

S 2230 KLEIN Same as Uni. [A 2388](#) Silver (MS)

Governor Program # 1

ON FILE: 01/14/13 Criminal Procedure Law

TITLE....Enacts the NY SAFE Act of 2013

01/14/13REFERRED TO RULES

01/14/13ORDERED TO THIRD READING
CAL.1

01/14/13MESSAGE OF NECESSITY

01/14/13PASSED SENATE

01/14/13DELIVERED TO ASSEMBLY

01/14/13referred to codes

01/15/13substituted for a2388

01/15/13ordered to third reading rules cal.3

01/15/13message of necessity - 3 day message

01/15/13passed assembly

01/15/13returned to senate

01/15/13DELIVERED TO GOVERNOR

01/15/13SIGNED CHAP.1

A2388 Silver (MS) Same as Uni. [S 2230](#) KLEIN

Governor Program # 1

Criminal Procedure Law

TITLE....Licensure, suspension and revocation of firearms licenses

01/14/13 referred to codes

01/15/13 reported referred to ways and means

01/15/13 reported referred to rules

01/15/13 reported

01/15/13 rules report cal.3

01/15/13 substituted by s2230

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01/14/13 REFERRED TO RULES

01/14/13 ORDERED TO THIRD READING CAL.1

01/14/13 MESSAGE OF NECESSITY

01/14/13 PASSED SENATE

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KLEIN, SMITH Amd SS330.20 & 530.14, add S380.96, CP L; amd S404, Cor L; amd SS842-a & 846-a, add SS446-a, 552, 656-a, 780-a & 1056-a, Fam Ct Act; amd SS240 & 252, Dom Rel L; amd S837, Exec L; amd S212, Judy L; add Art 39-DDD S898, Gen Bus L; md SS7.09, 9.47, 9.48, 9.60, 13.09 & 33.13, add S9.46, Ment Hyg L; amd Pen L, generally, add S2509, SCPA; add S2801-b, amd S3602, Ed L; amd S18, Chap 408 of 1999 Enacts the NY Secure Ammunition and Firearms Enforcement (SAFE) Act of 2013. CRIMINAL SANCTION IMPACT. EFF. DATE 01/15/2013 (SEE TABLE) Governor's Program

STATE OF NEW YORK

S. 2230

A. 2388

2013-2014 Regular Sessions

SENATE - ASSEMBLY

January 14, 2013

IN SENATE -- Introduced by Sens. KLEIN, SMITH -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by M. of A. SILVER, LENTOL, ORTIZ, MORELLE, FARRELL, WEINSTEIN, CAMARA, HOOPER, O'DONNELL, TITONE, PAULIN, MOYA, GLICK, WRIGHT, SCHIMEL, GOTTFRIED, ROSENTHAL, KAVANAGH, STECK, WEPRIN -- Multi-Sponsored by -- M. of A. ABINANTI, BOYLAND, BRENNAN, BROOK-KRASNY, BUCHWALD, CASTRO, COLTON, DINOWITZ, ENGLEBRIGHT, ESPINAL, FAHY, JACOBS, JAFFEE, KELLNER, KIM, LAVINE, LIFTON, MARKEY, MAYER, MILLMAN, MOSLEY, OTIS, ROSA, ROZIC -- (at request of the Governor) -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, the correction law, the family court act, the executive law, the general business law, the judiciary law, the mental hygiene law, the penal law and the surrogate's court procedure act, in relation to suspension and revocation of firearms licenses; private sale or disposal of firearms, rifles or shotguns and establishing a minimum age to possess a firearm; to amend the family court act, the domestic relations law and the criminal procedure law, in relation to providing for the mandatory suspension or revocation of the firearms license of a person against whom an order of protection or a temporary order of protection has been issued under certain circumstances, or upon violation of any such order; to amend the penal law, in relation to community guns and the criminal sale of a firearm and in relation to the definitions of aggravated and first degree murder; to amend chapter 408 of the laws of 1999 constituting Kendra's Law, in relation to extending the expiration thereof; and to amend the education law, in relation to the New York state school safety improvement teams; and in relation to building aid for metal detectors and safety devices

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 Section 1. Section 330.20 of the criminal procedure law is amended by
2 adding a new subdivision 2-a to read as follows:

3 2-a. Firearm, rifle or shotgun surrender order. Upon entry of a
4 verdict of not responsible by reason of mental disease or defect, or
5 upon the acceptance of a plea of not responsible by reason of mental
6 disease or defect, or upon a finding that the defendant is an incapacitated
7 person pursuant to article seven hundred thirty of this chapter,
8 the court shall revoke the defendant's firearm license, if any, inquire
9 of the defendant as to the existence and location of any firearm, rifle
10 or shotgun owned or possessed by such defendant and direct the surrender
11 of such firearm, rifle or shotgun pursuant to subparagraph (f) of para-
12 graph one of subdivision a of section 265.20 and subdivision six of
13 section 400.05 of the penal law.

14 § 2. The criminal procedure law is amended by adding a new section
15 380.96 to read as follows:

16 § 380.96 Obligation of sentencing court pursuant to article four hundred
17 of the penal law.

18 Upon judgment of conviction of any offense which would require the
19 seizure of firearms, shotguns or rifles from an individual so convicted,
20 and the revocation of any license or registration issued pursuant to
21 article four hundred of the penal law, the judge pronouncing sentence
22 shall demand surrender of any such license or registration and all
23 firearms, shotguns and rifles. The failure to so demand surrender shall
24 not effect the validity of any revocation pursuant to article four
25 hundred of the penal law.

26 § 3. Section 404 of the correction law is amended by adding a new
27 subdivision 3 to read as follows:

28 3. Within a reasonable period prior to discharge of an inmate commit-
29 ted from a state correctional facility from a hospital in the department
30 of mental hygiene to the community, the director shall ensure that a
31 clinical assessment has been completed to determine whether the inmate
32 meets the criteria for assisted outpatient treatment pursuant to subdivi-
33 vision (c) of section 9.60 of the mental hygiene law. If, as a result
34 of such assessment, the director determines that the inmate meets such
35 criteria, prior to discharge the director of the hospital shall either
36 petition for a court order pursuant to section 9.60 of the mental
37 hygiene law, or report in writing to the director of community services
38 of the local governmental unit in which the inmate is expected to reside
39 so that an investigation may be conducted pursuant to section 9.47 of
40 the mental hygiene law.

41 § 4. Subdivisions 1, 2 and 3 of section 842-a of the family court act,
42 as added by chapter 644 of the laws of 1996, paragraph (a) of subdivi-
43 sion 1 as amended by chapter 434 of the laws of 2000, the opening para-
44 graph of subdivision 3 as amended by chapter 597 of the laws of 1998,
45 paragraph (a) of subdivision 3 as amended by chapter 635 of the laws of
46 1999, are amended to read as follows:

47 1. [~~Mandatory and permissive suspension~~] Suspension of firearms
48 license and ineligibility for such a license upon the issuance of a

49 temporary order of protection. Whenever a temporary order of protection
50 is issued pursuant to section eight hundred twenty-eight of this
51 article, or pursuant to article four, five, six, seven or ten of this
52 act:

53 (a) the court shall suspend any such existing license possessed by the
54 respondent, order the respondent ineligible for such a license, and
55 order the immediate surrender pursuant to subparagraph (f) of paragraph
56 one of subdivision a of section 265.20 and subdivision six of section
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1 400.05 of the penal law, of any or all firearms owned or possessed where
2 the court receives information that gives the court good cause to
3 believe that: (i) the respondent has a prior conviction of any violent
4 felony offense as defined in section 70.02 of the penal law; (ii) the
5 respondent has previously been found to have willfully failed to obey a
6 prior order of protection and such willful failure involved (A) the
7 infliction of [~~serious~~] physical injury, as defined in subdivision [~~ten~~]
8 nine of section 10.00 of the penal law, (B) the use or threatened use of
9 a deadly weapon or dangerous instrument as those terms are defined in
10 subdivisions twelve and thirteen of section 10.00 of the penal law, or
11 (C) behavior constituting any violent felony offense as defined in
12 section 70.02 of the penal law; or (iii) the respondent has a prior
13 conviction for stalking in the first degree as defined in section 120.60
14 of the penal law, stalking in the second degree as defined in section
15 120.55 of the penal law, stalking in the third degree as defined in
16 section 120.50 of the penal law or stalking in the fourth degree as
17 defined in section 120.45 of such law; and

18 (b) the court [~~may~~] shall where the court finds a substantial risk
19 that the respondent may use or threaten to use a firearm unlawfully
20 against the person or persons for whose protection the temporary order
21 of protection is issued, suspend any such existing license possessed by
22 the respondent, order the respondent ineligible for such a license, and
23 order the immediate surrender pursuant to subparagraph (f) of paragraph
24 one of subdivision a of section 265.20 and subdivision six of section
25 400.05 of the penal law, of any or all firearms owned or possessed.

26 2. [~~Mandatory and permissive revocation~~] Revocation or suspension of
27 firearms license and ineligibility for such a license upon the issuance
28 of an order of protection. Whenever an order of protection is issued
29 pursuant to section eight hundred forty-one of this part, or pursuant to
30 article four, five, six, seven or ten of this act:

31 (a) the court shall revoke any such existing license possessed by the
32 respondent, order the respondent ineligible for such a license, and
33 order the immediate surrender pursuant to subparagraph (f) of paragraph
34 one of subdivision a of section 265.20 and subdivision six of section
35 400.05 of the penal law, of any or all firearms owned or possessed where
36 the court finds that the conduct which resulted in the issuance of the
37 order of protection involved (i) the infliction of [~~serious~~] physical
38 injury, as defined in subdivision [~~ten~~] nine of section 10.00 of the
39 penal law, (ii) the use or threatened use of a deadly weapon or danger-
40 ous instrument as those terms are defined in subdivisions twelve and
41 thirteen of section 10.00 of the penal law, or (iii) behavior constitut-
42 ing any violent felony offense as defined in section 70.02 of the penal
43 law; and

44 (b) the court [~~may~~] shall, where the court finds a substantial risk
45 that the respondent may use or threaten to use a firearm unlawfully
46 against the person or persons for whose protection the order of
47 protection is issued, (i) revoke any such existing license possessed by

48 the respondent, order the respondent ineligible for such a license and
49 order the immediate surrender pursuant to subparagraph (f) of paragraph
50 one of subdivision a of section 265.20 and subdivision six of section
51 400.05 of the penal law, of any or all firearms owned or possessed or
52 (ii) suspend or continue to suspend any such existing license possessed
53 by the respondent, order the respondent ineligible for such a license,
54 and order the immediate surrender pursuant to subparagraph (f) of para-
55 graph one of subdivision a of section 265.20 and subdivision six of
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1 section 400.05 of the penal law, of any or all firearms owned or
2 possessed.

3 3. [~~Mandatory and permissive revocation~~] Revocation or suspension of
4 firearms license and ineligibility for such a license upon a finding of
5 a willful failure to obey an order of protection or temporary order of
6 protection. Whenever a respondent has been found, pursuant to section
7 eight hundred forty-six-a of this part to have willfully failed to obey
8 an order of protection or temporary order of protection issued pursuant
9 to this act or the domestic relations law, or by this court or [~~an order~~
10 ~~of protection issued~~] by a court of competent jurisdiction in another
11 state, territorial or tribal jurisdiction, in addition to any other
12 remedies available pursuant to section eight hundred forty-six-a of this
13 part:

14 (a) the court shall revoke any such existing license possessed by the
15 respondent, order the respondent ineligible for such a license, and
16 order the immediate surrender pursuant to subparagraph (f) of paragraph
17 one of subdivision a of section 265.20 and subdivision six of section
18 400.05 of the penal law, of any or all firearms owned or possessed where
19 the willful failure to obey such order involves (i) the infliction of
20 [~~serious~~] physical injury, as defined in subdivision [~~ten~~] nine of
21 section 10.00 of the penal law, (ii) the use or threatened use of a
22 deadly weapon or dangerous instrument as those terms are defined in
23 subdivisions twelve and thirteen of section 10.00 of the penal law, or
24 (iii) behavior constituting any violent felony offense as defined in
25 section 70.02 of the penal law; or (iv) behavior constituting stalking
26 in the first degree as defined in section 120.60 of the penal law,
27 stalking in the second degree as defined in section 120.55 of the penal
28 law, stalking in the third degree as defined in section 120.50 of the
29 penal law or stalking in the fourth degree as defined in section 120.45
30 of such law; and

31 (b) the court [~~may~~] shall where the court finds a substantial risk
32 that the respondent may use or threaten to use a firearm unlawfully
33 against the person or persons for whose protection the order of
34 protection was issued, (i) revoke any such existing license possessed by
35 the respondent, order the respondent ineligible for such a license,
36 whether or not the respondent possesses such a license, and order the
37 immediate surrender pursuant to subparagraph (f) of paragraph one of
38 subdivision a of section 265.20 and subdivision six of section 400.05 of
39 the penal law, of any or all firearms owned or possessed or (ii) suspend
40 any such existing license possessed by the respondent, order the
41 respondent ineligible for such a license, and order the immediate
42 surrender of any or all firearms owned or possessed.

