
32 circumstances forming the basis of the petition.

33 A petitioner may apply for relief under this section in ²~~a~~
34 ¹~~court~~ county¹ where the respondent resides, or where the
35 petitioner resides in² accordance with the Rules of Court.

36 b. A petition for a temporary extreme risk protective order shall
37 include an affidavit including the number, types, physical
38 description, and locations of any firearms and ammunition currently
39 believed by the petitioner to be controlled or possessed by the
40 respondent.

41 c. The court shall not charge a fee to file the petition.

42 d. Petition forms shall be readily available at the courts, and at
43 State, county, and municipal ¹~~police stations~~ law enforcement
44 agencies¹.

45 e. A judge shall issue the order if the court finds good cause to
46 believe that the respondent poses an immediate and present danger

1 of causing bodily injury to the respondent or others by having
2 custody or control of, owning, possessing, purchasing, or receiving
3 a firearm.

4 f. ²~~1~~[In] To assist the court in¹ determining whether to issue
5 an order pursuant to this section, ¹~~the~~ The² county prosecutor² or a
6 designee of the county prosecutor² shall produce in an expedited
7 manner any available evidence ²including, but not limited to,
8 evidence related to the factors set forth in this section,² and¹ the
9 court shall consider whether the respondent ²[has]²:

10 (1) ²has² any history of threats or acts of violence by the
11 respondent directed toward self or others;

12 (2) ²has² any history of use, attempted use, or threatened use of
13 physical force by the respondent against another person;

14 (3) ²[any recent violation of] is the subject of a temporary or
15 final restraining order or has violated² a ²temporary or final²
16 restraining order issued pursuant to the “Prevention of Domestic
17 Violence Act of 1991,” P.L.1991, c.261 (C.2C:25-17 et seq.);

18 (4) ²[any recent violation of] is the subject of a temporary or
19 final protective order or has violated² a ²temporary or final²
20 protective order issued pursuant to the “Sexual Assault Survivor
21 Protection Act of 2015,” P.L.2015, c.147 (C.2C:14-13 et al.);

22 (5) ²[ever been convicted of] has any prior arrests, pending
23 charges, or convictions for² a violent ²indictable crime or²
24 disorderly persons² [or petty disorderly persons]² offense, stalking
25 offense pursuant to section 1 of P.L.1992, c.209 (C.2C:12-10), or
26 domestic violence offense enumerated in section 3 of P.L.1991,
27 c.261 (C.2C:25-19);

28 (6) ²has² ever been convicted of an offense involving cruelty to
29 animals; ²[or]²

30 (7) ²has² any history of drug or alcohol abuse and recovery from
31 this abuse ²[.] ; or²

32 ²[g. In determining whether to issue an order pursuant to this
33 section, ¹the county prosecutor shall produce in an expedited
34 manner any available evidence and¹ the court also may consider any
35 factors related to whether the respondent presents an increased risk
36 of violence, including, but not limited to, whether the respondent
37 has any:

38 (1) history of violating a restraining order issued pursuant to the
39 “Prevention of Domestic Violence Act of 1991,” P.L.1991, c.261
40 (C.2C:25-17 et seq.);

41 (2) history of violating a protective order issued pursuant to the
42 “Sexual Assault Survivor Protection Act of 2015,” P.L.2015, c.147
43 (C.2C:14-13 et al.)

44 (3) prior arrests for a violent disorderly persons or petty
45 disorderly persons offense, stalking offense pursuant to section 1 of

1 P.L.1992, c.209 (C.2C:12-10), or domestic violence offense
2 enumerated in section 3 of P.L.1991, c.261 (C.2C:25-19); or

3 (4) recent acquisitions of ~~](8) has recently acquired~~² a firearm,
4 ammunition, or other deadly weapon.

5 ²~~[h.]~~ g.² The temporary extreme risk protective order shall
6 prohibit the respondent from having custody or control of, owning,
7 purchasing, possessing, or receiving firearms or ammunition, and
8 from securing or holding a firearms purchaser identification card or
9 permit to purchase a handgun pursuant to N.J.S.2C:58-3, or a
10 permit to carry a handgun pursuant to N.J.S.2C:58-4 during the
11 period the protective order is in effect and shall order the
12 respondent to surrender firearms and ammunition in the
13 respondent's custody or control, or which the respondent possesses
14 or owns, and any firearms purchaser identification card, permit to
15 purchase a handgun, or permit to carry a handgun held by the
16 respondent in accordance with section 7 of P.L. , c. (C.)
17 (pending before the Legislature as this bill). Any card or permit
18 issued to the respondent shall be immediately revoked pursuant to
19 subsection f. of N.J.S.2C:58-3.

20 ²~~[i.]~~ h.² A temporary extreme risk protective order
21 issued under this section shall remain in effect until a court issues a
22 further order.

23 ²~~[j.]~~ i.² The court that issues the temporary extreme risk
24 protective order shall immediately forward a copy of the order and
25 petition to the ¹county prosecutor ²~~[and¹]~~ who shall forward a copy
26 to the² appropriate law enforcement agency which shall
27 immediately, or as soon as practicable, serve it on the respondent,
28 ²~~[and]~~² to the law enforcement agency of the municipality in which
29 the petitioner resides or is sheltered ², and the petitioner². If
30 personal service cannot be effected upon the respondent, the court
31 may order other appropriate substituted service. At no time shall
32 ²~~[the]~~ a² petitioner ²who is a family or household member² be
33 asked or required to serve any order on the respondent. The law
34 enforcement agency serving the order shall not charge a fee or seek
35 reimbursement from the petitioner for service of the order.

