

ASSEMBLY, No. 2175

STATE OF NEW JERSEY

INTRODUCED JUNE 20, 1996

By Assemblyman GUSCIORA, Assemblywoman TURNER,  
Assemblyman Greenwald and Assemblywoman Weinberg

1 AN ACT concerning firearms and amending sections 5 and 13 of  
2 P.L.1991, c.261, N.J.S.2C:39-7 and N.J.S.2C:58-3.

3

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

6

7 1. Section 5 of P.L.1991, c.261 ( C.2C:25-21) is amended to read  
8 as follows:

9 5. a. When a person claims to be a victim of domestic violence,  
10 and where a law enforcement officer responding to the incident finds  
11 probable cause to believe that domestic violence has occurred, the law  
12 enforcement officer shall arrest the person who is alleged to be the  
13 person who subjected the victim to domestic violence and shall sign a  
14 criminal complaint if:

15 (1) The victim exhibits signs of injury caused by an act of domestic  
16 violence;

17 (2) A warrant is in effect;

18 (3) There is probable cause to believe that the person has violated  
19 N.J.S.2C:29-9, and there is probable cause to believe that the person  
20 has been served with the order alleged to have been violated. If the  
21 victim does not have a copy of a purported order, the officer may  
22 verify the existence of an order with the appropriate law enforcement  
23 agency; or

24 (4) There is probable cause to believe that a weapon as defined in  
25 N.J.S.2C:39-1 has been involved in the commission of an act of  
26 domestic violence.

27 b. A law enforcement officer may arrest a person; or may sign a  
28 criminal complaint against that person, or may do both, where there is  
29 probable cause to believe that an act of domestic violence has been  
30 committed, but where none of the conditions in subsection a. of this  
31 section applies.

32 c. (1) As used in this section, the word "exhibits" is to be liberally  
33 construed to mean any indication that a victim has suffered bodily

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 injury, which shall include physical pain or any impairment of physical  
2 condition. Where the victim exhibits no visible sign of injury, but  
3 states that an injury has occurred, the officer should consider other  
4 relevant factors in determining whether there is probable cause to  
5 make an arrest.

6 (2) In determining which party in a domestic violence incident is  
7 the victim where both parties exhibit signs of injury, the officer should  
8 consider the comparative extent of the injuries, the history of domestic  
9 violence between the parties, if any, and any other relevant factors.

10 (3) No victim shall be denied relief or arrested or charged under  
11 this act with an offense because the victim used reasonable force in self  
12 defense against domestic violence by an attacker.

13 d. (1) In addition to a law enforcement officer's authority to seize  
14 any weapon that is contraband, evidence or an instrumentality of  
15 crime, a law enforcement officer who has probable cause to believe  
16 that an act of domestic violence has been committed [~~may~~]shall:

17 (a) question persons present to determine whether there are  
18 weapons on the premises; and

19 (b) upon observing or learning that a weapon is present on the  
20 premises, seize any weapon that the officer reasonably believes would  
21 expose the victim to a risk of serious bodily injury.

22 (2) A law enforcement officer shall deliver all weapons seized  
23 pursuant to this section to the county prosecutor and shall append an  
24 inventory of all seized weapons to the domestic violence report.

25 (3) Weapons seized in accordance with the [~~above~~]"Prevention of  
26 Domestic Violence Act of 1991", P.L.1991,c.261 (C.2C:25-17 et seq.)  
27 shall be returned to the owner except upon order of the Superior  
28 Court. The prosecutor who has possession of the seized weapons  
29 may, upon notice to the owner, petition a judge of the Family Part of  
30 the Superior Court, Chancery Division, within 45 days of seizure, to  
31 obtain title to the seized weapons, or to revoke any and all permits,  
32 licenses and other authorizations for the use, possession, or ownership  
33 of such weapons pursuant to the law governing such use, possession,  
34 or ownership, or may object to the return of the weapons on such  
35 grounds as are provided for the initial rejection or later revocation of  
36 the authorizations, or on the grounds that the owner is unfit or that the  
37 owner poses a threat to the public in general or a person or persons in  
38 particular.

