

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4126

STATE OF NEW JERSEY

DATED: OCTOBER 6, 2016

The Assembly Law and Public Safety Committee reports favorably Assembly Bill No. 4126.

Assembly Bill No. 4126 enhances protections for domestic violence victims by restricting access to firearms by a person convicted of a domestic violence crime or subject to a domestic violence restraining order.

Specifically, the bill requires the sentencing court to inform defendants convicted of a domestic violence crime or offense that they are prohibited from possessing a firearm, or obtaining a firearms purchaser identification card or permit to purchase a handgun. The bill also requires the court to order the defendant to arrange for the immediate surrender of firearms, firearms purchaser identification cards, and permits to purchase a handgun to a law enforcement officer. The bill allows the defendant five days after conviction to arrange to sell a surrendered firearm to a licensed firearms dealer; the dealer has 10 days after the date of the order to take possession of the firearm from the law enforcement agency to which it was surrendered. If the firearm is not purchased by a retail dealer within 10 days, it is subject to forfeiture; if it is purchased by a dealer, it becomes part of the dealer's inventory.

The bill requires any identification card and permit that has been issued to a convicted defendant to be immediately revoked and requires the court to establish a process for notifying the appropriate authorities of the revocation. It also requires a law enforcement officer to whom weapons are surrendered to provide the defendant with a receipt naming the defendant, the surrender date, and description of a surrendered item, and requires the defendant to provide a copy of the receipt to the prosecutor within 48 hours. Defendants are required by the bill to attest under penalty that they surrendered or do not possess a firearm. The court is permitted to order a search for and removal of firearms if there is probable cause that the defendant has failed to surrender firearms and is required to state with specificity the reasons for and the scope of the search and seizure.

The bill also protects domestic violence victims by specifying that the plaintiff may provide information concerning firearms to which the defendant has access, including the location of these firearms, if known, on a form to be prescribed by the Administrative Director of

the Courts. The form is to also clarify the confidential nature of this information.

Under the bill, an order for a temporary or final restraining order is to include notice to the defendant of the penalties for a violation of any provision of the order, including but not limited to the penalties for contempt of court and unlawful possession of a firearm or other weapon.

Further, when a temporary restraining order requires the surrender of any firearm or other weapon and when a final restraining order is issued, the bill requires a law enforcement officer to accompany the defendant or proceed without the defendant if necessary to where the firearm or other weapon is located to ensure that the items are appropriately surrendered in accordance with the order. If the order prohibits the defendant from returning to a location where firearms or other weapons are located, any firearm or other weapon located there will be seized by a law enforcement officer.

Finally, the bill further strengthens protections for victims of domestic violence by providing mandatory minimum terms of incarceration, with set periods of parole ineligibility, for offenders who commit physically violent acts.

Under the provisions of the bill, a person convicted of any of the following crimes of domestic violence would be subject to the enhanced penalties provided in the bill:

- (1) Homicide, pursuant to N.J.S.2C:11-1 et seq.;
- (2) Aggravated assault and assault by auto or vessel pursuant to subsection b. and c. of N.J.S.2C:12-1;
- (3) Kidnapping, pursuant to N.J.S.2C:13-1;
- (4) Criminal restraint, pursuant to N.J.S.2C:13-2;
- (5) Sexual assault, pursuant to N.J.S.2C:14-2; and
- (6) Criminal sexual contact, pursuant to N.J.S.2C:14-3.

The bill provides that a person will be sentenced to a term of imprisonment as follows: 18 months for a second or subsequent crime of the fourth degree, five years for a second or subsequent crime of the third degree, 10 years for a crime of the second degree, and 20 years for a crime of the first degree, unless the provisions of any other law provide for a higher mandatory minimum term.

The court additionally will impose a period of parole ineligibility as follows: 18 months for a crime of the fourth degree, 42 months for a crime of the third degree, five years for a crime of the second degree, and 10 years for a crime of the first degree.

As reported by the committee, Assembly Bill No. 4126 is identical to Senate Bill No. 2483 which was also reported by the committee on this date.