36 ²~~[k.]~~ j.² Notice of temporary extreme risk protective orders
37 issued pursuant to this section shall be sent by the ²~~[clerk of the~~
38 court or other person designated by the court] county prosecutor² to
39 the appropriate chiefs of police, members of the State Police, and
40 any other appropriate law enforcement agency or court.

41 ²~~[l.]~~ k.² Any temporary extreme risk protective order issued
42 pursuant to this section shall be in effect throughout the State, and
43 shall be enforced by all law enforcement officers.

44 ²~~[1m.]~~ l.² (1) A petition for a temporary extreme risk protective
45 order filed against a law enforcement officer shall be filed in the
46 law enforcement agency in which the officer is employed. The law

1 enforcement officer or employee receiving the petition shall advise
2 the petitioner of the procedure for completing and signing a
3 petition.

4 (2) Upon receipt of the petition, the law enforcement officer's
5 employer shall immediately initiate an internal affairs investigation.

6 (3) The disposition of the internal affairs investigation shall
7 immediately be served upon the county prosecutor who shall make
8 a determination whether to refer the matter to the courts.

9 (4) The law enforcement officer's employer shall take
10 appropriate steps to implement any findings set forth in the
11 disposition of the internal affairs investigation.

12 The law enforcement officer shall not be terminated during the
13 pendency of the internal affairs investigation.¹
14

15 5. (New section) a. A hearing for ²**[an]** a final² extreme risk
16 protective order shall be held ¹in the Superior Court¹ in accordance
17 with the Rules of Court within 10 days of the filing of a petition
18 pursuant to ¹subsection a. of¹ section 4 of P.L. , c. (C.)
19 (pending before the Legislature as this bill) ²**[in the county where**
20 **the temporary extreme risk protective order was filed, unless good**
21 **cause is shown for the hearing to be held in another county]². A**
22 copy of the petition shall be served on the respondent in accordance
23 with the Rules of Court.

24 b. ²**[¹In order to assist the court in determining whether to**
25 **issue an order pursuant to this section, the]** The² county prosecutor
26 shall produce in an expedited manner any available evidence
27 ²including, but not limited to, evidence related to the factors
28 enumerated in subsection f. of section 4 of P.L. , c. (C.)
29 (pending before the Legislature as this bill)².¹ If the court finds by
30 a preponderance of the evidence at the hearing that the respondent
31 poses a significant danger of bodily injury to the respondent's self
32 or others by having custody or control of, owning, possessing,
33 purchasing, or receiving a firearm, the court shall issue ¹**[a one-**
34 **year]¹ an¹ extreme risk protective order ¹which shall expire one year
35 following the date of entry of the order unless the order is extended
36 pursuant to section 6 of P.L. , c. (C.) (pending before the
37 Legislature as this bill)¹.**

38 c. When deciding whether to issue the order, the court shall
39 consider the factors enumerated in subsection f. of section 4 of
40 P.L. , c. (C.) (pending before the Legislature as this bill)
41 ²**[and may consider, but is not limited to, the factors enumerated in**
42 **subsection g. of section 4 of P.L. , c. (C.) (pending before**
43 **the Legislature as this bill),]² as well as any other relevant
44 evidence.**

45 d. An extreme risk protective order issued pursuant to this
46 section shall prohibit the respondent from having custody or control

1 of, owning, purchasing, possessing, or receiving a firearm. ¹A
 2 respondent who is a law enforcement officer shall be subject to the
 3 provisions of subsection ²[m.] 1.² of section 4 of
 4 P.L. , c. (C.) (pending before the Legislature as this bill).¹

5
 6 6. (New section) a. Upon request by a petitioner ²in a form
 7 prescribed by the Administrative Office of the Courts², and after
 8 notice to the respondent ²in accordance with the Rules of Court² ¹,
 9 appropriate law enforcement, and the county prosecutor¹ and a
 10 hearing, the court may extend an extreme risk protective order
 11 issued pursuant to section 5 of P.L. , c. , (C.)
 12 (pending before the Legislature as this bill). A petition for an
 13 extension may be filed ²[any time]² within three months preceding
 14 the expiration of the current protective order ²but no less than 30
 15 days preceding the expiration of the current protective order². The
 16 protective order may be extended for one year if the court makes
 17 the same findings by a preponderance of the evidence as required
 18 for granting the initial order issued pursuant to section 5 of P.L. ,
 19 c. (C.) (pending before the Legislature as this bill). The court
 20 shall consider the factors enumerated in subsection f. of section 4 of
 21 P.L. , c. (C.) (pending before the Legislature as this bill)
 22 ²[and may consider, but is not limited to, the factors enumerated in
 23 subsection g. of section 4 of P.L. , c. (C.) (pending before the
 24 Legislature as this bill),]² as well as any other relevant evidence.