39 A hearing shall be held and a record made thereof within [~~15~~] 45  
40 days of the notice provided above. No formal pleading and no filing  
41 fee shall be required as a preliminary to such hearing. The hearing  
42 shall be summary in nature. Appeals from the results of the hearing  
43 shall be to the Superior Court, Appellate Division, in accordance with  
44 the law.

45 If the prosecutor does not institute an action within 45 days of  
46 seizure, the seized weapons shall be returned to the owner.

1 After the hearing the court shall order the return of the firearms,  
2 weapons and any authorization papers relating to the seized weapons  
3 to the owner if the court determines the owner is not subject to any of  
4 the disabilities set forth in N.J.S.2C:58-3c and finds that the complaint  
5 has been dismissed at the request of the complainant and the  
6 prosecutor determines that there is insufficient probable cause to  
7 indict; or if the defendant is found not guilty of the charges; or if the  
8 court determines that the domestic violence situation no longer exists.

9 Nothing in this act shall impair the right of the State to retain  
10 evidence pending a criminal prosecution. Nor shall any provision of  
11 this act be construed to limit the authority of the State or a law  
12 enforcement officer to seize, retain or forfeit property pursuant to  
13 chapter 64 of Title 2C of the New Jersey Statutes.

14 If, after the hearing, the court determines that the weapons are not  
15 to be returned to the owner, the court may:

16 (a) With respect to weapons other than firearms, order the  
17 prosecutor to dispose of the weapons if the owner does not arrange  
18 for the transfer or sale of the weapons to an appropriate person within  
19 60 days; or

20 (b) Order the revocation of the owner's firearms purchaser  
21 identification card or any permit, license or authorization, in which  
22 case the court shall order the owner to surrender any firearm seized  
23 and all other firearms possessed to the prosecutor and shall order the  
24 prosecutor to dispose of the firearms if the owner does not arrange for  
25 the sale of the firearms to a registered dealer of the firearms within 60  
26 days; or

27 (c) Order such other relief as it may deem appropriate. When the  
28 court orders the weapons forfeited to the State or the prosecutor is  
29 required to dispose of the weapons, the prosecutor shall dispose of the  
30 property as provided in N.J.S. 2C:64-6.

31 (4) A civil suit may be brought to enjoin a wrongful failure to  
32 return a seized firearm where the prosecutor refuses to return the  
33 weapon after receiving a written request to do so and notice of the  
34 owner's intent to bring a civil action pursuant to this section. Failure  
35 of the prosecutor to comply with the provisions of this act shall entitle  
36 the prevailing party in the civil suit to reasonable costs, including  
37 attorney's fees, provided that the court finds that the prosecutor failed  
38 to act in good faith in retaining the seized weapon.

39 (5) [No law enforcement officer or agency shall be held liable in  
40 any civil action brought by any person for failing to learn of, locate or  
41 seize a weapon pursuant to this act, or for returning a seized weapon  
42 to its owner.](Deleted by amendment, P.L. .c. )(now pending before  
43 the Legislature as this bill)

44 (6) If a weapon is found on the premises, the law enforcement  
45 officers shall demand and confiscate any firearms purchaser  
46 identification card or permit to purchase a handgun issued pursuant to

1 N.J.S.2C:58-3 from the accused perpetrator of the domestic violence  
2 incident. The law enforcement officer shall deliver the confiscated  
3 card or permit to the county prosecutor's officer.