43 § 5. Section 846-a of the family court act, as amended by chapter 597
44 of the laws of 1998, is amended to read as follows:

45 § 846-a. Powers on failure to obey order. If a respondent is brought
46 before the court for failure to obey any lawful order issued under this
47 article or an order of protection or temporary order of protection

48 issued pursuant to this act or issued by a court of competent jurisdic-
49 tion of another state, territorial or tribal jurisdiction [~~in a proceed-~~
50 ~~ing~~] and if, after hearing, the court is satisfied by competent proof
51 that the respondent has willfully failed to obey any such order, the
52 court may modify an existing order or temporary order of protection to
53 add reasonable conditions of behavior to the existing order [~~of~~
54 ~~protection~~], make a new order of protection in accordance with section
55 eight hundred forty-two of this part, may order the forfeiture of bail
56 in a manner consistent with article five hundred forty of the criminal
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1 procedure law if bail has been ordered pursuant to this act, may order
2 the respondent to pay the petitioner's reasonable and necessary counsel
3 fees in connection with the violation petition where the court finds
4 that the violation of its order was willful, and may commit the respond-
5 ent to jail for a term not to exceed six months. Such commitment may be
6 served upon certain specified days or parts of days as the court may
7 direct, and the court may, at any time within the term of such sentence,
8 revoke such suspension and commit the respondent for the remainder of
9 the original sentence, or suspend the remainder of such sentence. If the
10 court determines that the willful failure to obey such order involves
11 violent behavior constituting the crimes of menacing, reckless endanger-
12 ment, assault or attempted assault and if such a respondent is licensed
13 to carry, possess, repair and dispose of firearms pursuant to section
14 400.00 of the penal law, the court may also immediately revoke such
15 license and may arrange for the immediate surrender pursuant to subpara-
16 graph (f) of paragraph one of subdivision a of section 265.20 and subdi-
17 vision six of section 400.05 of the penal law, and disposal of any
18 firearm such respondent owns or possesses. If the willful failure to
19 obey such order involves the infliction of [~~serious~~] physical injury as
20 defined in subdivision [~~ten~~] nine of section 10.00 of the penal law or
21 the use or threatened use of a deadly weapon or dangerous instrument, as
22 those terms are defined in subdivisions twelve and thirteen of section
23 10.00 of the penal law, such revocation and immediate surrender pursuant
24 to subparagraph (f) of paragraph one of subdivision a of section 265.20
25 and subdivision six of section 400.05 of the penal law six and disposal
26 of any firearm owned or possessed by respondent shall be mandatory,
27 pursuant to subdivision eleven of section 400.00 of the penal law.

28 § 6. The family court act is amended by adding a new section 446-a to
29 read as follows:

30 § 446-a. Firearms; surrender and license suspension, revocation and
31 ineligibility. Upon the issuance of an order of protection or temporary
32 order of protection, or upon a violation of such order, the court shall
33 make a determination regarding the suspension and revocation of a
34 license to carry, possess, repair or dispose of a firearm or firearms,
35 ineligibility for such a license and the surrender of firearms in
36 accordance with section eight hundred forty-two-a of this act.

37 § 7. The family court act is amended by adding a new section 552 to
38 read as follows:

39 § 552. Firearms; surrender and license suspension, revocation and
40 ineligibility. Upon the issuance of an order of protection or temporary
41 order of protection, or upon a violation of such order, the court shall
42 make a determination regarding the suspension and revocation of a
43 license to carry, possess, repair or dispose of a firearm or firearms,
44 ineligibility for such a license and the surrender of firearms in
45 accordance with section eight hundred forty-two-a of this act.

46 § 8. The family court act is amended by adding a new section 656-a to

47 read as follows:

48 § 656-a. Firearms; surrender and license suspension, revocation and
49 ineligibility. Upon the issuance of an order of protection or temporary
50 order of protection, or upon a violation of such order, the court shall
51 make a determination regarding the suspension and revocation of a
52 license to carry, possess, repair or dispose of a firearm or firearms,
53 ineligibility for such a license and the surrender of firearms in
54 accordance with section eight hundred forty-two-a of this act.

55 § 9. The family court act is amended by adding a new section 780-a to
56 read as follows:

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1 § 780-a. Firearms; surrender and license suspension, revocation and
2 ineligibility. Upon the issuance of an order of protection or temporary
3 order of protection, or upon a violation of such order, the court shall
4 make a determination regarding the suspension and revocation of a
5 license to carry, possess, repair or dispose of a firearm or firearms,
6 ineligibility for such a license and the surrender of firearms in
7 accordance with section eight hundred forty-two-a of this act.

8 § 10. The family court act is amended by adding a new section 1056-a
9 to read as follows:

10 § 1056-a. Firearms; surrender and license suspension, revocation and
11 ineligibility. Upon the issuance of an order of protection or temporary
12 order of protection, or upon a violation of such order, the court shall
13 make an order in accordance with section eight hundred forty-two-a of
14 this act.

15 § 11. The first undesignated and closing paragraphs of subdivision 3
16 of section 240 of the domestic relations law, as added by chapter 606 of
17 the laws of 1999, are amended to read as follows:

18 g. Any party moving for a temporary order of protection pursuant to
19 this subdivision during hours when the court is open shall be entitled
20 to file such motion or pleading containing such prayer for emergency
21 relief on the same day that such person first appears at such court, and
22 a hearing on the motion or portion of the pleading requesting such emer-
23 gency relief shall be held on the same day or the next day that the
24 court is in session following the filing of such motion or pleading.

25 h. Upon issuance of an order of protection or temporary order of
26 protection or upon a violation of such order, the court ~~may~~ shall make
27 ~~[an order]~~ a determination regarding the suspension and revocation of a
28 license to carry, possess, repair or dispose of a firearm or firearms,
29 ineligibility for such a license and the surrender of firearms in
30 accordance with [section] sections eight hundred forty-two-a and eight
31 hundred forty-six-a of the family court act [directing the surrender of
32 firearms, revoking or suspending a party's firearms license, and/or
33 directing that such party be ineligible to receive a firearms license],
34 as applicable. Upon issuance of an order of protection pursuant to this
35 section or upon a finding of a violation thereof, the court also may
36 direct payment of restitution in an amount not to exceed ten thousand
37 dollars in accordance with subdivision (e) of section eight hundred
38 forty-one of such act; provided, however, that in no case shall an order
39 of restitution be issued where the court determines that the party
40 against whom the order would be issued has already compensated the
41 injured party or where such compensation is incorporated in a final
42 judgment or settlement of the action.

43 § 12. Subdivision 9 of section 252 of the domestic relations law, as
44 added by chapter 606 of the laws of 1999, is amended to read as follows:

45 9. Upon issuance of an order of protection or temporary order of

46 protection or upon a violation of such order, the court [~~may take an~~
47 ~~order~~] shall make a determination regarding the suspension and revoca-
48 tion of a license to carry, possess, repair or dispose of a firearm or
49 firearms, ineligibility for such a license and the surrender of firearms
50 in accordance with [~~section~~] sections eight hundred forty-two-a and
51 eight hundred forty-six-a of the family court act [~~directing the surren-~~
52 ~~der of firearms, revoking or suspending a party's firearms license,~~
53 ~~and/or directing that such party be ineligible to receive a firearms~~
54 ~~license~~], as applicable. Upon issuance of an order of protection pursu-
55 ant to this section or upon a finding of a violation thereof, the court
56 also may direct payment of restitution in an amount not to exceed ten
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1 thousand dollars in accordance with subdivision (e) of section eight
2 hundred forty-one of such act; provided, however, that in no case shall
3 an order of restitution be issued where the court determines that the
4 party against whom the order would be issued has already compensated the
5 injured party or where such compensation is incorporated in a final
6 [~~judgement~~] judgment or settlement of the action.

7 § 13. The opening paragraph and paragraph (b) of subdivision 1 of
8 section 530.14 of the criminal procedure law, as added by chapter 644 of
9 the laws of 1996, are amended to read as follows:

10 [~~Mandatory and permissive suspension~~] Suspension of firearms license
11 and ineligibility for such a license upon issuance of temporary order of
12 protection. Whenever a temporary order of protection is issued pursuant
13 to subdivision one of section 530.12 or subdivision one of section
14 530.13 of this article:

15 (b) the court [~~may~~] shall where the court finds a substantial risk
16 that the defendant may use or threaten to use a firearm unlawfully
17 against the person or persons for whose protection the temporary order
18 of protection is issued, suspend any such existing license possessed by
19 the defendant, order the defendant ineligible for such a license and
20 order the immediate surrender pursuant to subparagraph (f) of paragraph
21 one of subdivision a of section 265.20 and subdivision six of section
22 400.05 of the penal law, of any or all firearms owned or possessed.

23 § 14. The opening paragraph and paragraph (b) of subdivision 2 of
24 section 530.14 of the criminal procedure law, as added by chapter 644 of
25 the laws of 1996, are amended to read as follows:

26 [~~Mandatory and permissive revocation~~] Revocation or suspension of
27 firearms license and ineligibility for such a license upon issuance of
28 an order of protection. Whenever an order of protection is issued pursu-
29 ant to subdivision five of section 530.12 or subdivision four of section
30 530.13 of this article:

31 (b) the court [~~may~~] shall where the court finds a substantial risk
32 that the defendant may use or threaten to use a firearm unlawfully
33 against the person or persons for whose protection the order of
34 protection is issued, (i) revoke any such existing license possessed by
35 the defendant, order the defendant ineligible for such a license and
36 order the immediate surrender of any or all firearms owned or possessed
37 or (ii) suspend or continue to suspend any such existing license
38 possessed by the defendant, order the defendant ineligible for such a
39 license and order the immediate surrender pursuant to subparagraph (f)
40 of paragraph one of subdivision a of section 265.20 and subdivision six
41 of section 400.05 of the penal law, of any or all firearms owned or
42 possessed.

43 § 15. The opening paragraph and paragraph (b) of subdivision 3 of
44 section 530.14 of the criminal procedure law, the opening paragraph as

45 amended by chapter 597 of the laws of 1998 and paragraph (b) as added by
46 chapter 644 of the laws of 1996, are amended to read as follows:

47 [~~Mandatory and permissive revocation~~] Revocation or suspension of
48 firearms license and ineligibility for such a license upon a finding of
49 a willful failure to obey an order of protection. Whenever a defendant
50 has been found pursuant to subdivision eleven of section 530.12 or
51 subdivision eight of section 530.13 of this article to have willfully
52 failed to obey an order of protection issued by a court of competent
53 jurisdiction in this state or another state, territorial or tribal
54 jurisdiction, in addition to any other remedies available pursuant to
55 subdivision eleven of section 530.12 or subdivision eight of section
56 530.13 of this article:

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1 (b) the court [~~may~~] shall where the court finds a substantial risk
2 that the defendant may use or threaten to use a firearm unlawfully
3 against the person or persons for whose protection the order of
4 protection was issued, (i) revoke any such existing license possessed by
5 the defendant, order the defendant ineligible for such a license and
6 order the immediate surrender pursuant to subparagraph (f) of paragraph
7 one of subdivision a of section 265.20 and subdivision six of section
8 400.05 of the penal law, of any or all firearms owned or possessed or
9 (ii) suspend any such existing license possessed by the defendant, order
10 the defendant ineligible for such a license and order the immediate
11 surrender pursuant to subparagraph (f) of paragraph one of subdivision a
12 of section 265.20 and subdivision six of section 400.05 of the penal
13 law, of any or all firearms owned or possessed.

14 § 16. Section 837 of the executive law is amended by adding a new
15 subdivision 19 to read as follows:

16 19. Receive names and other non-clinical identifying information
17 pursuant to section 9.46 of the mental hygiene law; provided, however,
18 any such information shall be destroyed five years after such receipt,
19 or pursuant to a proceeding brought under article seventy-eight of the
20 civil practice law and rules determining that an individual is eligible
21 for a license pursuant to section 400.00 of the penal law and otherwise
22 permitted to possess a firearm.

23 § 17. The general business law is amended by adding a new article
24 39-DDD to read as follows:

25 ARTICLE 39-DDD

26 PRIVATE SALE OR DISPOSAL OF FIREARMS, RIFLES AND SHOTGUNS

27 Section 898. Private sale or disposal of firearms, rifles and shotguns.

28 § 898. Private sale or disposal of firearms, rifles and shotguns. 1.
29 In addition to any other requirements pursuant to state and federal law,
30 all sales, exchanges or disposals of firearms, rifles or shotguns shall
31 be conducted in accordance with this section unless such sale, exchange
32 or disposal is conducted by a licensed importer, licensed manufacturer
33 or licensed dealer, as those terms are defined in 18 USC § 922, when
34 such sale, exchange or disposal is conducted pursuant to that person's
35 federal firearms license or such sale, exchange or disposal is between
36 members of an immediate family. For purposes of this section, "immediate
37 family" shall mean spouses, domestic partners, children and step-chil-
38 dren.

39 2. Before any sale, exchange or disposal pursuant to this article, a
40 national instant criminal background check must be completed by a dealer
41 who consents to conduct such check, and upon completion of such back-
42 ground check, shall complete a document, the form of which shall be
43 approved by the superintendent of state police, that identifies and

44 confirms that such check was performed.

45 3. All dealers shall maintain a record of such transactions conducted
46 pursuant to this section and such record shall be maintained on the
47 premises mentioned and described in the license and shall be open at all
48 reasonable hours for inspection by any peace officer, acting pursuant to
49 his or her special duties, or police officer.

50 4. A dealer may require that any sale or transfer conducted pursuant
51 to this section be subject to a fee of not to exceed ten dollars per
52 transaction.

53 5. Any record produced pursuant to this section and any transmission
54 thereof to any government agency shall not be considered a public record
55 for purposes of article six of the public officers law.

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1 6. Any person who knowingly violates the provisions of this article
2 shall be guilty of a class A misdemeanor punishable as provided for in
3 the penal law.

