The Assembly Judiciary Committee reports favorably Assembly Bill No. 2758.

As reported by the committee, Assembly Bill No. 2758 codifies the definition of “justifiable need to carry a handgun” that was set forth in the New Jersey Administrative Code prior to amendments being adopted by the Department of Law and Public Safety in April 2017.

Under current law, in order to lawfully carry a handgun in public, it is necessary for a private citizen to obtain a permit to carry a handgun. Applicants for a permit to carry a handgun need the approval of the chief of police in the municipality where they reside and the approval of a Superior Court judge in the county where they reside. Approval is contingent upon a person submitting, with an application, a written certification establishing “justifiable need.”

“Justifiable need” is currently defined in the New Jersey Administrative Code at N.J.A.C.13:54-2.4. In its current form, this definition reflects amendments to that section which became effective on April 3, 2017. These amendments expanded the scope of the justifiable need standard beyond that which was required by the standard established under the prior definition and the judicial interpretation of that standard.

There were several legal challenges to the justifiable need standard, as defined prior to adoption of the amendments, including arguments that the standard violated the right to bear arms under the Second Amendment of the United States Constitution. Both State and federal courts upheld the constitutionality of the State’s justifiable need requirement, as defined prior to adoption of the amendments, and the United States Supreme Court denied certiorari on the constitutional challenge.

Prior to the April 3rd adoption of the amendments, New Jersey law defined “justifiable need” as “the urgent necessity for self-protection, as evidenced by 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 permit to carry a handgun.” In addition, the law required the applicant, where possible, to corroborate the existence of any specific threats or previous attacks by reference to reports of the incidents to the appropriate law enforcement agencies.” This bill codifies this definition in statute.
The amendments to N.J.A.C.13:54-2.4 that were adopted in April, 2017 add “serious threats” to the circumstances that may demonstrate a special danger to the applicant’s life that could be specified in the written certification of justifiable need. In addition, the revised regulation also specifies that a permit to carry a handgun can be issued based on a special danger to the applicant’s life that cannot be avoided by other “reasonable” means other than by issuance of a permit to carry a handgun.

In response to the proposed amendments, the New Jersey Legislature adopted two concurrent resolutions opposing their adoption on the basis that the amendments were inconsistent with legislative intent. The amendments were adopted on April 3, 2017, and the Legislature filed a lawsuit in the Appellate Division of the Superior Court challenging the validity of the amendments. The State Attorney General recently withdrew its opposition to the lawsuit challenging the validity of the amendments.