4 (cf: P.L.1991, c.261, s.5)

5  
6 2. Section 13 of P.L.1991, c.261 (C.2C:25-29) is amended to read  
7 as follows:

8 13. a. A hearing shall be held in the Family Part of the Chancery  
9 Division of the Superior Court within 10 days of the filing of a  
10 complaint pursuant to section 12 of P.L.1991, c.261 (C.2C:25-28) in  
11 the county where the ex parte restraints were ordered, unless good  
12 cause is shown for the hearing to be held elsewhere. A copy of the  
13 complaint shall be served on the defendant in conformity with the rules  
14 of court. If a criminal complaint arising out of the same incident which  
15 is the subject matter of a complaint brought under P.L.1981, c.426  
16 (C.2C:25-1 et seq.) or P.L.1991, c.261 (C.2C:25-17 et seq.) has been  
17 filed, testimony given by the plaintiff or defendant in the domestic  
18 violence matter shall not be used in the simultaneous or subsequent  
19 criminal proceeding against the defendant, other than domestic  
20 violence contempt matters and where it would otherwise be admissible  
21 hearsay under the rules of evidence that govern where a party is  
22 unavailable. At the hearing the standard for proving the allegations in  
23 the complaint shall be by a preponderance of the evidence. The court  
24 shall consider but not be limited to the following factors:

25 (1) The previous history of domestic violence between the plaintiff  
26 and defendant, including threats, harassment and physical abuse;

27 (2) The existence of immediate danger to person or property;

28 (3) The financial circumstances of the plaintiff and defendant;

29 (4) The best interests of the victim and any child;

30 (5) In determining custody and visitation the protection of the  
31 victim's safety; and

32 (6) The existence of a verifiable order of protection from another  
33 jurisdiction.

34 An order issued under this act shall only restrain or provide  
35 damages payable from a person against whom a complaint has been  
36 filed under this act and only after a finding or an admission is made  
37 that an act of domestic violence was committed by that person. The  
38 issue of whether or not a violation of this act occurred, including an  
39 act of contempt under this act, shall not be subject to mediation or  
40 negotiation in any form. In addition, where a temporary or final order  
41 has been issued pursuant to this act, no party shall be ordered to  
42 participate in mediation on the issue of custody or visitation.

43 b. In proceedings in which complaints for restraining orders have  
44 been filed, the court shall grant any relief necessary to prevent further  
45 abuse. In addition to any other provisions, any restraining order or  
46 order prohibiting the defendant from possessing any firearm issued by

1 the court shall bar the defendant from receiving a firearms purchaser  
2 identification card or permit to purchase a handgun pursuant to  
3 N.J.S.2C:58-3 for a period of at least two years or during the period  
4 in which the restraining order is in effect, whichever is longer. At the  
5 hearing the judge of the Family Part of the Chancery Division of the  
6 Superior Court may issue an order granting any or all of the following  
7 relief:

8 (1) An order restraining the defendant from subjecting the victim  
9 to domestic violence, as defined in this act.

10 (2) An order granting exclusive possession to the plaintiff of the  
11 residence or household regardless of whether the residence or  
12 household is jointly or solely owned by the parties or jointly or solely  
13 leased by the parties. This order shall not in any manner affect title or  
14 interest to any real property held by either party or both jointly. If it  
15 is not possible for the victim to remain in the residence, the court may  
16 order the defendant to pay the victim's rent at a residence other than  
17 the one previously shared by the parties if the defendant is found to  
18 have a duty to support the victim and the victim requires alternative  
19 housing.

20 (3) An order providing for visitation. The order shall protect the  
21 safety and well-being of the plaintiff and minor children and shall  
22 specify the place and frequency of visitation. Visitation arrangements  
23 shall not compromise any other remedy provided by the court by  
24 requiring or encouraging contact between the plaintiff and defendant.  
25 Orders for visitation may include a designation of a place of visitation  
26 away from the plaintiff, the participation of a third party, or supervised  
27 visitation.

28 (a) The court shall consider a request by a custodial parent who  
29 has been subjected to domestic violence by a person with visitation  
30 rights to a child in the parent's custody for an investigation or  
31 evaluation by the appropriate agency to assess the risk of harm to the  
32 child prior to the entry of a visitation order. Any denial of such a  
33 request must be on the record and shall only be made if the judge finds  
34 the request to be arbitrary or capricious.

35 (b) The court shall consider suspension of the visitation order and  
36 hold an emergency hearing upon an application made by the plaintiff  
37 certifying under oath that the defendant's access to the child pursuant  
38 to the visitation order has threatened the safety and well-being of the  
39 child.