25 b. The court may terminate an order upon petition by the
 26 respondent after a hearing at which the respondent shall bear the
 27 burden of proving by a preponderance of the evidence that the
 28 respondent no longer poses a significant danger of causing bodily
 29 injury to the respondent's self or to other persons by having custody
 30 or control of, owning, possessing, purchasing, or receiving a
 31 firearm. The respondent may file no more than one petition to
 32 terminate an order while the order is in effect.
 33

34 7. (New section) a. When a temporary ²or final² extreme risk
 35 protective order ²[or extreme risk protective order]² is issued
 36 pursuant to section 4, 5, or 6 of P.L. , c. (C.) (pending
 37 before the Legislature as this bill), the court shall order the
 38 respondent to surrender to the local law enforcement agency all
 39 firearms and ammunition in the respondent's custody or control, or
 40 which the respondent owns or possesses, and any firearms
 41 purchaser identification card, permit to purchase a handgun, or
 42 permit to carry a handgun held by the respondent.

43 b. Upon being served with the protective order, the respondent
 44 immediately shall surrender, in a safe manner, all firearms and
 45 ammunition in the respondent's custody or control, or which the
 46 respondent owns or possesses, and any firearms purchaser

1 identification card, permit to purchase a handgun, or permit to carry
2 a handgun held by the respondent to the control of a law
3 enforcement officer.

4 (1) If the protective order indicates that the respondent owns or
5 possesses any firearms or ammunition, the law enforcement officer
6 who serves the order shall request that all firearms and ammunition
7 immediately be surrendered.

8 (2) If a law enforcement officer is unable to personally serve the
9 order, the respondent shall surrender all firearms and ammunition to
10 the control of the respondent's local law enforcement agency within
11 24 hours of being served with the order. Alternatively, the
12 respondent may surrender or sell all firearms and ammunition in a
13 safe manner to a federally licensed firearms dealer ²pursuant to
14 section 8 of P.L. , c. (C.) (pending before the Legislature as
15 this bill)².

16 (3) The law enforcement officer or licensed firearms dealer
17 taking possession of any firearms or ammunition pursuant to this
18 subsection shall issue a receipt identifying all firearms and
19 ammunition that have been surrendered by the respondent. The
20 officer or dealer shall provide a copy of the receipt to the
21 respondent at the time of surrender.

22 (4) If the respondent surrenders firearms and ammunition to a
23 law enforcement officer or surrenders or sells firearms and
24 ammunition to a licensed dealer pursuant to paragraph (2) of this
25 subsection, the respondent shall, within 48 hours after being served
26 with the order ², ² file the receipt with ²**the court that issued the**
27 **protective order and file a copy of the receipt with the law**
28 **enforcement agency that served the order** **the county prosecutor**².
29 Failure to timely file the receipt or copy of the receipt shall
30 constitute contempt of the order.

31 c. The court which issued the protective order may issue a
32 search warrant for a firearm or ammunition that is in the custody or
33 control of, owned, or possessed by a respondent who is subject to a
34 ²**restraining** temporary or final protective² order issued pursuant
35 to section 4 ¹**or**, ¹ 5¹, ¹ or 6 of P.L. , c. (C.) (pending before
36 the Legislature as this bill) if the respondent has lawfully been
37 served with that order and has failed to surrender the firearm or
38 ammunition as required by this section.

39 d. If the respondent has surrendered a firearm or ammunition to
40 a law enforcement agency, within 30 days of the expiration of the
41 order or upon termination of the order, the respondent may petition
42 the agency for the return of any surrendered firearms or
43 ammunition. Within 30 days of receiving a petition for the return of
44 surrendered firearms or ammunition and after the expiration or
45 termination of the order, the agency shall return the firearm or
46 ammunition unless:

47 (1) the firearm has been reported as stolen;

1 (2) the respondent is prohibited from possessing a firearm under
2 State or federal law; or

3 (3) the protective order is extended ²or a petition to extend the
4 protective order is pending² pursuant to the provisions of section 6
5 of P.L. , c. (C.) (pending before the Legislature as this bill).

6 ²Nothing in this act shall prohibit revocation and seizure of an
7 individual's firearms purchaser identification card, permit to
8 purchase a handgun, permit to carry a handgun, and weapons
9 pursuant to subsection f. of N.J.S.2C:58-3.²

10 e. If a person other than the respondent claims title to any
11 firearm or ammunition surrendered pursuant to this section, and the
12 law enforcement agency determines that the person is the lawful
13 owner of the firearm or ammunition, the firearm or ammunition
14 shall be returned to that person.

15 f. If the respondent has surrendered a firearm or ammunition to
16 a federally licensed firearms dealer, after expiration or termination
17 of the order, the respondent may request the law enforcement
18 agency, in writing, to authorize the return of the firearm or
19 ammunition from the dealer. The dealer shall transfer the firearm
20 or ammunition to the respondent in accordance with procedures
21 required when a firearm or ammunition is being sold from the
22 dealer's inventory ²in accordance with N.J.S.2C:58-2².

23
24 8. (New section) A respondent who has surrendered any
25 firearm or ammunition to a law enforcement agency pursuant to
26 P.L. , c. (C.) (pending before the Legislature as this bill)
27 who does not want the firearm or ammunition returned or is no
28 longer eligible to own or possess a firearm or ammunition may sell
29 or transfer title of the firearm or ammunition to a federally licensed
30 firearms dealer. The agency shall transfer possession of the firearm
31 or ammunition to a licensed dealer only after the dealer has
32 displayed written proof of transfer of the firearm or ammunition
33 from the respondent to the dealer and the agency has verified the
34 transfer with the respondent.