4 § 18. Paragraph (q) of subdivision 2 of section 212 of the judiciary
5 law, as added by chapter 491 of the laws of 2008, is amended to read as
6 follows:

7 (q) Adopt rules to require transmission, to the criminal justice
8 information services division of the federal bureau of investigation or
9 to the division of criminal justice services, of the name and other
10 identifying information of each person who has a guardian appointed for
11 him or her pursuant to any provision of state law, based on a determi-
12 nation that as a result of marked subnormal intelligence, mental
13 illness, incapacity, condition or disease, he or she lacks the mental
14 capacity to contract or manage his or her own affairs. Any such records
15 transmitted directly to the federal bureau of investigation must also be
16 transmitted to the division of criminal justice services, and any
17 records received by the division of criminal justice services pursuant
18 to this paragraph may be checked against the statewide license and
19 record database.

20 § 19. Subdivision (j) of section 7.09 of the mental hygiene law, as
21 added by chapter 491 of the laws of 2008, is amended to read as follows:

22 (j) (1) The commissioner, in cooperation with other applicable state
23 agencies, shall ~~[be authorized to]~~ collect, retain or modify data or
24 records, ~~[or to]~~ and shall transmit such data or records: (i) to the
25 division of criminal justice services, or to the criminal justice infor-
26 mation services division of the federal bureau of investigation, for the
27 purposes of responding to queries to the national instant criminal back-
28 ground check system regarding attempts to purchase or otherwise take
29 possession of firearms, as defined in 18 USC 921(a)(3), in accordance
30 with applicable federal laws or regulations, or (ii) to the division of
31 criminal justice services, which may re-disclose such data and records
32 only for determining whether a license issued pursuant to section 400.00
33 of the penal law should be denied, suspended or revoked, under subdivi-
34 sion eleven of such section, or for determining whether a person is no
35 longer permitted under federal or state law to possess a firearm. Such
36 records, which may not be used for any other purpose, shall include only
37 names and other non-clinical identifying information of persons who have
38 been involuntarily committed to a hospital pursuant to article nine of
39 this chapter, or section four hundred two or subdivision two of section
40 five hundred eight of the correction law, or article seven hundred thir-
41 ty or section 330.20 of the criminal procedure law or sections 322.2 or
42 353.4 of the family court act, or to a secure treatment facility pursu-
43 ant to article ten of this chapter.

44 (2) The commissioner shall establish within the office of mental
45 health an administrative process to permit a person who has been or may
46 be disqualified from possessing such a firearm pursuant to 18 USC
47 922(4)(d) or who has been or may be disqualified from continuing to have
48 a license to carry, possess, repair, or dispose of a firearm under
49 section 400.00 of the penal law because such person was involuntarily
50 committed or civilly confined to a facility under the jurisdiction of
51 the commissioner, to petition for relief from that disability where such
52 person's record and reputation are such that such person will not be
53 likely to act in a manner dangerous to public safety and where the
54 granting of the relief would not be contrary to public safety. The
55 commissioner shall promulgate regulations to establish the relief from
56 disabilities program, which shall include, but not be limited to,
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1 provisions providing for: (i) an opportunity for a disqualified person
2 to petition for relief in writing; (ii) the authority for the agency to
3 require that the petitioner undergo a clinical evaluation and risk
4 assessment; and (iii) a requirement that the agency issue a decision in
5 writing explaining the reasons for a denial or grant of relief. The
6 denial of a petition for relief from disabilities may be reviewed de
7 novo pursuant to the proceedings under article seventy-eight of the
8 civil practice law and rules.

9 § 20. The mental hygiene law is amended by adding a new section 9.46
10 to read as follows:

11 § 9.46 Reports of substantial risk or threat of harm by mental health
12 professionals.

13 (a) For purposes of this section, the term "mental health profes-
14 sional" shall include a physician, psychologist, registered nurse or
15 licensed clinical social worker.

16 (b) Notwithstanding any other law to the contrary, when a mental
17 health professional currently providing treatment services to a person
18 determines, in the exercise of reasonable professional judgment, that
19 such person is likely to engage in conduct that would result in serious
20 harm to self or others, he or she shall be required to report, as soon
21 as practicable, to the director of community services, or the director's
22 designee, who shall report to the division of criminal justice services
23 whenever he or she agrees that the person is likely to engage in such
24 conduct. Information transmitted to the division of criminal justice
25 services shall be limited to names and other non-clinical identifying
26 information, which may only be used for determining whether a license
27 issued pursuant to section 400.00 of the penal law should be suspended
28 or revoked, or for determining whether a person is ineligible for a
29 license issued pursuant to section 400.00 of the penal law, or is no
30 longer permitted under state or federal law to possess a firearm.

31 (c) Nothing in this section shall be construed to require a mental
32 health professional to take any action which, in the exercise of reason-
33 able professional judgment, would endanger such mental health profes-
34 sional or increase the danger to a potential victim or victims.

35 (d) The decision of a mental health professional to disclose or not to
36 disclose in accordance with this section, when made reasonably and in
37 good faith, shall not be the basis for any civil or criminal liability
38 of such mental health professional.

39 § 21. Paragraph 5 of subdivision (b) of section 9.47 of the mental
40 hygiene law is renumbered paragraph 7 and two new paragraphs 5 and 6 are
41 added to read as follows:

42 (5) ensuring evaluation of the need for ongoing assisted outpatient

43 treatment pursuant to subdivision (k) of section 9.60 of this article
44 prior to the expiration of any assisted outpatient treatment order;
45 (6) if he or she has been ordered to provide for or arrange for
46 assisted outpatient treatment pursuant to paragraph five of subdivision
47 (j) of section 9.60 of this article or became the appropriate director
48 pursuant to this paragraph or subdivision (c) of section 9.48 of this
49 article, notifying the director of community services of the new county
50 of residence when he or she has reason to believe that an assisted
51 outpatient has or will change his or her county of residence during the
52 pendency of an assisted outpatient treatment order. Upon such change of
53 residence, the director of the new county of residence shall become the
54 appropriate director, as such term is defined in section 9.60 of this
55 article; and

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1 § 22. Section 9.48 of the mental hygiene law is amended by adding a
2 new subdivision (c) to read as follows:

3 (c) Directors of assisted outpatient treatment programs providing
4 services described in paragraph one of subdivision (a) of section 9.60
5 of this article pursuant to any court order issued under such section
6 shall evaluate the need for ongoing assisted outpatient treatment pursu-
7 ant to subdivision (k) of section 9.60 of this article prior to the
8 expiration of any assisted outpatient treatment order; and shall notify
9 the director of community services of the new county of residence when
10 he or she has reason to believe that an assisted outpatient has or will
11 change his or her county of residence during the pendency of an assisted
12 outpatient treatment order. Upon such change of residence, the director
13 of the new county of residence shall become the appropriate director, as
14 such term is defined in section 9.60 of this article.

15 § 23. Paragraph 3 of subdivision (a), paragraphs 2 and 5 of subdivi-
16 sion (j) and subdivisions (k) and (n) of section 9.60 of the mental
17 hygiene law, as amended by chapter 158 of the laws of 2005, are amended
18 to read as follows:

19 (3) "director of community services" and "local governmental unit"
20 shall have the same meanings as provided in article forty-one of this
21 chapter. The "appropriate director" shall mean the director of communi-
22 ty services of the county where the assisted outpatient resides, even if
23 it is a different county than the county where the assisted outpatient
24 treatment order was originally issued.

25 (2) If after hearing all relevant evidence, the court finds by clear
26 and convincing evidence that the subject of the petition meets the
27 criteria for assisted outpatient treatment, and there is no appropriate
28 and feasible less restrictive alternative, the court may order the
29 subject to receive assisted outpatient treatment for an initial period
30 not to exceed [~~six months~~] one year. In fashioning the order, the court
31 shall specifically make findings by clear and convincing evidence that
32 the proposed treatment is the least restrictive treatment appropriate
33 and feasible for the subject. The order shall state an assisted outpa-
34 tient treatment plan, which shall include all categories of assisted
35 outpatient treatment, as set forth in paragraph one of subdivision (a)
36 of this section, which the assisted outpatient is to receive, but shall
37 not include any such category that has not been recommended in both the
38 proposed written treatment plan and the testimony provided to the court
39 pursuant to subdivision (i) of this section.

40 (5) If the petitioner is the director of a hospital that operates an
41 assisted outpatient treatment program, the court order shall direct the
42 hospital director to provide or arrange for all categories of assisted

43 outpatient treatment for the assisted outpatient throughout the period
44 of the order. [~~For all other persons~~] In all other instances, the order
45 shall require the appropriate director [~~of community services of the~~
46 ~~appropriate local governmental unit~~], as that term is defined in this
47 section, to provide or arrange for all categories of assisted outpatient
48 treatment for the assisted outpatient throughout the period of the
49 order.

50 (k) Petition for additional periods of treatment. (1) Prior to the
51 expiration of an order pursuant to this section, the appropriate direc-
52 tor shall review whether the assisted outpatient continues to meet the
53 criteria for assisted outpatient treatment. If, as documented in the
54 petition, the director determines that such criteria continue to be met
55 or has made appropriate attempts to, but has not been successful in
56 eliciting, the cooperation of the subject to submit to an examination,

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1 within thirty days prior to the expiration of an order of assisted
2 outpatient treatment, such director may petition the court to order
3 continued assisted outpatient treatment pursuant to paragraph two of
4 this subdivision. Upon determining whether such criteria continue to be
5 met, such director shall notify the program coordinator in writing as to
6 whether a petition for continued assisted outpatient treatment is
7 warranted and whether such a petition was or will be filed.

8 (2) Within thirty days prior to the expiration of an order of assisted
9 outpatient treatment, the appropriate director or the current petition-
10 er, if the current petition was filed pursuant to subparagraph (i) or
11 (ii) of paragraph one of subdivision (e) of this section, and the
12 current petitioner retains his or her original status pursuant to the
13 applicable subparagraph, may petition the court to order continued
14 assisted outpatient treatment for a period not to exceed one year from
15 the expiration date of the current order. If the court's disposition of
16 such petition does not occur prior to the expiration date of the current
17 order, the current order shall remain in effect until such disposition.
18 The procedures for obtaining any order pursuant to this subdivision
19 shall be in accordance with the provisions of the foregoing subdivisions
20 of this section; provided that the time restrictions included in para-
21 graph four of subdivision (c) of this section shall not be applicable.
22 The notice provisions set forth in paragraph six of subdivision (j) of
23 this section shall be applicable. Any court order requiring periodic
24 blood tests or urinalysis for the presence of alcohol or illegal drugs
25 shall be subject to review after six months by the physician who devel-
26 oped the written treatment plan or another physician designated by the
27 director, and such physician shall be authorized to terminate such blood
28 tests or urinalysis without further action by the court.

29 (n) Failure to comply with assisted outpatient treatment. Where in the
30 clinical judgment of a physician, (i) the assisted outpatient, has
31 failed or refused to comply with the assisted outpatient treatment, (ii)
32 efforts were made to solicit compliance, and (iii) such assisted outpa-
33 tient may be in need of involuntary admission to a hospital pursuant to
34 section 9.27 of this article or immediate observation, care and treat-
35 ment pursuant to section 9.39 or 9.40 of this article, such physician
36 may request the appropriate director of community services, the direc-
37 tor's designee, or any physician designated by the director of community
38 services pursuant to section 9.37 of this article, to direct the removal
39 of such assisted outpatient to an appropriate hospital for an examina-
40 tion to determine if such person has a mental illness for which hospi-
41 talization is necessary pursuant to section 9.27, 9.39 or 9.40 of this

42 article. Furthermore, if such assisted outpatient refuses to take medi-
43 cations as required by the court order, or he or she refuses to take, or
44 fails a blood test, urinalysis, or alcohol or drug test as required by
45 the court order, such physician may consider such refusal or failure
46 when determining whether the assisted outpatient is in need of an exam-
47 ination to determine whether he or she has a mental illness for which
48 hospitalization is necessary. Upon the request of such physician, the
49 appropriate director, the director's designee, or any physician desig-
50 nated pursuant to section 9.37 of this article, may direct peace offi-
51 cers, acting pursuant to their special duties, or police officers who
52 are members of an authorized police department or force or of a sher-
53 iff's department to take the assisted outpatient into custody and trans-
54 port him or her to the hospital operating the assisted outpatient treat-
55 ment program or to any hospital authorized by the director of community
56 services to receive such persons. Such law enforcement officials shall
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1 carry out such directive. Upon the request of such physician, the appro-
2 priate director, the director's designee, or any physician designated
3 pursuant to section 9.37 of this article, an ambulance service, as
4 defined by subdivision two of section three thousand one of the public
5 health law, or an approved mobile crisis outreach team as defined in
6 section 9.58 of this article shall be authorized to take into custody
7 and transport any such person to the hospital operating the assisted
8 outpatient treatment program, or to any other hospital authorized by the
9 appropriate director of community services to receive such persons. Any
10 director of community services, or designee, shall be authorized to
11 direct the removal of an assisted outpatient who is present in his or
12 her county to an appropriate hospital, in accordance with the provisions
13 of this subdivision, based upon a determination of the appropriate
14 director of community services directing the removal of such assisted
15 outpatient pursuant to this subdivision. Such person may be retained for
16 observation, care and treatment and further examination in the hospital
17 for up to seventy-two hours to permit a physician to determine whether
18 such person has a mental illness and is in need of involuntary care and
19 treatment in a hospital pursuant to the provisions of this article. Any
20 continued involuntary retention in such hospital beyond the initial
21 seventy-two hour period shall be in accordance with the provisions of
22 this article relating to the involuntary admission and retention of a
23 person. If at any time during the seventy-two hour period the person is
24 determined not to meet the involuntary admission and retention
25 provisions of this article, and does not agree to stay in the hospital
26 as a voluntary or informal patient, he or she must be released. Failure
27 to comply with an order of assisted outpatient treatment shall not be
28 grounds for involuntary civil commitment or a finding of contempt of
29 court.