40 (4) An order requiring the defendant to pay to the victim monetary  
41 compensation for losses suffered as a direct result of the act of  
42 domestic violence. The order may require the defendant to pay the  
43 victim directly, to reimburse the Violent Crimes Compensation Board  
44 for any and all compensation paid by the Violent Crime Compensation  
45 Board directly to or on behalf of the victim, and may require that the  
46 defendant reimburse any parties that may have compensated the

1 victim, as the court may determine. Compensatory losses shall  
2 include, but not be limited to, loss of earnings or other support,  
3 including child or spousal support, out-of-pocket losses for injuries  
4 sustained, cost of repair or replacement of real or personal property  
5 damaged or destroyed or taken by the defendant, cost of counseling  
6 for the victim, moving or other travel expenses, reasonable attorney's  
7 fees, court costs, and compensation for pain and suffering. Where  
8 appropriate, punitive damages may be awarded in addition to  
9 compensatory damages.

10 (5) An order requiring the defendant to receive professional  
11 domestic violence counseling from either a private source or a source  
12 appointed by the court and, in that event, at the court's discretion  
13 requiring the defendant to provide the court at specified intervals with  
14 documentation of attendance at the professional counseling. The court  
15 may order the defendant to pay for the professional counseling.

16 (6) An order restraining the defendant from entering the residence,  
17 property, school, or place of employment of the victim or of other  
18 family or household members of the victim and requiring the defendant  
19 to stay away from any specified place that is named in the order and  
20 is frequented regularly by the victim or other family or household  
21 members.

22 (7) An order restraining the defendant from making contact with  
23 the plaintiff or others, including an order forbidding the defendant  
24 from personally or through an agent initiating any communication  
25 likely to cause annoyance or alarm including, but not limited to,  
26 personal, written, or telephone contact with the victim or other family  
27 members, or their employers, employees, or fellow workers, or others  
28 with whom communication would be likely to cause annoyance or  
29 alarm to the victim.

30 (8) An order requiring that the defendant make or continue to  
31 make rent or mortgage payments on the residence occupied by the  
32 victim if the defendant is found to have a duty to support the victim or  
33 other dependent household members; provided that this issue has not  
34 been resolved or is not being litigated between the parties in another  
35 action.

36 (9) An order granting either party temporary possession of  
37 specified personal property, such as an automobile, checkbook,  
38 documentation of health insurance, an identification document, a key,  
39 and other personal effects.

40 (10) An order awarding emergency monetary relief, including  
41 emergency support for minor children, to the victim and other  
42 dependents, if any. An ongoing obligation of support shall be  
43 determined at a later date pursuant to applicable law.

44 (11) An order awarding temporary custody of a minor child. The  
45 court shall presume that the best interests of the child are served by an  
46 award of custody to the non-abusive parent.

1 (12) An order requiring that a law enforcement officer accompany  
2 either party to the residence or any shared business premises to  
3 supervise the removal of personal belongings in order to ensure the  
4 personal safety of the plaintiff when a restraining order has issued.  
5 This order shall be restricted in duration.

6 (13) (Deleted by amendment, P.L.1995, c.242).

7 (14) An order granting any other appropriate relief for the plaintiff  
8 and dependent children, provided that the plaintiff consents to such  
9 relief, including relief requested by the plaintiff at the final hearing,  
10 whether or not the plaintiff requested such relief at the time of the  
11 granting of the initial emergency order.

12 (15) An order that requires that the defendant report to the intake  
13 unit of the Family Part of the Chancery Division of the Superior Court  
14 for monitoring of any other provision of the order.

15 (16) An order prohibiting the defendant from possessing any  
16 firearm or other weapon enumerated in subsection r. of N.J.S.2C:39-1  
17 and ordering the search for and seizure of any such weapon at any  
18 location where the judge has reasonable cause to believe the weapon  
19 is located. The judge shall state with specificity the reasons for and  
20 scope of the search and seizure authorized by the order.