35
36 9. (New section) A law enforcement agency holding any
37 firearm or ammunition surrendered pursuant to P.L. , c. (C.)
38 (pending before the Legislature as this bill) for more than one year
39 after the expiration or termination of the extreme risk protective
40 order may destroy the firearm or ammunition in accordance with the
41 policies and procedures of the agency for destruction of firearms or
42 ammunition.

43
44 10. (New section) ²**[**Except as provided in section 11 of
45 P.L. , c. (C.) (pending before the Legislature as this bill),
46 **a]** A² violation by the respondent of an order issued pursuant to
47 section 4 ²**[**or² 5², or 6² of P.L. , c. (C.) (pending before

the Legislature as this bill) shall constitute an offense under subsection e. of N.J.S.2C:29-9 and each order shall so state. All contempt proceedings conducted pursuant to N.J.S.2C:29-9 involving an extreme risk protective order shall be heard by the Superior Court. All contempt proceedings brought pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) shall be made in accordance with the Rules of Court.

²[11. (New section) ¹If a law enforcement officer finds probable cause that a] a. ¹A respondent ¹[is] ¹in contempt of an order entered pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) ¹[, the respondent] ¹shall be arrested and taken into custody.

¹b. If a person alleges that a respondent has violated or is in contempt of an order entered pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) but the facts are insufficient to establish probable cause to arrest the respondent, a law enforcement officer shall advise the petitioner of the procedure for completing and signing a criminal complaint alleging a violation of subsection e. of N.J.S.2C:29-9.¹²

²[12.] ²11.² (New section) a. The Administrative Office of the Courts shall include all persons who have had ²[¹an] ²a final² extreme risk¹ protective ¹[orders] ¹order¹ entered against them pursuant to ¹section 5 or 6 of¹ P.L. , c. (C.) (pending before the Legislature as this bill), and all persons who have been charged with a violation of ²[an] ²a temporary or final² extreme risk protective order ¹issued pursuant to section 4 ²[or],² 5 ², or 6² of P.L. , c. (C.) (pending before the Legislature as this bill),¹ in ²[the Domestic Violence Central Registry established pursuant to P.L.1999, c.421 (C.2C:25-34 et seq.)] ²an electronic central registry created and maintained by the Administrative Office of the Courts². All records made pursuant to this section shall be kept confidential ²[in accordance with the Rules of Court¹and a] ²and shall be released only to a police or other law enforcement agency investigating a report of a crime, offense, or act of domestic violence, or conducting a background investigation involving a person's application for a firearms purchaser identification card or permit to purchase a handgun or employment as a police or law enforcement officer, or for any other purpose authorized by law or the Supreme Court of the State of New Jersey. A² respondent's information, other than information related to a violation of ²[an] ²a temporary or final² order issued pursuant to section 4 ²[or],² 5 ², or 6² of P.L. , c. (C.) (pending before the Legislature as this bill), shall be removed from the registry upon the expiration of the extreme risk protective order¹.

1 b. Any person who disseminates or discloses a record or report
2 of the central registry for a purpose other than the purposes
3 authorized in this section or as otherwise authorized by law or the
4 Supreme Court of the State of New Jersey is guilty of a crime of the
5 fourth degree.

6
7 ²[13.] 12.² N.J.S.2C:29-9 is amended to read as follows:

8 2C:29-9. Contempt. a. A person is guilty of a crime of the
9 fourth degree if **[he]** the person purposely or knowingly disobeys a
10 judicial order or protective order, pursuant to section 1 of P.L.1985,
11 c.250 (C.2C:28-5.1), or hinders, obstructs, or impedes the
12 effectuation of a judicial order or the exercise of jurisdiction over
13 any person, thing, or controversy by a court, administrative body, or
14 investigative entity.

15 b. (1) Except as provided in paragraph (2) of this subsection, a
16 person is guilty of a crime of the fourth degree if that person
17 purposely or knowingly violates any provision in an order entered
18 under the provisions of the "Prevention of Domestic Violence Act
19 of 1991," P.L.1991, c.261 (C.2C:25-17 et al.) or an order entered
20 under the provisions of a substantially similar statute under the laws
21 of another state or the United States when the conduct which
22 constitutes the violation could also constitute a crime or a
23 disorderly persons offense.

24 Orders entered pursuant to paragraphs (3), (4), (5), (8) and (9) of
25 subsection b. of section 13 of P.L.1991, c.261 (C.2C:25-29) or
26 substantially similar orders entered under the laws of another state
27 or the United States shall be excluded from the provisions of this
28 paragraph.

29 (2) In all other cases a person is guilty of a disorderly persons
30 offense if that person purposely or knowingly violates an order
31 entered under the provisions of the "Prevention of Domestic
32 Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et al.) or an
33 order entered under the provisions of a substantially similar statute
34 under the laws of another state or the United States.

35 Orders entered pursuant to paragraphs (3), (4), (5), (8) and (9) of
36 subsection b. of section 13 of P.L.1991, c.261 (C.2C:25-29) or
37 substantially similar orders entered under the laws of another state
38 or the United States shall be excluded from the provisions of this
39 paragraph.

40 c. A person is guilty of a crime of the third degree if that
41 person purposely or knowingly violates any provision in an order
42 entered under the provisions of section 3 of P.L.1996, c.39
43 (C.2C:12-10.1) or section 2 of P.L.1999, c.47 (C.2C:12-10.2) or an
44 order entered under the provisions of a substantially similar statute
45 under the laws of another state or the United States when the
46 conduct which constitutes the violation could also constitute a
47 crime or a disorderly persons offense.