30 § 24. Subdivision (g) of section 13.09 of the mental hygiene law, as
31 amended by chapter 168 of the laws of 2010, is amended to read as
32 follows:

33 (g) (1) The commissioner, in cooperation with other applicable state
34 agencies, shall ~~be authorized to~~ collect, retain or modify data or
35 records, ~~or to~~ and shall transmit such data or records to: (i) the
36 division of criminal justice services, or to the criminal justice infor-
37 mation services division of the federal bureau of investigation, for the
38 purposes of responding to queries to the national instant criminal back-
39 ground check system regarding attempts to purchase or otherwise take
40 possession of firearms, as defined in 18 USC 921(a)(3), in accordance

41 with applicable federal laws or regulations, or (ii) to the division of
42 criminal justice services, for the purposes of determining whether a
43 license issued pursuant to section 400.00 of the penal law should be
44 denied, suspended or revoked, under subdivision eleven of such section,
45 or for determining whether a person is no longer permitted under federal
46 or state law to possess a firearm. Such records shall include only
47 names and other non-clinical identifying information of persons who have
48 had a guardian appointed for them pursuant to any provision of state
49 law, based on a determination that as a result of marked subnormal
50 intelligence, mental illness, incapacity, condition or disease, they
51 lack the mental capacity to contract or manage their own affairs, and
52 persons who have been involuntarily committed to a facility pursuant to
53 article fifteen of this chapter, or article seven hundred thirty or
54 section 330.20 of the criminal procedure law or sections 322.2 or 353.4
55 of the family court act.

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1 (2) The commissioner shall establish within the office for people with
2 developmental disabilities an administrative process to permit a person
3 who has been or may be disqualified from possessing such a firearm
4 pursuant to 18 USC 922(4)(d), or who has been or may be disqualified
5 from continuing to have a license to carry, possess, repair, or dispose
6 of a firearm under section 400.00 of the penal law because such person
7 was involuntarily committed or civilly confined to a facility under the
8 jurisdiction of the commissioner, to petition for relief from that disa-
9 bility where such person's record and reputation are such that such
10 person will not be likely to act in a manner dangerous to public safety
11 and where the granting of the relief would not be contrary to public
12 safety. The commissioner shall promulgate regulations to establish the
13 relief from disabilities program, which shall include, but not be limit-
14 ed to, provisions providing for: (i) an opportunity for a disqualified
15 person to petition for relief in writing; (ii) the authority for the
16 agency to require that the petitioner undergo a clinical evaluation and
17 risk assessment; and (iii) a requirement that the agency issue a deci-
18 sion in writing explaining the reasons for a denial or grant of relief.
19 The denial of a petition for relief from disabilities may be reviewed de
20 novo pursuant to the proceedings under article seventy-eight of the
21 civil practice law and rules.

22 § 25. Paragraph 12 of subdivision (c) of section 33.13 of the mental
23 hygiene law, as amended by chapter 158 of the laws of 2005, is amended
24 and a new paragraph 15 is added to read as follows:

25 12. to a director of community services as defined in article nine of
26 this chapter or his or her designee, provided that such director or his
27 or her designee (i) requests such information in the exercise of his or
28 her statutory functions, powers and duties pursuant to section 9.37,
29 9.45, 9.47, 9.48, 9.60 or 41.13 of this chapter; or (ii) the disclosure
30 of information is required pursuant to section 9.46 of this chapter.

31 15. to the division of criminal justice services, names and other
32 non-clinical identifying information for the sole purpose of implement-
33 ing the division's responsibilities and duties under sections 400.00 and
34 400.02 of the penal law.

35 § 26. Section 10.00 of the penal law is amended by adding a new subdivi-
36 sion 21 to read as follows:

37 21. "Drug trafficking felony" means any of the following offenses
38 defined in article two hundred twenty of this chapter: violation of use
39 of a child to commit a controlled substance offense as defined in
40 section 220.28; criminal sale of a controlled substance in the fourth

41 degree as defined in section 220.34; criminal sale of a controlled
42 substance in the third degree as defined in section 220.39; criminal
43 sale of a controlled substance in the second degree as defined in
44 section 220.41; criminal sale of a controlled substance in the first
45 degree as defined in section 220.43; criminal sale of a controlled
46 substance in or near school grounds as defined in section 220.44; unlaw-
47 ful manufacture of methamphetamine in the second degree as defined in
48 section 220.74; unlawful manufacture of methamphetamine in the first
49 degree as defined in section 220.75; or operating as a major trafficker
50 as defined in section 220.77.

51 § 26-a. The penal law is amended by adding a new section 60.11-a to
52 read as follows:

53 § 60.11-a Authorized dispositions; certain criminal possession of a
54 weapon in the third degree offenders.

55 When a person is to be sentenced upon conviction of the crime of crim-
56 inal possession of a weapon in the third degree as defined in subdivi-
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1 sion ten of section 265.02 of this chapter, the court must sentence such
2 defendant to a determinate sentence as provided in subparagraph (ii) of
3 paragraph (c) of subdivision three of section 70.02 of this chapter,
4 unless a greater minimum sentence is otherwise required by another
5 provision of this chapter.

6 § 27. Paragraphs (b) and (c) of subdivision 1 of section 70.02 of the
7 penal law, paragraph (b) as amended by chapter 148 of the laws of 2011
8 and paragraph (c) as amended by chapter 405 of the laws of 2010, are
9 amended to read as follows:

10 (b) Class C violent felony offenses: an attempt to commit any of the
11 class B felonies set forth in paragraph (a) of this subdivision; aggra-
12 vated criminally negligent homicide as defined in section 125.11, aggra-
13 vated manslaughter in the second degree as defined in section 125.21,
14 aggravated sexual abuse in the second degree as defined in section
15 130.67, assault on a peace officer, police officer, fireman or emergency
16 medical services professional as defined in section 120.08, assault on a
17 judge as defined in section 120.09, gang assault in the second degree as
18 defined in section 120.06, strangulation in the first degree as defined
19 in section 121.13, burglary in the second degree as defined in section
20 140.25, robbery in the second degree as defined in section 160.10, crim-
21 inal possession of a weapon in the second degree as defined in section
22 265.03, criminal use of a firearm in the second degree as defined in
23 section 265.08, criminal sale of a firearm in the second degree as
24 defined in section 265.12, criminal sale of a firearm with the aid of a
25 minor as defined in section 265.14, aggravated criminal possession of a
26 weapon as defined in section 265.19, soliciting or providing support for
27 an act of terrorism in the first degree as defined in section 490.15,
28 hindering prosecution of terrorism in the second degree as defined in
29 section 490.30, and criminal possession of a chemical weapon or biolog-
30 ical weapon in the third degree as defined in section 490.37.

31 (c) Class D violent felony offenses: an attempt to commit any of the
32 class C felonies set forth in paragraph (b); reckless assault of a child
33 as defined in section 120.02, assault in the second degree as defined in
34 section 120.05, menacing a police officer or peace officer as defined in
35 section 120.18, stalking in the first degree, as defined in subdivision
36 one of section 120.60, strangulation in the second degree as defined in
37 section 121.12, rape in the second degree as defined in section 130.30,
38 criminal sexual act in the second degree as defined in section 130.45,
39 sexual abuse in the first degree as defined in section 130.65, course of

40 sexual conduct against a child in the second degree as defined in
41 section 130.80, aggravated sexual abuse in the third degree as defined
42 in section 130.66, facilitating a sex offense with a controlled
43 substance as defined in section 130.90, criminal possession of a weapon
44 in the third degree as defined in subdivision five, six, seven [~~ex~~],
45 eight, nine or ten of section 265.02, criminal sale of a firearm in the
46 third degree as defined in section 265.11, intimidating a victim or
47 witness in the second degree as defined in section 215.16, soliciting or
48 providing support for an act of terrorism in the second degree as
49 defined in section 490.10, and making a terroristic threat as defined in
50 section 490.20, falsely reporting an incident in the first degree as
51 defined in section 240.60, placing a false bomb or hazardous substance
52 in the first degree as defined in section 240.62, placing a false bomb
53 or hazardous substance in a sports stadium or arena, mass transportation
54 facility or enclosed shopping mall as defined in section 240.63, and
55 aggravated unpermitted use of indoor pyrotechnics in the first degree as
56 defined in section 405.18.

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1 § 28. The opening paragraph of paragraph (c) of subdivision 2 of
2 section 70.02 of the penal law, as amended by chapter 764 of the laws of
3 2005, is amended to read as follows:

4 Except as provided in subdivision six of section 60.05, the sentence
5 imposed upon a person who stands convicted of the class D violent felony
6 offenses of criminal possession of a weapon in the third degree as
7 defined in subdivision [~~four,~~] five, seven [~~ex~~], eight or nine of
8 section 265.02, criminal sale of a firearm in the third degree as
9 defined in section 265.11 or the class E violent felonies of attempted
10 criminal possession of a weapon in the third degree as defined in subdivi-
11 sion [~~four,~~] five, seven [~~ex~~], eight or nine of section 265.02 must be
12 a sentence to a determinate period of imprisonment, or, in the alterna-
13 tive, a definite sentence of imprisonment for a period of no less than
14 one year, except that:

15 § 29. Paragraph (b) of subdivision 3 of section 70.02 of the penal
16 law, as amended by chapter 765 of the laws of 2005, is amended to read
17 as follows:

18 (b) For a class C felony, the term must be at least three and one-half
19 years and must not exceed fifteen years, provided, however, that the
20 term must be: (i) at least seven years and must not exceed twenty years
21 where the sentence is for the crime of aggravated manslaughter in the
22 second degree as defined in section 125.21 of this chapter; (ii) at
23 least seven years and must not exceed twenty years where the sentence is
24 for the crime of attempted aggravated assault upon a police officer or
25 peace officer as defined in section 120.11 of this chapter; [~~and~~] (iii)
26 at least three and one-half years and must not exceed twenty years where
27 the sentence is for the crime of aggravated criminally negligent homi-
28 cide as defined in section 125.11 of this chapter; and (iv) at least
29 five years and must not exceed fifteen years where the sentence is
30 imposed for the crime of aggravated criminal possession of a weapon as
31 defined in section 265.19 of this chapter;

32 § 30. Paragraph (c) of subdivision 3 of section 70.02 of the penal
33 law, as amended by chapter 765 of the laws of 2005, is amended to read
34 as follows:

35 (c) For a class D felony, the term must be at least two years and must
36 not exceed seven years, provided, however, that the term must be: (i) at
37 least two years and must not exceed eight years where the sentence is
38 for the crime of menacing a police officer or peace officer as defined

39 in section 120.18 of this chapter; and (ii) at least three and one-half
40 years and must not exceed seven years where the sentence is imposed for
41 the crime of criminal possession of a weapon in the third degree as
42 defined in subdivision ten of section 265.02 of this chapter;

43 § 31. The penal law is amended by adding a new section 115.20 to read
44 as follows:

45 § 115.20 Criminal facilitation; definitions and construction.

46 For purposes of this article, such conduct shall include, but not be
47 limited to, making available, selling, exchanging, giving or disposing
48 of a community gun, which in fact, aids a person to commit a crime.
49 "Community gun" shall mean a firearm that is actually shared, made
50 available, sold, exchanged, given or disposed of among or between two or
51 more persons, at least one of whom is not authorized pursuant to law to
52 possess such firearm. "Dispose of" shall have the same meaning as that
53 term is defined in section 265.00 of this chapter. "Share" and "make
54 available" shall, in the case of a firearm, be construed to include
55 knowingly placing such firearm at a location accessible and known to one
56 or more other persons.

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1 § 32. Section 120.05 of the penal law is amended by adding a new
2 subdivision 4-a to read as follows:

3 4-a. He recklessly causes physical injury to another person who is a
4 child under the age of eighteen by intentional discharge of a firearm,
5 rifle or shotgun; or

6 § 33. Sections 34, 35 and 36 of this act shall be known and may be
7 cited as "Mark's Law".