21 (17) An order prohibiting the defendant from stalking or following,  
22 or threatening to harm, to stalk or to follow, the complainant or any  
23 other person named in the order in a manner that, taken in the context  
24 of past actions of the defendant, would put the complainant in  
25 reasonable fear that the defendant would cause the death or injury of  
26 the complainant or any other person. Behavior prohibited under this  
27 act includes, but is not limited to, behavior prohibited under the  
28 provisions of P.L.1992, c.209 (C.2C:12-10).

29 (18) An order requiring the defendant to undergo a psychiatric  
30 evaluation.

31 c. Notice of orders issued pursuant to this section shall be sent by  
32 the clerk of the Family Part of the Chancery Division of the Superior  
33 Court or other person designated by the court to the appropriate chiefs  
34 of police, members of the State Police and any other appropriate law  
35 enforcement agency.

36 d. Upon good cause shown, any final order may be dissolved or  
37 modified upon application to the Family Part of the Chancery Division  
38 of the Superior Court, but only if the judge who dissolves or modifies  
39 the order is the same judge who entered the order, or has available a  
40 complete record of the hearing or hearings on which the order was  
41 based.

42 (cf: P.L.1995, c.242, s.1)

43

44 3. Section 6 of P.L.1979, c.179 (C.2C:39-7) is amended to read as  
45 follows:

46 6. Certain Persons Not to Have Weapons.

1 a. Except as provided in subsection b. of this section, any person,  
2 having been convicted in this State or elsewhere of the crime of  
3 aggravated assault, arson, burglary, escape, extortion, homicide,  
4 kidnapping, robbery, aggravated sexual assault, sexual assault or  
5 endangering the welfare of a child pursuant to N.J.S.2C:24-4, whether  
6 or not armed with or having in his possession any weapon enumerated  
7 in subsection r. of N.J.S.2C:39-1, or any person convicted of a crime  
8 pursuant to the provisions of N.J.S.2C:39-3, N.J.S.2C:39-4 or  
9 N.J.S.2C:39-9, or any person who has ever been committed for a  
10 mental disorder to any hospital, mental institution or sanitarium unless  
11 he possesses a certificate of a medical doctor or psychiatrist licensed  
12 to practice in New Jersey or other satisfactory proof that he is no  
13 longer suffering from a mental disorder which interferes with or  
14 handicaps him in the handling of a firearm, or any person who has been  
15 convicted of other than a disorderly persons or petty disorderly  
16 persons offense for the unlawful use, possession or sale of a controlled  
17 dangerous substance as defined in N.J.S.2C:35-2 who purchases,  
18 owns, possesses or controls any of the said weapons is guilty of a  
19 crime of the fourth degree.

20 b. (1) A person having been convicted in this State or elsewhere  
21 of the crime of aggravated assault, arson, burglary, escape, extortion,  
22 homicide, kidnapping, robbery, aggravated sexual assault, sexual  
23 assault or endangering the welfare of a child pursuant to  
24 N.J.S.2C:24-4, stalking pursuant to P.L.1992, c.209 (C.2C:12-10) or  
25 for domestic violence as defined in section 3 of P.L.1991, c.261  
26 (C.2C:25-19), whether or not armed with or having in his possession  
27 a weapon enumerated in subsection r. of N.J.S.2C:39-1, or a person  
28 having been convicted of a crime pursuant to the provisions of  
29 N.J.S.2C:35-3 through N.J.S.2C:35-6, inclusive; section 1 of  
30 P.L.1987, c.101 (C.2C:35-7); N.J.S.2C:35-11; N.J.S.2C:39-3;  
31 N.J.S.2C:39-4; or N.J.S.2C:39-9 who purchases, owns, possesses or  
32 controls a firearm is guilty of a crime of the second degree.

33 (2) A person having been convicted in this State or elsewhere of a  
34 disorderly persons offense, whether or not armed with or having in his  
35 possession a weapon enumerated in subsection r. of N.J.S.2C:39-1, for  
36 stalking pursuant to P.L.1992, c.209 (C.2C:12-10), endangering the  
37 welfare of a child pursuant to N.J.S.2C:24-4 or for domestic violence  
38 as defined in section 3 of P.L.1991, c.261 (C.2C:25-19), who  
39 purchases, owns, possesses or controls a firearm is guilty of a crime  
40 of the fourth degree.