1 d. (1) Except as provided in paragraph (2) of this subsection, a
2 person is guilty of a crime of the fourth degree if that person
3 purposely or knowingly violates any provision in an order entered
4 under the provisions of P.L.2015, c.147 (C.2C:14-13 et al.) or an
5 order entered under the provisions of a substantially similar statute
6 under the laws of another state or the United States when the
7 conduct which constitutes the violation could also constitute a
8 crime or a disorderly persons offense.

9 (2) In all other cases a person is guilty of a disorderly persons
10 offense if that person purposely or knowingly violates an order
11 entered under the provisions of P.L.2015, c.147 (C.2C:14-13 et al.)
12 or an order entered under the provisions of a substantially similar
13 statute under the laws of another state or the United States.

14 e. A person is guilty of a crime of the fourth degree if the
15 person purposely or knowingly violates any provision of an order
16 entered under the provisions of the "Extreme Risk Protective Order
17 Act of 2018," P.L. , c. (C.) (pending before the Legislature
18 as this bill) or an order entered under the provisions of a
19 substantially similar statute under the laws of another state or the
20 United States.

21 As used in this section, "state" means a state of the United States,
22 the District of Columbia, Puerto Rico, the United States Virgin
23 Islands, or any territory or insular possession subject to the
24 jurisdiction of the United States. The term includes an Indian tribe
25 or band, or Alaskan native village, which is recognized by a federal
26 law or formally acknowledged by a state.

27 (cf: P.L.2016, c.93, s.3)

28

29 ²~~14.~~ ^{13.} Section 6 of P.L.1979, c.179 (C.2C:39-7) is
30 amended to read as follows:

31 6. Certain Persons Not to Have Weapons.

32 a. Except as provided in subsection b. of this section, any
33 person, having been convicted in this State or elsewhere of the
34 crime of aggravated assault, arson, burglary, escape, extortion,
35 homicide, kidnapping, robbery, aggravated sexual assault, sexual
36 assault, bias intimidation in violation of N.J.S.2C:16-1 or
37 endangering the welfare of a child pursuant to N.J.S.2C:24-4,
38 whether or not armed with or having in his possession any weapon
39 enumerated in subsection r. of N.J.S.2C:39-1, or any person
40 convicted of a crime pursuant to the provisions of N.J.S.2C:39-3,
41 N.J.S.2C:39-4 or N.J.S.2C:39-9, or any person who has ever been
42 committed for a mental disorder to any hospital, mental institution
43 or sanitarium unless he possesses a certificate of a medical doctor
44 or psychiatrist licensed to practice in New Jersey or other
45 satisfactory proof that he is no longer suffering from a mental
46 disorder which interferes with or handicaps him in the handling of a
47 firearm, or any person who has been convicted of other than a
48 disorderly persons or petty disorderly persons offense for the

1 unlawful use, possession or sale of a controlled dangerous
2 substance as defined in N.J.S.2C:35-2 who purchases, owns,
3 possesses or controls any of the said weapons is guilty of a crime of
4 the fourth degree.

5 b. (1) A person having been convicted in this State or
6 elsewhere of the crime of aggravated assault, arson, burglary,
7 escape, extortion, homicide, kidnapping, robbery, aggravated sexual
8 assault, sexual assault, bias intimidation in violation of
9 N.J.S.2C:16-1, endangering the welfare of a child pursuant to
10 N.J.S.2C:24-4, stalking pursuant to P.L.1992, c.209 (C.2C:12-10)
11 or a crime involving domestic violence as defined in section 3 of
12 P.L.1991, c.261 (C.2C:25-19), whether or not armed with or having
13 in his possession a weapon enumerated in subsection r. of
14 N.J.S.2C:39-1, or a person having been convicted of a crime
15 pursuant to the provisions of N.J.S.2C:35-3 through N.J.S.2C:35-6,
16 inclusive; section 1 of P.L.1987, c.101 (C.2C:35-7); N.J.S.2C:35-
17 11; N.J.S.2C:39-3; N.J.S.2C:39-4; or N.J.S.2C:39-9 who purchases,
18 owns, possesses or controls a firearm is guilty of a crime of the
19 second degree and upon conviction thereof, the person shall be
20 sentenced to a term of imprisonment by the court. The term of
21 imprisonment shall include the imposition of a minimum term,
22 which shall be fixed at five years, during which the defendant shall
23 be ineligible for parole. If the defendant is sentenced to an
24 extended term of imprisonment pursuant to N.J.S.2C:43-7, the
25 extended term of imprisonment shall include the imposition of a
26 minimum term, which shall be fixed at, or between, one-third and
27 one-half of the sentence imposed by the court or five years,
28 whichever is greater, during which the defendant shall be ineligible
29 for parole.

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

35 (3) A person whose firearm is seized pursuant to the "Prevention
36 of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et
37 seq.) and whose firearm has not been returned, or who is subject to
38 a court order prohibiting the possession of firearms issued pursuant
39 to the "Prevention of Domestic Violence Act of 1991," P.L.1991 ,
40 c.261 (C.2C:25-17 et seq.) who purchases, owns, possesses or
41 controls a firearm is guilty of a crime of the third degree, except
42 that the provisions of this paragraph shall not apply to any law
43 enforcement officer while actually on duty, or to any member of the
44 Armed Forces of the United States or member of the National
45 Guard while actually on duty or traveling to or from an authorized
46 place of duty.