8 § 34. The opening paragraph of subdivision 1 of section 125.26 of the
9 penal law, as added by chapter 765 of the laws of 2005, is amended to
10 read as follows:

11 With intent to cause the death of another person, he or she causes the
12 death of such person, or of a third person who was a person described in
13 subparagraph (i), (ii), (ii-a) or (iii) of paragraph (a) of this subdi-
14 vision engaged at the time of the killing in the course of performing
15 his or her official duties; and

16 § 35. Paragraph (a) of subdivision 1 of section 125.26 of the penal
17 law is amended by adding a new subparagraph (ii-a) to read as follows:

18 (ii-a) the intended victim was a firefighter, emergency medical tech-
19 nician, ambulance driver, paramedic, physician or registered nurse
20 involved in a first response team, or any other individual who, in the
21 course of official duties, performs emergency response activities and
22 was engaged in such activities at the time of killing and the defendant
23 knew or reasonably should have known that the intended victim was such
24 firefighter, emergency medical technician, ambulance driver, paramedic,
25 physician or registered nurse; or

26 § 36. Paragraph (a) of subdivision 1 of section 125.27 of the penal
27 law is amended by adding a new subparagraph (ii-a) to read as follows:

28 (ii-a) the intended victim was a firefighter, emergency medical tech-
29 nician, ambulance driver, paramedic, physician or registered nurse
30 involved in a first response team, or any other individual who, in the
31 course of official duties, performs emergency response activities and
32 was engaged in such activities at the time of killing and the defendant
33 knew or reasonably should have known that the intended victim was such
34 firefighter, emergency medical technician, ambulance driver, paramedic,
35 physician or registered nurse; or

36 § 37. Subdivision 22 of section 265.00 of the penal law, as added by
37 chapter 189 of the laws of 2000, is amended to read as follows:

38 22. "Assault weapon" means [~~(a) a semiautomatic rifle that has an~~
39 ~~ability to accept a detachable magazine and has at least two of the~~
40 ~~following characteristics:~~

- 41 ~~(i) a folding or telescoping stock;~~
- 42 ~~(ii) a pistol grip that protrudes conspicuously beneath the action of~~
43 ~~the weapon;~~
- 44 ~~(iii) a bayonet mount;~~
- 45 ~~(iv) a flash suppressor or threaded barrel designed to accommodate a~~
46 ~~flash suppressor;~~

47 ~~(v) a grenade launcher; or~~
48 ~~(b) a semiautomatic shotgun that has at least two of the following~~
49 ~~characteristics:~~

- 50 ~~(i) a folding or telescoping stock;~~
- 51 ~~(ii) a pistol grip that protrudes conspicuously beneath the action of~~
52 ~~the weapon;~~
- 53 ~~(iii) a fixed magazine capacity in excess of five rounds;~~
- 54 ~~(iv) an ability to accept a detachable magazine; or~~
- 55 ~~(c) a semiautomatic pistol that has an ability to accept a detachable~~
56 ~~magazine and has at least two of the following characteristics:~~

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1 ~~(i) an ammunition magazine that attaches to the pistol outside of the~~
2 ~~pistol grip;~~

3 ~~(ii) a threaded barrel capable of accepting a barrel extender, flash~~
4 ~~suppressor, forward handgrip, or silencer;~~

5 ~~(iii) a shroud that is attached to, or partially or completely encir-~~
6 ~~cles, the barrel and that permits the shooter to hold the firearm with~~
7 ~~the nontrigger hand without being burned;~~

8 ~~(iv) a manufactured weight of fifty ounces or more when the pistol is~~
9 ~~unloaded;~~

10 ~~(v) a semiautomatic version of an automatic rifle, shotgun or firearm;~~
11 ~~or~~

12 ~~(d) any of the weapons, or functioning frames or receivers of such~~
13 ~~weapons, or copies or duplicates of such weapons, in any caliber, known~~
14 ~~as:~~

15 ~~(i) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all~~
16 ~~models);~~

17 ~~(ii) Action Arms Israeli Military Industries UZI and Galil;~~

18 ~~(iii) Beretta Ar70 (SC-70);~~

19 ~~(iv) Colt AR-15;~~

20 ~~(v) Fabrique National FN/FAL, FN/LAR, and FNC;~~

21 ~~(vi) SWD M-10, M-11, M-11/9, and M-12;~~

22 ~~(vii) Steyr AUG;~~

23 ~~(viii) INTRATEC TEC-9, TEC-DC9 and TEC-22; and~~

24 ~~(ix) revolving cylinder shotguns, such as (or similar to) the Street~~
25 ~~Sweeper and Striker 12;~~

26 ~~(e) provided, however, that such term does not include: (i) any rifle,~~
27 ~~shotgun or pistol that (A) is manually operated by bolt, pump, lever or~~
28 ~~slide action; (B) has been rendered permanently inoperable; or (C) is an~~
29 ~~antique firearm as defined in 18 U.S.C. 921(a)(16);~~

30 ~~(ii) a semiautomatic rifle that cannot accept a detachable magazine~~
31 ~~that holds more than five rounds of ammunition;~~

32 ~~(iii) a semiautomatic shotgun that cannot hold more than five rounds~~
33 ~~of ammunition in a fixed or detachable magazine;~~

34 ~~(iv) a rifle, shotgun or pistol, or a replica or a duplicate thereof,~~
35 ~~specified in Appendix A to section 922 of 18 U.S.C. as such weapon was~~
36 ~~manufactured on October first, nineteen hundred ninety-three. The mere~~

37 ~~fact that a weapon is not listed in Appendix A shall not be construed to~~
38 ~~mean that such weapon is an assault weapon; or~~

39 ~~(v) a semiautomatic rifle, a semiautomatic shotgun or a semiautomatic~~
40 ~~pistol or any of the weapons defined in paragraph (d) of this subdivi-~~
41 ~~sion lawfully possessed prior to September fourteenth, nineteen hundred~~
42 ~~ninety-four.]~~

43 (a) a semiautomatic rifle that has an ability to accept a detachable
44 magazine and has at least one of the following characteristics:

45 (i) a folding or telescoping stock;

46 (ii) a pistol grip that protrudes conspicuously beneath the action of
47 the weapon;

48 (iii) a thumbhole stock;

49 (iv) a second handgrip or a protruding grip that can be held by the
50 non-trigger hand;

51 (v) a bayonet mount;

52 (vi) a flash suppressor, muzzle break, muzzle compensator, or threaded
53 barrel designed to accommodate a flash suppressor, muzzle break, or
54 muzzle compensator;

55 (vii) a grenade launcher; or

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1 (b) a semiautomatic shotgun that has at least one of the following
2 characteristics:

3 (i) a folding or telescoping stock;

4 (ii) a thumbhole stock;

5 (iii) a second handgrip or a protruding grip that can be held by the
6 non-trigger hand;

7 (iv) a fixed magazine capacity in excess of seven rounds;

8 (v) an ability to accept a detachable magazine; or

9 (c) a semiautomatic pistol that has an ability to accept a detachable
10 magazine and has at least one of the following characteristics:

11 (i) a folding or telescoping stock;

12 (ii) a thumbhole stock;

13 (iii) a second handgrip or a protruding grip that can be held by the
14 non-trigger hand;

15 (iv) capacity to accept an ammunition magazine that attaches to the
16 pistol outside of the pistol grip;

17 (v) a threaded barrel capable of accepting a barrel extender, flash
18 suppressor, forward handgrip, or silencer;

19 (vi) a shroud that is attached to, or partially or completely encir-
20 cles, the barrel and that permits the shooter to hold the firearm with
21 the non-trigger hand without being burned;

22 (vii) a manufactured weight of fifty ounces or more when the pistol is
23 unloaded; or

24 (viii) a semiautomatic version of an automatic rifle, shotgun or
25 firearm;

26 (d) a revolving cylinder shotgun;

27 (e) a semiautomatic rifle, a semiautomatic shotgun or a semiautomatic
28 pistol or weapon defined in subparagraph (v) of paragraph (e) of subdivi-
29 vision twenty-two of section 265.00 of this chapter as added by chapter
30 one hundred eighty-nine of the laws of two thousand and otherwise
31 lawfully possessed pursuant to such chapter of the laws of two thousand
32 prior to September fourteenth, nineteen hundred ninety-four;

33 (f) a semiautomatic rifle, a semiautomatic shotgun or a semiautomatic
34 pistol or weapon defined in paragraph (a), (b) or (c) of this subdivi-
35 sion, possessed prior to the date of enactment of the chapter of the
36 laws of two thousand thirteen which added this paragraph;

37 (g) provided, however, that such term does not include:
38 (i) any rifle, shotgun or pistol that (A) is manually operated by
39 bolt, pump, lever or slide action; (B) has been rendered permanently
40 inoperable; or (C) is an antique firearm as defined in 18 U.S.C.
41 921(a)(16);
42 (ii) a semiautomatic rifle that cannot accept a detachable magazine
43 that holds more than five rounds of ammunition;
44 (iii) a semiautomatic shotgun that cannot hold more than five rounds
45 of ammunition in a fixed or detachable magazine; or
46 (iv) a rifle, shotgun or pistol, or a replica or a duplicate thereof,
47 specified in Appendix A to 18 U.S.C. 922 as such weapon was manufactured
48 on October first, nineteen hundred ninety-three. The mere fact that a
49 weapon is not listed in Appendix A shall not be construed to mean that
50 such weapon is an assault weapon;
51 (v) any weapon validly registered pursuant to subdivision sixteen-a of
52 section 400.00 of this chapter. Such weapons shall be subject to the
53 provisions of paragraph (h) of this subdivision;
54 (vi) any firearm, rifle, or shotgun that was manufactured at least
55 fifty years prior to the current date, but not including replicas there-
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1 of that is validly registered pursuant to subdivision sixteen-a of
2 section 400.00 of this chapter;

3 (h) Any weapon defined in paragraph (e) or (f) of this subdivision and
4 any large capacity ammunition feeding device that was legally possessed
5 by an individual prior to the enactment of the chapter of the laws of
6 two thousand thirteen which added this paragraph, may only be sold to,
7 exchanged with or disposed of to a purchaser authorized to possess such
8 weapons or to an individual or entity outside of the state provided that
9 any such transfer to an individual or entity outside of the state must
10 be reported to the entity wherein the weapon is registered within seven-
11 ty-two hours of such transfer. An individual who transfers any such
12 weapon or large capacity ammunition device to an individual inside New
13 York state or without complying with the provisions of this paragraph
14 shall be guilty of a class A misdemeanor unless such large capacity
15 ammunition feeding device, the possession of which is made illegal by
16 the chapter of the laws of two thousand thirteen which added this para-
17 graph, is transferred within one year of the effective date of the chap-
18 ter of the laws of two thousand thirteen which added this paragraph.

19 § 38. Subdivision 23 of section 265.00 of the penal law, as added by
20 chapter 189 of the laws of 2000, is amended to read as follows:

21 23. "Large capacity ammunition feeding device" means a magazine, belt,
22 drum, feed strip, or similar device, [~~manufactured after September thir-~~
23 ~~teenth, nineteen hundred ninety-four,~~] that (a) has a capacity of, or
24 that can be readily restored or converted to accept, more than ten
25 rounds of ammunition, or (b) contains more than seven rounds of ammuni-
26 tion, or (c) is obtained after the effective date of the chapter of the
27 laws of two thousand thirteen which amended this subdivision and has a
28 capacity of, or that can be readily restored or converted to accept,
29 more than seven rounds of ammunition; provided, however, that such term
30 does not include an attached tubular device designed to accept, and
31 capable of operating only with, .22 caliber rimfire ammunition or a
32 feeding device that is a curio or relic. A feeding device that is a
33 curio or relic is defined as a device that (i) was manufactured at least
34 fifty years prior to the current date, (ii) is only capable of being
35 used exclusively in a firearm, rifle, or shotgun that was manufactured
36 at least fifty years prior to the current date, but not including repli-

37 cas thereof, (iii) is possessed by an individual who is not prohibited
38 by state or federal law from possessing a firearm and (iv) is registered
39 with the division of state police pursuant to subdivision sixteen-a of
40 section 400.00 of this chapter, except such feeding devices transferred
41 into the state may be registered at any time, provided they are regis-
42 tered within thirty days of their transfer into the state. Notwith-
43 standing paragraph (h) of subdivision twenty-two of this section, such
44 feeding devices may be transferred provided that such transfer shall be
45 subject to the provisions of section 400.03 of this chapter including
46 the check required to be conducted pursuant to such section.

47 § 39. Section 265.00 of the penal law is amended by adding a new
48 subdivision 24 to read as follows:

49 24. "Seller of ammunition" means any person, firm, partnership, corpo-
50 ration or company who engages in the business of purchasing, selling or
51 keeping ammunition.

52 § 40. Section 265.01 of the penal law, as added by chapter 1041 of the
53 laws of 1974, subdivision 1 as amended by chapter 257 of the laws of
54 2008, subdivision 2 as amended by chapter 220 of the laws of 1988,
55 subdivision 3 as amended by chapter 199 of the laws of 2006, subdivision
56 4 as amended by chapter 357 of the laws of 2011, subdivision 7 as added
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1 by chapter 807 of the laws of 1981, and subdivision 8 as added by chap-
2 ter 646 of the laws of 1986, is amended to read as follows:

3 § 265.01 Criminal possession of a weapon in the fourth degree.

4 A person is guilty of criminal possession of a weapon in the fourth
5 degree when:

6 (1) He or she possesses any firearm, electronic dart gun, electronic
7 stun gun, gravity knife, switchblade knife, pilum ballistic knife, metal
8 knuckle knife, cane sword, billy, blackjack, bludgeon, plastic knuckles,
9 metal knuckles, chuka stick, sand bag, sandclub, wrist-brace type sling-
10 shot or slungshot, shirken or "Kung Fu star"; or

11 (2) He possesses any dagger, dangerous knife, dirk, razor, stiletto,
12 imitation pistol, or any other dangerous or deadly instrument or weapon
13 with intent to use the same unlawfully against another; or

14 (3) [~~He or she knowingly has in his or her possession a rifle, shotgun~~
15 ~~or firearm in or upon a building or grounds, used for educational~~
16 ~~purposes, of any school, college or university, except the forestry~~
17 ~~lands, wherever located, owned and maintained by the State University of~~
18 ~~New York college of environmental science and forestry, or upon a school~~
19 ~~bus as defined in section one hundred forty two of the vehicle and traf-~~
20 ~~fic law, without the written authorization of such educational institu-~~
21 ~~tion~~]; or

22 (4) He possesses a rifle, shotgun, antique firearm, black powder
23 rifle, black powder shotgun, or any muzzle-loading firearm, and has been
24 convicted of a felony or serious offense; or

25 (5) He possesses any dangerous or deadly weapon and is not a citizen
26 of the United States; or

27 (6) He is a person who has been certified not suitable to possess a
28 rifle or shotgun, as defined in subdivision sixteen of section 265.00,
29 and refuses to yield possession of such rifle or shotgun upon the demand
30 of a police officer. Whenever a person is certified not suitable to
31 possess a rifle or shotgun, a member of the police department to which
32 such certification is made, or of the state police, shall forthwith
33 seize any rifle or shotgun possessed by such person. A rifle or shotgun
34 seized as herein provided shall not be destroyed, but shall be delivered
35 to the headquarters of such police department, or state police, and

36 there retained until the aforesaid certificate has been rescinded by the
37 director or physician in charge, or other disposition of such rifle or
38 shotgun has been ordered or authorized by a court of competent jurisdic-
39 tion.