41 (3) A person whose weapons have been seized pursuant to  
42 subsection d. of section 5 of P.L.1991,c.261 (C.2C:25-21) or who is  
43 subject to the prohibitions on the purchase of firearms provided in  
44 subsection b. of section 13 of P.L.1991,c.261 (C.2C:25-29) who  
45 purchases, owns, possesses or controls a firearm is guilty of a crime  
46 of the fourth degree.

1       (4) The provisions of paragraph (2) of this subsection shall not  
2 apply to a person convicted for endangering the welfare of a child  
3 pursuant to N.J.S.2C:24-4 or for domestic violence as defined in  
4 section 3 of P.L.1991, c.261 (C.2C:25-19) two years after that  
5 person's conviction or completion of a term of imprisonment,  
6 whichever is later, provided that person subsequently has not been  
7 convicted of any crime or disorderly persons offense.

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

14 (cf: P.L.1995, c.114, s.1).

15  
16       4. N.J.S.2C:58-3 is amended to read as follows:

17       2C:58-3. Purchase of Firearms.

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

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

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

46       (1) To any person who has been convicted of a crime, whether or

1 not armed with or possessing a weapon at the time of such offense;

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

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

16 (4) To any person under the age of 18 years;

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

19 (6) To any person who is subject to a restraining order or court  
20 order issued pursuant to section 13 of P.L.1991, c.261 (C.2C:25-29)  
21 prohibiting the person from possessing any firearm. A person who is  
22 subject to a restraining order or court order issued pursuant to section  
23 13 of P.L.1991, c.261 (C.2C:25-29) prohibiting the person from  
24 possessing any firearm shall be barred from receiving a handgun  
25 purchase permit or firearms purchaser identification card for a period  
26 of at least two years or as ordered by the court that issued the order.  
27 At the conclusion of that period, the defendant may apply for a permit  
28 or identification card; or

29 (7) To any person who is subject to the restrictions imposed by  
30 paragraphs (2) or (3) of subsection b. of section 6 of P.L.1979, c.179  
31 (C.2C:39-7).

32 d. Issuance. The chief of police of an organized full-time police  
33 department of the municipality where the applicant resides or the  
34 superintendent, in all other cases, shall upon application, issue to any  
35 person qualified under the provisions of subsection c. of this section  
36 a permit to purchase a handgun or a firearms purchaser identification  
37 card.

38 Any person aggrieved by the denial of a permit or identification  
39 card may request a hearing in the Superior Court of the county in  
40 which he resides if he is a resident of New Jersey or in the Superior  
41 Court of the county in which his application was filed if he is a  
42 nonresident. The request for a hearing shall be made in writing within  
43 30 days of the denial of the application for a permit or identification  
44 card. The applicant shall serve a copy of his request for a hearing  
45 upon the chief of police of the municipality in which he resides, if he  
46 is a resident of New Jersey, and upon the superintendent in all cases.

1 The hearing shall be held and a record made thereof within 30 days of  
2 the receipt of the application for such hearing by the judge of the  
3 Superior Court. No formal pleading and no filing fee shall be required  
4 as a preliminary to such hearing. Appeals from the results of such  
5 hearing shall be in accordance with law.