47 (4) A person who is subject to a court order prohibiting the
48 custody, control, ownership, purchase, possession, or receipt of a

1 firearm or ammunition issued pursuant to the “Extreme Risk
2 Protective Order Act of 2018,” P.L. , c. (C.) (pending before
3 the Legislature as this bill) who purchases, acquires, owns,
4 possesses, or controls a firearm or ammunition is guilty of a crime
5 of the third degree.

6 c. Whenever any person shall have been convicted in another
7 state, territory, commonwealth or other jurisdiction of the United
8 States, or any country in the world, in a court of competent
9 jurisdiction, of a crime which in said other jurisdiction or country is
10 comparable to one of the crimes enumerated in subsection a. or b.
11 of this section, then that person shall be subject to the provisions of
12 this section.

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

14
15 ²[15.] 14.² N.J.S.2C:58-3 is amended to read as follows:

16 2C:58-3. a. Permit to purchase a handgun. No person shall sell,
17 give, transfer, assign or otherwise dispose of, nor receive, purchase,
18 or otherwise acquire a handgun unless the purchaser, assignee,
19 donee, receiver or holder is licensed as a dealer under this chapter
20 or has first secured a permit to purchase a handgun as provided by
21 this section.

22 b. Firearms purchaser identification card. No person shall sell,
23 give, transfer, assign or otherwise dispose of nor receive, purchase
24 or otherwise acquire an antique cannon or a rifle or shotgun, other
25 than an antique rifle or shotgun, unless the purchaser, assignee,
26 donee, receiver or holder is licensed as a dealer under this chapter
27 or possesses a valid firearms purchaser identification card, and first
28 exhibits the card to the seller, donor, transferor or assignor, and
29 unless the purchaser, assignee, donee, receiver or holder signs a
30 written certification, on a form prescribed by the superintendent,
31 which shall indicate that he presently complies with the
32 requirements of subsection c. of this section and shall contain his
33 name, address and firearms purchaser identification card number or
34 dealer's registration number. The certification shall be retained by
35 the seller, as provided in paragraph (4) of subsection a. of
36 N.J.S.2C:58-2, or, in the case of a person who is not a dealer, it may
37 be filed with the chief of police of the municipality in which he
38 resides or with the superintendent.

39 c. Who may obtain. No person of good character and good
40 repute in the community in which he lives, and who is not subject to
41 any of the disabilities set forth in this section or other sections of
42 this chapter, shall be denied a permit to purchase a handgun or a
43 firearms purchaser identification card, except as hereinafter set
44 forth. No handgun purchase permit or firearms purchaser
45 identification card shall be issued:

46 (1) To any person who has been convicted of any crime, or a
47 disorderly persons offense involving an act of domestic violence as

1 defined in section 3 of P.L.1991, c.261 (C.2C:25-19), whether or
2 not armed with or possessing a weapon at the time of the offense;

3 (2) To any drug dependent person as defined in section 2 of
4 P.L.1970, c.226 (C.24:21-2), to any person who is confined for a
5 mental disorder to a hospital, mental institution or sanitarium, or to
6 any person who is presently an habitual drunkard;

7 (3) To any person who suffers from a physical defect or disease
8 which would make it unsafe for him to handle firearms, to any
9 person who has ever been confined for a mental disorder, or to any
10 alcoholic unless any of the foregoing persons produces a certificate
11 of a medical doctor or psychiatrist licensed in New Jersey, or other
12 satisfactory proof, that he is no longer suffering from that particular
13 disability in a manner that would interfere with or handicap him in
14 the handling of firearms; to any person who knowingly falsifies any
15 information on the application form for a handgun purchase permit
16 or firearms purchaser identification card;

17 (4) To any person under the age of 18 years for a firearms
18 purchaser identification card and to any person under the age of 21
19 years for a permit to purchase a handgun;

20 (5) To any person where the issuance would not be in the
21 interest of the public health, safety or welfare;

22 (6) To any person who is subject to a restraining order issued
23 pursuant to the "Prevention of Domestic Violence Act of 1991,"
24 P.L.1991, c.261 (C.2C:25-17 et seq.) prohibiting the person from
25 possessing any firearm;

26 (7) To any person who as a juvenile was adjudicated delinquent
27 for an offense which, if committed by an adult, would constitute a
28 crime and the offense involved the unlawful use or possession of a
29 weapon, explosive or destructive device or is enumerated in
30 subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2);

31 (8) To any person whose firearm is seized pursuant to the
32 "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261
33 (C.2C:25-17 et seq.) and whose firearm has not been returned; **[or]**

34 (9) To any person named on the consolidated Terrorist Watchlist
35 maintained by the Terrorist Screening Center administered by the
36 Federal Bureau of Investigation; or

37 (10) To any person who is subject to a court order prohibiting
38 the custody, control, ownership, purchase, possession, or receipt of
39 a firearm or ammunition issued pursuant to the "Extreme Risk
40 Protective Order Act of 2018," P.L. , c. (C.) (pending before
41 the Legislature as this bill).

42 d. Issuance. The chief of police of an organized full-time
43 police department of the municipality where the applicant resides or
44 the superintendent, in all other cases, shall upon application, issue
45 to any person qualified under the provisions of subsection c. of this
46 section a permit to purchase a handgun or a firearms purchaser
47 identification card.