40 (7) He knowingly possesses a bullet containing an explosive substance
41 designed to detonate upon impact.

42 (8) He possesses any armor piercing ammunition with intent to use the
43 same unlawfully against another.

44 Criminal possession of a weapon in the fourth degree is a class A
45 misdemeanor.

46 § 41. The penal law is amended by adding a new section 265.01-a to
47 read as follows:

48 § 265.01-a. Criminal possession of a weapon on school grounds.

49 A person is guilty of criminal possession of a weapon on school
50 grounds when he or she knowingly has in his or her possession a rifle,
51 shotgun, or firearm in or upon a building or grounds, used for educa-
52 tional purposes, of any school, college, or university, except the
53 forestry lands, wherever located, owned and maintained by the State
54 University of New York college of environmental science and forestry, or
55 upon a school bus as defined in section one hundred forty-two of the

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1 vehicle and traffic law, without the written authorization of such
2 educational institution.

3 Criminal possession of a weapon on school grounds is a class E felony.

4 § 41-a. The penal law is amended by adding a new section 265.01-b to
5 read as follows:

6 § 265.01-b Criminal possession of a firearm.

7 A person is guilty of criminal possession of a firearm when he or she:
8 (1) possesses any firearm or; (2) lawfully possesses a firearm prior to
9 the effective date of the chapter of the laws of two thousand thirteen
10 which added this section subject to the registration requirements of
11 subdivision sixteen-a of section 400.00 of this chapter and knowingly
12 fails to register such firearm pursuant to such subdivision.

13 Criminal possession of a firearm is a class E felony.

14 § 41-b. Subdivision 8 of section 265.02 of the penal law, as amended
15 by chapter 764 of the laws of 2005, is amended and two new subdivisions
16 9 and 10 are added to read as follows:

17 (8) Such person possesses a large capacity ammunition feeding device.
18 For purposes of this subdivision, a large capacity ammunition feeding
19 device shall not include an ammunition feeding device lawfully possessed
20 by such person before the effective date of the chapter of the laws of
21 two thousand thirteen which amended this subdivision, that has a capaci-
22 ty of, or that can be readily restored or converted to accept more than
23 seven but less than eleven rounds of ammunition, or that was manufac-
24 tured before September thirteenth, nineteen hundred ninety-four, that
25 has a capacity of, or that can be readily restored or converted to
26 accept, more than ten rounds of ammunition; or

27 (9) Such person possesses an unloaded firearm and also commits a drug
28 trafficking felony as defined in subdivision twenty-one of section 10.00
29 of this chapter as part of the same criminal transaction; or

30 (10) Such person possesses an unloaded firearm and also commits any
31 violent felony offense as defined in subdivision one of section 70.02 of
32 this chapter as part of the same criminal transaction.

33 § 42. Subdivision 2 of section 265.09 of the penal law, as added by
34 chapter 650 of the laws of 1996, is amended to read as follows:

35 (2) Sentencing. Notwithstanding any other provision of law to the

36 contrary, when a person is convicted of criminal use of a firearm in the
37 first degree as defined in subdivision one of this section, the court
38 shall impose an additional consecutive sentence of five years to the
39 [~~minimum term of an indeterminate~~] sentence imposed on the underlying
40 class B violent felony offense where the person convicted of such crime
41 displays a loaded weapon from which a shot, readily capable of producing
42 death or other serious injury may be discharged, in furtherance of the
43 commission of such crime, provided, however, that such additional
44 sentence shall not be imposed if the court, having regard to the nature
45 and circumstances of the crime and to the history and character of the
46 defendant, finds on the record that such additional consecutive sentence
47 would be unduly harsh and that not imposing such sentence would be
48 consistent with the public safety and would not deprecate the serious-
49 ness of the crime. Notwithstanding any other provision of law to the
50 contrary, the aggregate of the five year consecutive term imposed pursu-
51 ant to this subdivision and the minimum term of the indeterminate
52 sentence imposed on the underlying class B violent felony shall consti-
53 tute the new aggregate minimum term of imprisonment, and a person
54 subject to such term shall be required to serve the entire aggregate
55 minimum term and shall not be eligible for release on parole or condi-
56 tional release during such term. This subdivision shall not apply where
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1 the defendant's criminal liability for displaying a loaded weapon from
2 which a shot, readily capable of producing death or other serious injury
3 may be discharged, in furtherance of the commission of crime is based on
4 the conduct of another pursuant to section 20.00 of [~~the penal law~~] this
5 chapter.

6 § 43. Section 265.17 of the penal law, as added by chapter 189 of the
7 laws of 2000, is amended to read as follows:

8 § 265.17 Criminal purchase or disposal of a weapon.

9 A person is guilty of criminal purchase or disposal of a weapon when:

10 1. Knowing that he or she is prohibited by law from possessing a
11 firearm, rifle or shotgun because of a prior conviction or because of
12 some other disability which would render him or her ineligible to
13 lawfully possess a firearm, rifle or shotgun in this state, such person
14 [~~attempts to purchase~~] purchases a firearm, rifle or shotgun from anoth-
15 er person; or

16 2. Knowing that it would be unlawful for another person to possess a
17 firearm, rifle or shotgun, he or she purchases a firearm, rifle or shot-
18 gun for, on behalf of, or for the use of such other person[~~er~~]; or

19 3. Knowing that another person is prohibited by law from possessing a
20 firearm, rifle or shotgun because of a prior conviction or because of
21 some other disability which would render him or her ineligible to
22 lawfully possess a firearm, rifle or shotgun in this state, a person
23 disposes of a firearm, rifle or shotgun to such other person.

24 Criminal purchase or disposal of a weapon is a class [~~A misdemeanor~~] D
25 felony.

26 § 44. Intentionally omitted.

27 § 45. The penal law is amended by adding a new section 265.19 to read
28 as follows:

29 § 265.19 Aggravated criminal possession of a weapon.

30 A person is guilty of aggravated criminal possession of a weapon when
31 he or she commits the crime of criminal possession of a weapon in the
32 second degree as defined in subdivision three of section 265.03 of this
33 article and also commits any violent felony offense as defined in subdi-
34 vision one of section 70.02 of this chapter or a drug trafficking felony

35 as defined in subdivision twenty-one of section 10.00 of this chapter
36 arising out of the same criminal transaction.

37 Aggravated criminal possession of a weapon is a class C felony.

38 § 46. Paragraph 3 of subdivision a of section 265.20 of the penal law,
39 as amended by chapter 210 of the laws of 1999, is amended and a new
40 paragraph 7-f is added to read as follows:

41 3. Possession of a pistol or revolver by a person to whom a license
42 therefor has been issued as provided under section 400.00 or 400.01 of
43 this chapter or possession of a weapon as defined in paragraph (e) or
44 (f) of subdivision twenty-two of section 265.00 of this article which is
45 registered pursuant to paragraph (a) of subdivision sixteen-a of section
46 400.00 of this chapter or is included on an amended license issued
47 pursuant to section 400.00 of this chapter. In the event such license
48 is revoked, other than because such licensee is no longer permitted to
49 possess a firearm, rifle or shotgun under federal or state law, informa-
50 tion sufficient to satisfy the requirements of subdivision sixteen-a of
51 section 400.00 of this chapter, shall be transmitted by the licensing
52 officer to the state police, in a form as determined by the superinten-
53 dent of state police. Such transmission shall constitute a valid regis-
54 tration under such section. Further provided, notwithstanding any other
55 section of this title, a failure to register such weapon by an individ-
56 ual who possesses such weapon before the enactment of the chapter of the

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1 laws of two thousand thirteen which amended this paragraph and may so
2 lawfully possess it thereafter upon registration, shall only be subject
3 to punishment pursuant to paragraph (c) of subdivision sixteen-a of
4 section 400.00 of this chapter; provided, that such a license or regis-
5 tration shall not preclude a conviction for the offense defined in
6 subdivision three of section 265.01 of this article or section 265.01-a
7 of this article.

8 7-f. Possession and use of a magazine, belt, feed strip or similar
9 device, that contains more than seven rounds of ammunition, but that
10 does not have a capacity of or can readily be restored or converted to
11 accept more than ten rounds of ammunition, at an indoor or outdoor
12 firing range located in or on premises owned or occupied by a duly
13 incorporated organization organized for conservation purposes or to
14 foster proficiency in arms; at an indoor or outdoor firing range for the
15 purpose of firing a rifle or shotgun; at a collegiate, olympic or target
16 shooting competition under the auspices of or approved by the national
17 rifle association; or at an organized match sanctioned by the Interna-
18 tional Handgun Metallic Silhouette Association.

19 § 46-a. The penal law is amended by adding two new sections 265.36 and
20 265.37 to read as follows:

21 § 265.36 Unlawful possession of a large capacity ammunition feeding
22 device.

23 It shall be unlawful for a person to knowingly possess a large capaci-
24 ty ammunition feeding device manufactured before September thirteenth,
25 nineteen hundred ninety-four, and if such person lawfully possessed such
26 large capacity feeding device before the effective date of the chapter
27 of the laws of two thousand thirteen which added this section, that has
28 a capacity of, or that can be readily restored or converted to accept,
29 more than ten rounds of ammunition.

30 An individual who has a reasonable belief that such device is of such
31 a character that it may lawfully be possessed and who surrenders or
32 lawfully disposes of such device within thirty days of being notified by
33 law enforcement or county licensing officials that such possession is

34 unlawful shall not be guilty of this offense. It shall be a rebuttable
35 presumption that such person knows that such large capacity ammunition
36 feeding device may not be lawfully possessed if he or she has been
37 contacted by law enforcement or county licensing officials and informed
38 that such device may not be lawfully possessed.

39 Unlawful possession of a large capacity ammunition feeding device is a
40 class A misdemeanor.

41 § 265.37 Unlawful possession of certain ammunition feeding devices.

42 It shall be unlawful for a person to knowingly possess an ammunition
43 feeding device that such person lawfully possessed before the effective
44 date of the chapter of the laws of two thousand thirteen which added
45 this section, that has a capacity of, or that can be readily restored or
46 converted to accept more than seven but less than ten rounds of ammuni-
47 tion, where such device contains more than seven rounds of ammunition.

48 If such device containing more than seven rounds of ammunition is
49 possessed within the home of the possessor, the person so possessing the
50 device shall, for a first offense, be guilty of a violation and subject
51 to a fine of two hundred dollars, and for a second offense, be guilty of
52 a class B misdemeanor and subject to a fine of two hundred dollars and a
53 term of up to three months imprisonment.

54 If such device containing more than seven rounds of ammunition is
55 possessed in any location other than the home of the possessor, the
56 person so possessing the device shall, for a first offense, be guilty of

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1 a class B misdemeanor and subject to a fine of two hundred dollars and a
2 term of up to six months imprisonment, and for a second offense, be
3 guilty of a class A misdemeanor.

4 § 47. The penal law is amended by adding a new section 265.45 to read
5 as follows:

6 § 265.45 Safe storage of rifles, shotguns, and firearms.

7 No person who owns or is custodian of a rifle, shotgun or firearm who
8 resides with an individual who such person knows or has reason to know
9 is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(g)
10 (1), (4), (8) or (9) shall store or otherwise leave such rifle, shotgun
11 or firearm out of his or her immediate possession or control without
12 having first securely locked such rifle, shotgun or firearm in an appro-
13 appropriate safe storage depository or rendered it incapable of being fired
14 by use of a gun locking device appropriate to that weapon. For purposes
15 of this section "safe storage depository" shall mean a safe or other
16 secure container which, when locked, is incapable of being opened with-
17 out the key, combination or other unlocking mechanism and is capable of
18 preventing an unauthorized person from obtaining access to and
19 possession of the weapon contained therein. With respect to a person
20 who is prohibited from possessing a firearm pursuant to 18 USC §
21 922(g)(9), for purposes of this section, this section applies only if
22 such person has been convicted of a crime included in subdivision one of
23 section 370.15 of the criminal procedure law and such gun is possessed
24 within five years from the later of the date of conviction or completion
25 of sentence.