6 e. Applications. Applications for permits to purchase a handgun  
7 and for firearms purchaser identification cards shall be in the form  
8 prescribed by the superintendent and shall set forth the name,  
9 residence, place of business, age, date of birth, occupation, sex and  
10 physical description, including distinguishing physical characteristics,  
11 if any, of the applicant, and shall state whether the applicant is a  
12 citizen, whether he is an alcoholic, habitual drunkard, drug dependent  
13 person as defined in section 2 of P.L.1970, c.226 (C.24:21-2), whether  
14 he has ever been confined or committed to a mental institution or  
15 hospital for treatment or observation of a mental or psychiatric  
16 condition on a temporary, interim or permanent basis, giving the name  
17 and location of the institution or hospital and the dates of such  
18 confinement or commitment, whether he has been attended, treated or  
19 observed by any doctor or psychiatrist or at any hospital or mental  
20 institution on an inpatient or outpatient basis for any mental or  
21 psychiatric condition, giving the name and location of the doctor,  
22 psychiatrist, hospital or institution and the dates of such occurrence,  
23 whether he presently or ever has been a member of any organization  
24 which advocates or approves the commission of acts of force and  
25 violence to overthrow the Government of the United States or of this  
26 State, or which seeks to deny others their rights under the Constitution  
27 of either the United States or the State of New Jersey, whether he has  
28 ever been convicted of a crime or disorderly persons offense, whether  
29 the person [is] has been subject to a restraining order or a court order  
30 issued pursuant to section 13 of P.L.1991, c.261 (C.2C:25-29)  
31 prohibiting the person from possessing any firearm, and such other  
32 information as the superintendent shall deem necessary for the proper  
33 enforcement of this chapter. For the purpose of complying with this  
34 subsection, the applicant shall waive any statutory or other right of  
35 confidentiality relating to institutional confinement. The application  
36 shall be signed by the applicant and shall contain as references the  
37 names and addresses of two reputable citizens personally acquainted  
38 with him.

39 Application blanks shall be obtainable from the superintendent,  
40 from any other officer authorized to grant such permit or identification  
41 card, and from licensed retail dealers.

42 The chief police officer or the superintendent shall obtain the  
43 fingerprints of the applicant and shall have them compared with any  
44 and all records of fingerprints in the municipality and county in which  
45 the applicant resides and also the records of the State Bureau of  
46 Identification and the Federal Bureau of Investigation, provided that

1 an applicant for a handgun purchase permit who possesses a valid  
2 firearms purchaser identification card, or who has previously obtained  
3 a handgun purchase permit from the same licensing authority for which  
4 he was previously fingerprinted, and who provides other reasonably  
5 satisfactory proof of his identity, need not be fingerprinted again;  
6 however, the chief police officer or the superintendent shall proceed  
7 to investigate the application to determine whether or not the applicant  
8 has become subject to any of the disabilities set forth in this chapter.

9 f. Granting of permit or identification card; fee; term; renewal;  
10 revocation. The application for the permit to purchase a handgun  
11 together with a fee of \$2.00, or the application for the firearms  
12 purchaser identification card together with a fee of \$5.00, shall be  
13 delivered or forwarded to the licensing authority who shall investigate  
14 the same and, unless good cause for the denial thereof appears, shall  
15 grant the permit or the identification card, or both, if application has  
16 been made therefor, within 30 days from the date of receipt of the  
17 application for residents of this State and within 45 days for  
18 nonresident applicants. A permit to purchase a handgun shall be valid  
19 for a period of 90 days from the date of issuance and may be renewed  
20 by the issuing authority for good cause for an additional 90 days. A  
21 firearms purchaser identification card shall be valid until such time as  
22 the holder becomes subject to any of the disabilities set forth in  
23 subsection c. of this section, whereupon the card shall be void and  
24 shall be returned within five days by the holder to the superintendent,  
25 who shall then advise the licensing authority. Failure of the holder to  
26 return the firearms purchaser identification card to the superintendent  
27 within the said five days shall be an offense under section 2C:39-10a.  
28 Any firearms purchaser identification card may be revoked by the  
29 Superior Court of the county wherein the card was issued, after  
30 hearing upon notice, upon a finding that the holder thereof no longer  
31 qualifies for the issuance of such permit. The county prosecutor of  
32 any county, the chief police officer of any municipality or any citizen  
33 may apply to such court at any time for the revocation of such card.

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

38 g. Disposition of fees. All fees for permits shall be paid to the  
39 State Treasury if the permit is issued by the superintendent, to the  
40 municipality if issued by the chief of police, and to the county treasurer  
41 if issued by the judge of the Superior Court.