1 Any person aggrieved by the denial of a permit or identification
2 card may request a hearing in the Superior Court of the county in
3 which he resides if he is a resident of New Jersey or in the Superior
4 Court of the county in which his application was filed if he is a
5 nonresident. The request for a hearing shall be made in writing
6 within 30 days of the denial of the application for a permit or
7 identification card. The applicant shall serve a copy of his request
8 for a hearing upon the chief of police of the municipality in which
9 he resides, if he is a resident of New Jersey, and upon the
10 superintendent in all cases. The hearing shall be held and a record
11 made thereof within 30 days of the receipt of the application for a
12 hearing by the judge of the Superior Court. No formal pleading and
13 no filing fee shall be required as a preliminary to a hearing.
14 Appeals from the results of a hearing shall be in accordance with
15 law.

16 e. Applications. Applications for permits to purchase a
17 handgun and for firearms purchaser identification cards shall be in
18 the form prescribed by the superintendent and shall set forth the
19 name, residence, place of business, age, date of birth, occupation,
20 sex and physical description, including distinguishing physical
21 characteristics, if any, of the applicant, and shall state whether the
22 applicant is a citizen, whether he is an alcoholic, habitual drunkard,
23 drug dependent person as defined in section 2 of P.L.1970, c.226
24 (C.24:21-2), whether he has ever been confined or committed to a
25 mental institution or hospital for treatment or observation of a
26 mental or psychiatric condition on a temporary, interim or
27 permanent basis, giving the name and location of the institution or
28 hospital and the dates of confinement or commitment, whether he
29 has been attended, treated or observed by any doctor or psychiatrist
30 or at any hospital or mental institution on an inpatient or outpatient
31 basis for any mental or psychiatric condition, giving the name and
32 location of the doctor, psychiatrist, hospital or institution and the
33 dates of the occurrence, whether he presently or ever has been a
34 member of any organization which advocates or approves the
35 commission of acts of force and violence to overthrow the
36 Government of the United States or of this State, or which seeks to
37 deny others their rights under the Constitution of either the United
38 States or the State of New Jersey, whether he has ever been
39 convicted of a crime or disorderly persons offense, whether the
40 person is subject to a restraining order issued pursuant to the
41 "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261
42 (C.2C:25-17 et seq.) prohibiting the person from possessing any
43 firearm, whether the person is subject to a ²[restraining] protective²
44 order issued pursuant to the "Extreme Risk Protective Order Act of
45 2018." P.L. , c. (C.) (pending before the Legislature as this
46 bill) prohibiting the person from possessing any firearm, and other
47 information as the superintendent shall deem necessary for the
48 proper enforcement of this chapter. For the purpose of complying

1 with this subsection, the applicant shall waive any statutory or other
2 right of confidentiality relating to institutional confinement. The
3 application shall be signed by the applicant and shall contain as
4 references the names and addresses of two reputable citizens
5 personally acquainted with him.

6 Application blanks shall be obtainable from the superintendent,
7 from any other officer authorized to grant a permit or identification
8 card, and from licensed retail dealers.

9 The chief police officer or the superintendent shall obtain the
10 fingerprints of the applicant and shall have them compared with any
11 and all records of fingerprints in the municipality and county in
12 which the applicant resides and also the records of the State Bureau
13 of Identification and the Federal Bureau of Investigation, provided
14 that an applicant for a handgun purchase permit who possesses a
15 valid firearms purchaser identification card, or who has previously
16 obtained a handgun purchase permit from the same licensing
17 authority for which he was previously fingerprinted, and who
18 provides other reasonably satisfactory proof of his identity, need not
19 be fingerprinted again; however, the chief police officer or the
20 superintendent shall proceed to investigate the application to
21 determine whether or not the applicant has become subject to any of
22 the disabilities set forth in this chapter.

23 f. Granting of permit or identification card; fee; term; renewal;
24 revocation. The application for the permit to purchase a handgun
25 together with a fee of \$2, or the application for the firearms
26 purchaser identification card together with a fee of \$5, shall be
27 delivered or forwarded to the licensing authority who shall
28 investigate the same and, unless good cause for the denial thereof
29 appears, shall grant the permit or the identification card, or both, if
30 application has been made therefor, within 30 days from the date of
31 receipt of the application for residents of this State and within 45
32 days for nonresident applicants. A permit to purchase a handgun
33 shall be valid for a period of 90 days from the date of issuance and
34 may be renewed by the issuing authority for good cause for an
35 additional 90 days. A firearms purchaser identification card shall
36 be valid until such time as the holder becomes subject to any of the
37 disabilities set forth in subsection c. of this section, whereupon the
38 card shall be void and shall be returned within five days by the
39 holder to the superintendent, who shall then advise the licensing
40 authority. Failure of the holder to return the firearms purchaser
41 identification card to the superintendent within the five days shall
42 be an offense under subsection a. of N.J.S.2C:39-10. Any firearms
43 purchaser identification card may be revoked by the Superior Court
44 of the county wherein the card was issued, after hearing upon
45 notice, upon a finding that the holder thereof no longer qualifies for
46 the issuance of the permit. The county prosecutor of any county,
47 the chief police officer of any municipality or any citizen may apply
48 to the court at any time for the revocation of the card.

1 There shall be no conditions or requirements added to the form
2 or content of the application, or required by the licensing authority
3 for the issuance of a permit or identification card, other than those
4 that are specifically set forth in this chapter.