26 A violation of this section shall constitute a class A misdemeanor.

27 § 48. Subdivision 1, paragraph (a) of subdivision 3, subdivisions 4,
28 5, 9, 10, 11, 12 and 15 of section 400.00 of the penal law, subdivision
29 1 as amended by chapter 189 of the laws of 2000, paragraph (a) of subdi-
30 vision 3 as designated by chapter 778 of the laws of 1985, subdivision 4
31 as amended by chapter 331 of the laws of 2005, subdivision 5 as amended
32 by chapter 332 of the laws of 1994, subdivision 9 as amended by chapter

33 172 of the laws of 1973, subdivision 10 as amended by chapter 447 of the
34 laws of 1997, subdivision 11 as amended by chapter 210 of the laws of
35 1999, and subdivision 12 as amended by chapter 449 of the laws of 1993,
36 are amended and two new subdivisions 16-a and 16-b are added to read as
37 follows:

38 1. Eligibility. No license shall be issued or renewed pursuant to this
39 section except by the licensing officer, and then only after investi-
40 gation and finding that all statements in a proper application for a
41 license are true. No license shall be issued or renewed except for an
42 applicant (a) twenty-one years of age or older, provided, however, that
43 where such applicant has been honorably discharged from the United
44 States army, navy, marine corps, air force or coast guard, or the
45 national guard of the state of New York, no such age restriction shall
46 apply; (b) of good moral character; (c) who has not been convicted
47 anywhere of a felony or a serious offense; (d) who is not a fugitive
48 from justice; (e) who is not an unlawful user of or addicted to any
49 controlled substance as defined in section 21 U.S.C. 802; (f) who being
50 an alien (i) is not illegally or unlawfully in the United States or (ii)
51 has not been admitted to the United States under a nonimmigrant visa
52 subject to the exception in 18 U.S.C. 922(y)(2); (g) who has not been
53 discharged from the Armed Forces under dishonorable conditions; (h) who,
54 having been a citizen of the United States, has not renounced his or her
55 citizenship; (i) who has stated whether he or she has ever suffered any
56 mental illness [~~or been confined to any hospital or institution, public~~
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1 ~~or private, for mental illness]; (j) who has not been involuntarily~~
2 committed to a facility under the jurisdiction of an office of the
3 department of mental hygiene pursuant to article nine or fifteen of the
4 mental hygiene law, article seven hundred thirty or section 330.20 of
5 the criminal procedure law, section four hundred two or five hundred
6 eight of the correction law, section 322.2 or 353.4 of the family court
7 act, or has not been civilly confined in a secure treatment facility
8 pursuant to article ten of the mental hygiene law; [~~(e)~~] (k) who has not
9 had a license revoked or who is not under a suspension or ineligibility
10 order issued pursuant to the provisions of section 530.14 of the crimi-
11 nal procedure law or section eight hundred forty-two-a of the family
12 court act; [~~(f)~~] (l) in the county of Westchester, who has successfully
13 completed a firearms safety course and test as evidenced by a certif-
14 icate of completion issued in his or her name and endorsed and affirmed
15 under the penalties of perjury by a duly authorized instructor, except
16 that: (i) persons who are honorably discharged from the United States
17 army, navy, marine corps or coast guard, or of the national guard of the
18 state of New York, and produce evidence of official qualification in
19 firearms during the term of service are not required to have completed
20 those hours of a firearms safety course pertaining to the safe use,
21 carrying, possession, maintenance and storage of a firearm; and (ii)
22 persons who were licensed to possess a pistol or revolver prior to the
23 effective date of this paragraph are not required to have completed a
24 firearms safety course and test; [~~and (g)~~] (m) who has not had a guardi-
25 an appointed for him or her pursuant to any provision of state law,
26 based on a determination that as a result of marked subnormal intelli-
27 gence, mental illness, incapacity, condition or disease, he or she lacks
28 the mental capacity to contract or manage his or her own affairs; and
29 (n) concerning whom no good cause exists for the denial of the license.
30 No person shall engage in the business of gunsmith or dealer in firearms
31 unless licensed pursuant to this section. An applicant to engage in such

32 business shall also be a citizen of the United States, more than twen-
33 ty-one years of age and maintain a place of business in the city or
34 county where the license is issued. For such business, if the applicant
35 is a firm or partnership, each member thereof shall comply with all of
36 the requirements set forth in this subdivision and if the applicant is a
37 corporation, each officer thereof shall so comply.

38 (a) Applications shall be made and renewed, in the case of a license
39 to carry or possess a pistol or revolver, to the licensing officer in
40 the city or county, as the case may be, where the applicant resides, is
41 principally employed or has his or her principal place of business as
42 merchant or storekeeper; and, in the case of a license as gunsmith or
43 dealer in firearms, to the licensing officer where such place of busi-
44 ness is located. Blank applications shall, except in the city of New
45 York, be approved as to form by the superintendent of state police. An
46 application shall state the full name, date of birth, residence, present
47 occupation of each person or individual signing the same, whether or not
48 he or she is a citizen of the United States, whether or not he or she
49 complies with each requirement for eligibility specified in subdivision
50 one of this section and such other facts as may be required to show the
51 good character, competency and integrity of each person or individual
52 signing the application. An application shall be signed and verified by
53 the applicant. Each individual signing an application shall submit one
54 photograph of himself or herself and a duplicate for each required copy
55 of the application. Such photographs shall have been taken within thirty
56 days prior to filing the application. In case of a license as gunsmith
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1 or dealer in firearms, the photographs submitted shall be two inches
2 square, and the application shall also state the previous occupation of
3 each individual signing the same and the location of the place of such
4 business, or of the bureau, agency, subagency, office or branch office
5 for which the license is sought, specifying the name of the city, town
6 or village, indicating the street and number and otherwise giving such
7 apt description as to point out reasonably the location thereof. In such
8 case, if the applicant is a firm, partnership or corporation, its name,
9 date and place of formation, and principal place of business shall be
10 stated. For such firm or partnership, the application shall be signed
11 and verified by each individual composing or intending to compose the
12 same, and for such corporation, by each officer thereof.

13 4. Investigation. Before a license is issued or renewed, there shall
14 be an investigation of all statements required in the application by the
15 duly constituted police authorities of the locality where such applica-
16 tion is made, including but not limited to such records as may be acces-
17 sible to the division of state police or division of criminal justice
18 services pursuant to section 400.02 of this article. For that purpose,
19 the records of the appropriate office of the department of mental
20 hygiene concerning previous or present mental illness of the applicant
21 shall be available for inspection by the investigating officer of the
22 police authority. In order to ascertain any previous criminal record,
23 the investigating officer shall take the fingerprints and physical
24 descriptive data in quadruplicate of each individual by whom the appli-
25 cation is signed and verified. Two copies of such fingerprints shall be
26 taken on standard fingerprint cards eight inches square, and one copy
27 may be taken on a card supplied for that purpose by the federal bureau
28 of investigation; provided, however, that in the case of a corporate
29 applicant that has already been issued a dealer in firearms license and
30 seeks to operate a firearm dealership at a second or subsequent

31 location, the original fingerprints on file may be used to ascertain any
32 criminal record in the second or subsequent application unless any of
33 the corporate officers have changed since the prior application, in
34 which case the new corporate officer shall comply with procedures
35 governing an initial application for such license. When completed, one
36 standard card shall be forwarded to and retained by the division of
37 criminal justice services in the executive department, at Albany. A
38 search of the files of such division and written notification of the
39 results of the search to the investigating officer shall be made without
40 unnecessary delay. Thereafter, such division shall notify the licensing
41 officer and the executive department, division of state police, Albany,
42 of any criminal record of the applicant filed therein subsequent to the
43 search of its files. A second standard card, or the one supplied by the
44 federal bureau of investigation, as the case may be, shall be forwarded
45 to that bureau at Washington with a request that the files of the bureau
46 be searched and notification of the results of the search be made to the
47 investigating police authority. [~~The failure or refusal of the federal
48 bureau of investigation to make the fingerprint check provided for in
49 this section shall not constitute the sole basis for refusal to issue a
50 permit pursuant to the provisions of this section.~~] Of the remaining two
51 fingerprint cards, one shall be filed with the executive department,
52 division of state police, Albany, within ten days after issuance of the
53 license, and the other remain on file with the investigating police
54 authority. No such fingerprints may be inspected by any person other
55 than a peace officer, who is acting pursuant to his special duties, or a
56 police officer, except on order of a judge or justice of a court of
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1 record either upon notice to the licensee or without notice, as the
2 judge or justice may deem appropriate. Upon completion of the investi-
3 gation, the police authority shall report the results to the licensing
4 officer without unnecessary delay.

5 5. Filing of approved applications. (a) The application for any
6 license, if granted, shall be filed by the licensing officer with the
7 clerk of the county of issuance, except that in the city of New York
8 and, in the counties of Nassau and Suffolk, the licensing officer shall
9 designate the place of filing in the appropriate division, bureau or
10 unit of the police department thereof, and in the county of Suffolk the
11 county clerk is hereby authorized to transfer all records or applica-
12 tions relating to firearms to the licensing authority of that county.
13 [~~The~~ Except as provided in paragraphs (b) through (f) of this subdivi-
14 sion, the name and address of any person to whom an application for any
15 license has been granted shall be a public record. Upon application by a
16 licensee who has changed his place of residence such records or applica-
17 tions shall be transferred to the appropriate officer at the licensee's
18 new place of residence. A duplicate copy of such application shall be
19 filed by the licensing officer in the executive department, division of
20 state police, Albany, within ten days after issuance of the license.
21 The superintendent of state police may designate that such application
22 shall be transmitted to the division of state police electronically. In
23 the event the superintendent of the division of state police determines
24 that it lacks any of the records required to be filed with the division,
25 it may request that such records be provided to it by the appropriate
26 clerk, department or authority and such clerk, department or authority
27 shall provide the division with such records. In the event such clerk,
28 department or authority lacks such records, the division may request the
29 license holder provide information sufficient to constitute such record

30 and such license holder shall provide the division with such informa-
31 tion. Such information shall be limited to the license holder's name,
32 date of birth, gender, race, residential address, social security number
33 and firearms possessed by said license holder. Nothing in this subdivi-
34 sion shall be construed to change the expiration date or term of such
35 licenses if otherwise provided for in law. Records assembled or
36 collected for purposes of inclusion in the database established by this
37 section shall be released pursuant to a court order. Records assembled
38 or collected for purposes of inclusion in the database created pursuant
39 to section 400.02 of this chapter shall not be subject to disclosure
40 pursuant to article six of the public officers law.

41 (b) Each application for a license pursuant to paragraph (a) of this
42 subdivision shall include, on a separate written form prepared by the
43 division of state police within thirty days of the effective date of the
44 chapter of the laws of two thousand thirteen, which amended this
45 section, and provided to the applicant at the same time and in the same
46 manner as the application for a license, an opportunity for the appli-
47 cant to request an exception from his or her application information
48 becoming public record pursuant to paragraph (a) of this subdivision.
49 Such forms, which shall also be made available to individuals who had
50 applied for or been granted a license prior to the effective date of the
51 chapter of the laws of two thousand thirteen which amended this section,
52 shall notify applicants that, upon discovery that an applicant knowingly
53 provided false information, such applicant may be subject to penalties
54 pursuant to section 175.30 of this chapter, and further, that his or her
55 request for an exception shall be null and void, provided that written
56 notice containing such determination is provided to the applicant.

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1 Further, such forms shall provide each applicant an opportunity to spec-
2 ify the grounds on which he or she believes his or her application
3 information should not be publicly disclosed. These grounds, which shall
4 be identified on the application with a box beside each for checking, as
5 applicable, by the applicant, shall be as follows:

6 (i) the applicant's life or safety may be endangered by disclosure
7 because:

8 (A) the applicant is an active or retired police officer, peace offi-
9 cer, probation officer, parole officer, or corrections officer;

10 (B) the applicant is a protected person under a currently valid order
11 of protection;

12 (C) the applicant is or was a witness in a criminal proceeding involv-
13 ing a criminal charge;

14 (D) the applicant is participating or previously participated as a
15 juror in a criminal proceeding, or is or was a member of a grand jury;
16 or

17 (E) the applicant is a spouse, domestic partner or household member of
18 a person identified in this subparagraph or subparagraph (ii) of this
19 paragraph, specifying which subparagraph or subparagraphs and clauses
20 apply.

21 (ii) the applicant has reason to believe his or her life or safety may
22 be endangered by disclosure due to reasons stated by the applicant.

23 (iii) the applicant has reason to believe he or she may be subject to
24 unwarranted harassment upon disclosure of such information.

25 (c) Each form provided for recertification pursuant to paragraph (b)
26 of subdivision ten of this section shall include an opportunity for the
27 applicant to request an exception from the information provided on such
28 form becoming public record pursuant to paragraph (a) of this subdivi-

29 sion. Such forms shall notify applicants that, upon discovery that an
30 applicant knowingly provided false information, such applicant may be
31 subject to penalties pursuant to section 175.30 of this chapter, and
32 further, that his or her request for an exception shall be null and
33 void, provided that written notice containing such determination is
34 provided to the applicant. Further, such forms shall provide each
35 applicant an opportunity to either decline to request the grant or
36 continuation of an exception, or specify the grounds on which he or she
37 believes his or her information should not be publicly disclosed. These
38 grounds, which shall be identified in the application with a box beside
39 each for checking, as applicable, by the applicant, shall be the same as
40 provided in paragraph (b) of this subdivision.

41 (d) Information submitted on the forms described in paragraph (b) of
42 this subdivision shall be excepted from disclosure and maintained by the
43 entity retaining such information separate and apart from all other
44 records.

45 (e) (i) Upon receiving a request for exception from disclosure, the
46 licensing officer shall grant such exception, unless the request is
47 determined to be null and void, pursuant to paragraph (b) or (c) of this
48 subdivision.

49 (ii) A request for an exception from disclosure may be submitted at
50 any time, including after a license or recertification has been granted.

51 (iii) If an exception is sought and granted pursuant to paragraph (b)
52 of this subdivision, the application information shall not be public
53 record, unless the request is determined to be null and void. If an
54 exception is sought and granted pursuant to paragraph (c) of this subdi-
55 vision, the information concerning such recertification application

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1 shall not be public record, unless the request is determined to be null
2 and void.