42 h. Form of permit; quadruplicate; disposition of copies. The permit  
43 shall be in the form prescribed by the superintendent and shall be  
44 issued to the applicant in quadruplicate. Prior to the time he receives  
45 the handgun from the seller, the applicant shall deliver to the seller the  
46 permit in quadruplicate and the seller shall complete all of the

1 information required on the form. Within five days of the date of the  
2 sale, the seller shall forward the original copy to the superintendent  
3 and the second copy to the chief of police of the municipality in which  
4 the purchaser resides, except that in a municipality having no chief of  
5 police, such copy shall be forwarded to the superintendent. The third  
6 copy shall then be returned to the purchaser with the pistol or revolver  
7 and the fourth copy shall be kept by the seller as a permanent record.

8 i. Restriction on number of firearms person may purchase. Only  
9 one handgun shall be purchased or delivered on each permit, but a  
10 person shall not be restricted as to the number of rifles or shotguns he  
11 may purchase, provided he possesses a valid firearms purchaser  
12 identification card and provided further that he signs the certification  
13 required in subsection b. of this section for each transaction.

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

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

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

38 (cf: P.L.1991, c.261, s.19).

39

40 5. This act shall take effect immediately.

41

42

43

#### STATEMENT

44

45 Domestic violence, child abuse and stalking are serious offenses  
46 which frequently involve violence and can have fatal consequences.

1 This bill is intended to reduce the likelihood of serious injury or death  
2 in such cases.

3 The bill requires a police officer, who has probable cause to believe  
4 that an act of domestic violence has been committed, to seize any  
5 weapons on the premises he believes to pose a threat to the victim.  
6 Current law permits, but does not require, the officer to seize such  
7 weapons. The bill also requires the officer to confiscate any firearms  
8 purchaser identifications cards or handgun purchase permits belonging  
9 to the accused perpetrator of domestic violence.

10 The bill also would prohibit persons who have been found guilty of  
11 crimes or disorderly persons offenses for domestic violence, child  
12 abuse or stalking from purchasing or owning firearms.

13 Existing law disqualifies a person who has been convicted of certain  
14 serious crimes from purchasing or owning a firearm. This bill adds the  
15 crimes of domestic violence and stalking to these serious crimes. A  
16 person who purchases or possesses a firearm in violation of this law  
17 would be guilty of a crime of the second degree, punishable by  
18 imprisonment for five to 10 years, a fine of up to \$100,000 or both.  
19 Current law prohibits persons convicted of child abuse from having  
20 firearms.

21 However, some offenses that constitute endangering the welfare of  
22 a child, domestic violence or stalking may be charged as a disorderly  
23 persons offense, which is not defined as a crime under Title 2C, the  
24 criminal code. Also, offenses originally charged as a crime may be  
25 downgraded to disorderly persons offenses as the result of a plea  
26 bargain. Persons found guilty of this lesser charge are not subject to  
27 existing prohibitions against the purchase and ownership of firearms  
28 by persons convicted of a crime.

29 This bill closes this "loophole" by barring any person convicted of  
30 a disorderly persons offense for domestic violence, endangering the  
31 welfare of a child or stalking from purchasing or owning a firearm. A  
32 violator would be guilty of a crime of the fourth degree which is  
33 punishable by imprisonment for a term of up to 18 months, a fine of up  
34 to \$7,500 or both.

35 Persons convicted of disorderly persons offenses for domestic  
36 violence or endangering the welfare of a child would be eligible under  
37 the bill to possess a firearm two years after their conviction or release  
38 from imprisonment, whichever came later, if they had not been  
39 convicted of subsequent offenses.

40 The bill also strengthens the prohibitions on the purchase or  
41 possession of firearms by persons who are subject to domestic  
42 violence restraining orders. The bill would require the court to bar a  
43 person subject to such an order from purchasing a firearm for two  
44 years or the duration of the order. Under the terms of the bill,  
45 possession of a firearm by a person subject to a restraining order  
46 would constitute a crime of the fourth degree.

1

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2

3 Prohibits person convicted of child abuse, domestic violence or  
4 stalking from purchasing or owning a firearm.