5 g. Disposition of fees. All fees for permits shall be paid to the
6 State Treasury if the permit is issued by the superintendent, to the
7 municipality if issued by the chief of police, and to the county
8 treasurer if issued by the judge of the Superior Court.

9 h. Form of permit; quadruplicate; disposition of copies. The
10 permit shall be in the form prescribed by the superintendent and
11 shall be issued to the applicant in quadruplicate. Prior to the time
12 he receives the handgun from the seller, the applicant shall deliver
13 to the seller the permit in quadruplicate and the seller shall
14 complete all of the information required on the form. Within five
15 days of the date of the sale, the seller shall forward the original
16 copy to the superintendent and the second copy to the chief of
17 police of the municipality in which the purchaser resides, except
18 that in a municipality having no chief of police, the copy shall be
19 forwarded to the superintendent. The third copy shall then be
20 returned to the purchaser with the pistol or revolver and the fourth
21 copy shall be kept by the seller as a permanent record.

22 i. Restriction on number of firearms person may purchase.
23 Only one handgun shall be purchased or delivered on each permit
24 and no more than one handgun shall be purchased within any 30-
25 day period, but this limitation shall not apply to:

26 (1) a federal, State, or local law enforcement officer or agency
27 purchasing handguns for use by officers in the actual performance
28 of their law enforcement duties;

29 (2) a collector of handguns as curios or relics as defined in Title
30 18, United States Code, section 921 (a) (13) who has in his
31 possession a valid Collector of Curios and Relics License issued by
32 the federal Bureau of Alcohol, Tobacco, Firearms and Explosives;

33 (3) transfers of handguns among licensed retail dealers,
34 registered wholesale dealers and registered manufacturers;

35 (4) transfers of handguns from any person to a licensed retail
36 dealer or a registered wholesale dealer or registered manufacturer;

37 (5) any transaction where the person has purchased a handgun
38 from a licensed retail dealer and has returned that handgun to the
39 dealer in exchange for another handgun within 30 days of the
40 original transaction, provided the retail dealer reports the exchange
41 transaction to the superintendent; or

42 (6) any transaction where the superintendent issues an
43 exemption from the prohibition in this subsection pursuant to the
44 provisions of section 4 of P.L.2009, c.186 (C.2C:58-3.4).

45 The provisions of this subsection shall not be construed to afford
46 or authorize any other exemption from the regulatory provisions
47 governing firearms set forth in chapter 39 and chapter 58 of Title
48 2C of the New Jersey Statutes;

1 A person shall not be restricted as to the number of rifles or
2 shotguns he may purchase, provided he possesses a valid firearms
3 purchaser identification card and provided further that he signs the
4 certification required in subsection b. of this section for each
5 transaction.

6 j. Firearms passing to heirs or legatees. Notwithstanding any
7 other provision of this section concerning the transfer, receipt or
8 acquisition of a firearm, a permit to purchase or a firearms
9 purchaser identification card shall not be required for the passing of
10 a firearm upon the death of an owner thereof to his heir or legatee,
11 whether the same be by testamentary bequest or by the laws of
12 intestacy. The person who shall so receive, or acquire the firearm
13 shall, however, be subject to all other provisions of this chapter. If
14 the heir or legatee of the firearm does not qualify to possess or carry
15 it, he may retain ownership of the firearm for the purpose of sale for
16 a period not exceeding 180 days, or for a further limited period as
17 may be approved by the chief law enforcement officer of the
18 municipality in which the heir or legatee resides or the
19 superintendent, provided that the firearm is in the custody of the
20 chief law enforcement officer of the municipality or the
21 superintendent during that period.

22 k. Sawed-off shotguns. Nothing in this section shall be
23 construed to authorize the purchase or possession of any sawed-off
24 shotgun.

25 l. Nothing in this section and in N.J.S.2C:58-2 shall apply to
26 the sale or purchase of a visual distress signalling device approved
27 by the United States Coast Guard, solely for possession on a private
28 or commercial aircraft or any boat; provided, however, that no
29 person under the age of 18 years shall purchase nor shall any person
30 sell to a person under the age of 18 years a visual distress signalling
31 device.

32 m. The provisions of subsections a. and b. of this section and
33 paragraphs (4) and (5) of subsection a. of N.J.S.2C:58-2 shall not
34 apply to the purchase of firearms by a law enforcement agency for
35 use by law enforcement officers in the actual performance of the
36 officers' official duties, which purchase may be made directly from
37 a manufacturer or from a licensed dealer located in this State or any
38 other state.

39 (cf: P.L.2016, c.74, s.1)

40

41 ²[16.] 15.² The Supreme Court may promulgate Rules of Court
42 to effectuate the purposes of the “Extreme Risk Protective Order
43 Act of 2018,” P.L. , c. (C.) (pending before the Legislature
44 as this bill).

45

46 ²[17.] 16.² (New section) The Attorney General may adopt,
47 pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410
48 (C.52:14B-1 et seq.), rules and regulations necessary to implement

1 the provisions of the “Extreme Risk Protective Order Act of 2018,”
2 P.L. , c. (C.) (pending before the Legislature as this bill).

3

4 ²**【18.】** 17.² This act shall take effect on the first day of the
5 ²**【seventh】** fifteenth² month next following enactment, but the
6 Attorney General and the Administrative Director of the Courts
7 may take any anticipatory action as shall be necessary to effectuate
8 the purposes of this act.