

**SENATE WOMEN'S ISSUES, CHILDREN AND FAMILY  
SERVICES COMMITTEE**

**STATEMENT TO**

**SENATE, No. 1059**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 6, 1996

The Senate Women's Issues, Children and Family Services Committee favorably reports Senate Bill No. 1059 with committee amendments.

As amended, this bill would prohibit a person who is or has been the subject of a restraining order issued pursuant to the "Prevention of Domestic Violence Act of 1991" (N.J.S.2C:25-17 et seq.) from purchasing a firearm for a period of at least two years or until the restraining order has been vacated. After that period, the person would be able to purchase a handgun.

In addition, the bill provides that police who respond to calls alleging domestic violence and find probable cause to believe that an act of domestic violence occurred, must question the persons present to determine whether there are weapons on the premises and, if so, must seize the weapons. Currently, the police are permitted to seize weapons at the scene of domestic violence incidents, but are not required to do so. The bill would also require that police confiscate any firearms purchaser identification card or permit to purchase a handgun issued pursuant to N.J.S.2C:58-3 from the perpetrator of an incident of domestic violence.

The bill further provides that no weapons seized under these circumstances may be returned to the owner except upon order of the court.

The committee amended the bill to require that the prosecutor, who has possession of the seized weapon, petition the court, upon written notice to the gun owner and within 45 days of the notice of seizure of the gun, to obtain title to the gun or to revoke any and all permits, licenses and any other authorization for the use of the gun. A hearing would then be held 45 days after the notice was served.

Another committee amendment would allow the seized weapon to be returned to its owner if the prosecutor does not initiate an action within 45 days of the notice of seizure.

The committee also amended the bill to require that the court determine that the owner is not subject to any of the disabilities set

forth in N.J.S. 2C:58-3c and that the prosecutor advise the court that there is insufficient probable cause to indict before a seized weapon is returned to its owner.

The bill was also amended by committee to allow an owner of a seized weapon to bring a civil action against a prosecutor if he refuses to return the weapon after receiving a written request to do so from the owner. The failure to return the weapon would entitle the owner to reasonable costs if the court finds that the prosecutor wrongfully retained the weapon.

Finally, the committee also amended the bill to bar a person subject to a restraining order issued pursuant to P.L.1991, c.261 (C.2C:25-29) from receiving a firearms purchaser identification card or permit to purchase a firearm during the period in which the restraining order is in effect or unless the court, which issued the restraining order, has vacated that order. At the end of that period, the person may reapply for a permit or identification card.