

# SENATE LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### **SENATE, No. 3105**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: NOVEMBER 15, 2021

The Senate Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 3105.

As amended and reported by the committee, this bill requires that victims of domestic violence be notified when seized or surrendered weapons are returned to the owner against whom a domestic violence claim was filed. The bill also requires family or household members who petitioned for an extreme risk protective order to be notified when a seized firearm is returned to the owner after the order is terminated.

Under the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et seq.), a law enforcement officer may take possession of any weapons owned by a person charged with domestic violence. The weapons are transferred to the county prosecutor's office, which is required to determine within 45 days whether to file for forfeiture of the weapons. The weapons are returned if the forfeiture action is not filed within 45 days. A court hearing a domestic violence case also is required to order the return of the weapons when: 1) the complaint has been dismissed at the request of the complainant and the prosecutor determines that there is insufficient probable cause to indict; 2) the defendant is found not guilty of the charges; or 3) the court determines that the domestic violence situation no longer exists. The amended bill requires the prosecutor to notify each claimant or victim that the seized or surrendered weapons are to be returned to the defendant.

The "Extreme Risk Protective Order Act of 2018," P.L.2018, c.35 (C.2C:58-20 et seq.), allows a family or household member to petition the Superior Court for an extreme risk protective order (ERPO) against persons who pose a significant danger of bodily injury to themselves or others by possessing or purchasing a firearm. The ERPO prohibits the subject from possessing or purchasing a firearm or ammunition and from holding a firearms purchaser identification card, permit to purchase a handgun, and permit to carry a handgun. A person who is subject to the order is required to surrender his or her firearms or ammunition to a law enforcement agency, but may petition the agency for the return of any surrendered firearms or ammunition upon

termination of the order. As amended, the bill requires the law enforcement agency, or the appropriate county prosecutor if the firearms or ammunition was seized by the State Police, to notify the family or household members who petitioned for the ERPO that the firearms or ammunition are to be returned.

The amended bill requires the notification to be provided at least 10 days prior to returning the weapons or ammunition to persons who were charged with domestic violence or were subject to an ERPO.

As amended and reported by the committee, Senate Bill No. 3105 is identical to Assembly Bill No. 3687 (1R), which also was reported by the committee on this same date.

**COMMITTEE AMENDMENTS:**

In the event that firearms or ammunition were seized by the State Police pursuant to an ERPO, the committee amended the bill to require the county prosecutor's office in which the ERPO is venued to notify the family or household member. This amendment makes the bill consistent with Attorney General Directive No. 2019-2, which excludes the State Police from storing firearms seized in response to an ERPO.