3 (f) The information of licensees or applicants for a license shall not
4 be disclosed to the public during the first one hundred twenty days
5 following the effective date of the chapter of the laws of two thousand
6 thirteen, which amended this section. After such period, the informa-
7 tion of those who had applied for or been granted a license prior to the
8 preparation of the form for requesting an exception, pursuant to para-
9 graph (b) of this subdivision, may be released only if such individuals
10 did not file a request for such an exception during the first sixty days
11 following such preparation; provided, however, that no information
12 contained in an application for licensure or recertification shall be
13 disclosed by an entity that has not completed processing any such
14 requests received during such sixty days.

15 (g) If a request for an exception is determined to be null and void
16 pursuant to paragraph (b) or (c) of this subdivision, an applicant may
17 request review of such determination pursuant to article seventy-eight
18 of the civil practice laws and rules. Such proceeding must commence
19 within thirty days after service of the written notice containing the
20 adverse determination. Notice of the right to commence such a petition,
21 and the time period therefor, shall be included in the notice of the
22 determination. Disclosure following such a petition shall not be made
23 prior to the disposition of such review.

24 9. License: amendment. Elsewhere than in the city of New York, a
25 person licensed to carry or possess a pistol or revolver may apply at
26 any time to his or her licensing officer for amendment of his or her
27 license to include one or more such weapons or to cancel weapons held
28 under license. If granted, a record of the amendment describing the

29 weapons involved shall be filed by the licensing officer in the execu-
30 tive department, division of state police, Albany. The superintendent of
31 state police may authorize that such amendment be completed and trans-
32 mitted to the state police in electronic form. Notification of any
33 change of residence shall be made in writing by any licensee within ten
34 days after such change occurs, and a record of such change shall be
35 inscribed by such licensee on the reverse side of his or her license.
36 Elsewhere than in the city of New York, and in the counties of Nassau
37 and Suffolk, such notification shall be made to the executive depart-
38 ment, division of state police, Albany, and in the city of New York to
39 the police commissioner of that city, and in the county of Nassau to the
40 police commissioner of that county, and in the county of Suffolk to the
41 licensing officer of that county, who shall, within ten days after such
42 notification shall be received by him or her, give notice in writing of
43 such change to the executive department, division of state police, at
44 Albany.

45 10. License: expiration, certification and renewal. (a) Any license
46 for gunsmith or dealer in firearms and, in the city of New York, any
47 license to carry or possess a pistol or revolver, issued at any time
48 pursuant to this section or prior to the first day of July, nineteen
49 hundred sixty-three and not limited to expire on an earlier date fixed
50 in the license, shall expire not more than three years after the date of
51 issuance. In the counties of Nassau, Suffolk and Westchester, any
52 license to carry or possess a pistol or revolver, issued at any time
53 pursuant to this section or prior to the first day of July, nineteen
54 hundred sixty-three and not limited to expire on an earlier date fixed
55 in the license, shall expire not more than five years after the date of
56 issuance; however, in the county of Westchester, any such license shall
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1 be certified prior to the first day of April, two thousand, in accord-
2 ance with a schedule to be contained in regulations promulgated by the
3 commissioner of the division of criminal justice services, and every
4 such license shall be recertified every five years thereafter. For
5 purposes of this section certification shall mean that the licensee
6 shall provide to the licensing officer the following information only:
7 current name, date of birth, current address, and the make, model, cali-
8 ber and serial number of all firearms currently possessed. Such certif-
9 ication information shall be filed by the licensing officer in the same
10 manner as an amendment. Elsewhere than in the city of New York and the
11 counties of Nassau, Suffolk and Westchester, any license to carry or
12 possess a pistol or revolver, issued at any time pursuant to this
13 section or prior to the first day of July, nineteen hundred sixty-three
14 and not previously revoked or cancelled, shall be in force and effect
15 until revoked as herein provided. Any license not previously cancelled
16 or revoked shall remain in full force and effect for thirty days beyond
17 the stated expiration date on such license. Any application to renew a
18 license that has not previously expired, been revoked or cancelled shall
19 thereby extend the term of the license until disposition of the applica-
20 tion by the licensing officer. In the case of a license for gunsmith or
21 dealer in firearms, in counties having a population of less than two
22 hundred thousand inhabitants, photographs and fingerprints shall be
23 submitted on original applications and upon renewal thereafter only at
24 six year intervals. Upon satisfactory proof that a currently valid
25 original license has been despoiled, lost or otherwise removed from the
26 possession of the licensee and upon application containing an additional
27 photograph of the licensee, the licensing officer shall issue a dupli-

28 cate license.

29 (b) All licensees shall be recertified to the division of state police
30 every five years thereafter. Any license issued before the effective
31 date of the chapter of the laws of two thousand thirteen which added
32 this paragraph shall be recertified by the licensee on or before January
33 thirty-first, two thousand eighteen, and not less than one year prior to
34 such date, the state police shall send a notice to all license holders
35 who have not recertified by such time. Such recertification shall be in
36 a form as approved by the superintendent of state police, which shall
37 request the license holder's name, date of birth, gender, race, residen-
38 tial address, social security number, firearms possessed by such license
39 holder, email address at the option of the license holder and an affir-
40 mation that such license holder is not prohibited from possessing
41 firearms. The form may be in an electronic form if so designated by the
42 superintendent of state police. Failure to recertify shall act as a
43 revocation of such license. If the New York state police discover as a
44 result of the recertification process that a licensee failed to provide
45 a change of address, the New York state police shall not require the
46 licensing officer to revoke such license.

47 11. License: revocation and suspension. (a) The conviction of a licen-
48 see anywhere of a felony or serious offense or a licensee at any time
49 becoming ineligible to obtain a license under this section shall operate
50 as a revocation of the license. A license may be revoked or suspended as
51 provided for in section 530.14 of the criminal procedure law or section
52 eight hundred forty-two-a of the family court act. Except for a license
53 issued pursuant to section 400.01 of this article, a license may be
54 revoked and cancelled at any time in the city of New York, and in the
55 counties of Nassau and Suffolk, by the licensing officer, and elsewhere
56 than in the city of New York by any judge or justice of a court of
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1 record; a license issued pursuant to section 400.01 of this article may
2 be revoked and cancelled at any time by the licensing officer or any
3 judge or justice of a court of record. The official revoking a license
4 shall give written notice thereof without unnecessary delay to the exec-
5 utive department, division of state police, Albany, and shall also noti-
6 fy immediately the duly constituted police authorities of the locality.

7 (b) Whenever the director of community services or his or her designee
8 makes a report pursuant to section 9.46 of the mental hygiene law, the
9 division of criminal justice services shall convey such information,
10 whenever it determines that the person named in the report possesses a
11 license issued pursuant to this section, to the appropriate licensing
12 official, who shall issue an order suspending or revoking such license.

13 (c) In any instance in which a person's license is suspended or
14 revoked under paragraph (a) or (b) of this subdivision, such person
15 shall surrender such license to the appropriate licensing official and
16 any and all firearms, rifles, or shotguns owned or possessed by such
17 person shall be surrendered to an appropriate law enforcement agency as
18 provided in subparagraph (f) of paragraph one of subdivision a of
19 section 265.20 of this chapter. In the event such license, firearm,
20 shotgun, or rifle is not surrendered, such items shall be removed and
21 declared a nuisance and any police officer or peace officer acting
22 pursuant to his or her special duties is authorized to remove any and
23 all such weapons.

24 12. Records required of gunsmiths and dealers in firearms. Any person
25 licensed as gunsmith or dealer in firearms shall keep a record book
26 approved as to form, except in the city of New York, by the superinten-

27 dent of state police. In the record book shall be entered at the time of
28 every transaction involving a firearm the date, name, age, occupation
29 and residence of any person from whom a firearm is received or to whom a
30 firearm is delivered, and the calibre, make, model, manufacturer's name
31 and serial number, or if none, any other distinguishing number or iden-
32 tification mark on such firearm. Before delivering a firearm to any
33 person, the licensee shall require him to produce either a license valid
34 under this section to carry or possess the same, or proof of lawful
35 authority as an exempt person pursuant to section 265.20. In addition,
36 before delivering a firearm to a peace officer, the licensee shall veri-
37 fy that person's status as a peace officer with the division of state
38 police. After completing the foregoing, the licensee shall remove and
39 retain the attached coupon and enter in the record book the date of such
40 license, number, if any, and name of the licensing officer, in the case
41 of the holder of a license to carry or possess, or the shield or other
42 number, if any, assignment and department, unit or agency, in the case
43 of an exempt person. The original transaction report shall be forwarded
44 to the division of state police within ten days of delivering a firearm
45 to any person, and a duplicate copy shall be kept by the licensee. The
46 superintendent of state police may designate that such record shall be
47 completed and transmitted in electronic form. A dealer may be granted a
48 waiver from transmitting such records in electronic form if the super-
49 intendent determines that such dealer is incapable of such transmission
50 due to technological limitations that are not reasonably within the
51 control of the dealer, or other exceptional circumstances demonstrated
52 by the dealer, pursuant to a process established in regulation, and at
53 the discretion of the superintendent. Records assembled or collected for
54 purposes of inclusion in the database created pursuant to section 400.02
55 of this article shall not be subject to disclosure pursuant to article
56 six of the public officers law. The record book shall be maintained on
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1 the premises mentioned and described in the license and shall be open at
2 all reasonable hours for inspection by any peace officer, acting pursu-
3 ant to his special duties, or police officer. In the event of cancella-
4 tion or revocation of the license for gunsmith or dealer in firearms, or
5 discontinuance of business by a licensee, such record book shall be
6 immediately surrendered to the licensing officer in the city of New
7 York, and in the counties of Nassau and Suffolk, and elsewhere in the
8 state to the executive department, division of state police.

9 15. Any violation by any person of any provision of this section is a
10 class A misdemeanor.

11 16-a. Registration. (a) An owner of a weapon defined in paragraph (e)
12 or (f) of subdivision twenty-two of section 265.00 of this chapter,
13 possessed before the date of the effective date of the chapter of the
14 laws of two thousand thirteen which added this paragraph, must make an
15 application to register such weapon with the superintendent of state
16 police, in the manner provided by the superintendent, or by amending a
17 license issued pursuant to this section within one year of the effective
18 date of this subdivision except any weapon defined under subparagraph
19 (vi) of paragraph (g) of subdivision twenty-two of section 265.00 of
20 this chapter transferred into the state may be registered at any time,
21 provided such weapons are registered within thirty days of their trans-
22 fer into the state. Registration information shall include the regis-
23 trant's name, date of birth, gender, race, residential address, social
24 security number and a description of each weapon being registered. A
25 registration of any weapon defined under subparagraph (vi) of paragraph

26 (g) of subdivision twenty-two of section 265.00 or a feeding device as
27 defined under subdivision twenty-three of section 265.00 of this chapter
28 shall be transferable, provided that the seller notifies the state
29 police within seventy-two hours of the transfer and the buyer provides
30 the state police with information sufficient to constitute a registra-
31 tion under this section. Such registration shall not be valid if such
32 registrant is prohibited or becomes prohibited from possessing a firearm
33 pursuant to state or federal law. The superintendent shall determine
34 whether such registrant is prohibited from possessing a firearm under
35 state or federal law. Such check shall be limited to determining wheth-
36 er the factors in 18 USC 922 (g) apply or whether a registrant has been
37 convicted of a serious offense as defined in subdivision sixteen-b of
38 section 265.00 of this chapter, so as to prohibit such registrant from
39 possessing a firearm, and whether a report has been issued pursuant to
40 section 9.46 of the mental hygiene law. All registrants shall recertify
41 to the division of state police every five years thereafter. Failure to
42 recertify shall result in a revocation of such registration.

43 (b) The superintendent of state police shall create and maintain an
44 internet website to educate the public as to which semiautomatic rifle,
45 semiautomatic shotgun or semiautomatic pistol or weapon that are illegal
46 as a result of the enactment of the chapter of the laws of two thousand
47 thirteen which added this paragraph, as well as such assault weapons
48 which are illegal pursuant to article two hundred sixty-five of this
49 chapter. Such website shall contain information to assist the public in
50 recognizing the relevant features proscribed by such article two hundred
51 sixty-five, as well as which make and model of weapons that require
52 registration.

53 (c) A person who knowingly fails to apply to register such weapon, as
54 required by this section, within one year of the effective date of the
55 chapter of the laws of two thousand thirteen which added this paragraph
56 shall be guilty of a class A misdemeanor and such person who unknowingly
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1 fails to validly register such weapon within such one year period shall
2 be given a warning by an appropriate law enforcement authority about
3 such failure and given thirty days in which to apply to register such
4 weapon or to surrender it. A failure to apply or surrender such weapon
5 within such thirty-day period shall result in such weapon being removed
6 by an appropriate law enforcement authority and declared a nuisance.

7 16-b. The cost of the software, programming and interface required to
8 transmit any record that must be electronically transmitted by the deal-
9 er or licensing officer to the division of state police pursuant to this
10 chapter shall be borne by the state.

11 § 49. The penal law is amended by adding a new section 400.02 to read
12 as follows:

13 § 400.02 Statewide license and record database.

14 There shall be a statewide license and record database which shall be
15 created and maintained by the division of state police the cost of which
16 shall not be borne by any municipality. Records assembled or collected
17 for purposes of inclusion in such database shall not be subject to
18 disclosure pursuant to article six of the public officers law. Records
19 containing granted license applications shall be periodically checked by
20 the division of criminal justice services against criminal conviction,
21 mental health, and all other records as are necessary to determine their
22 continued accuracy as well as whether an individual is no longer a
23 valid license holder. The division of criminal justice services shall
24 also check pending applications made pursuant to this article against

25 such records to determine whether a license may be granted. All state
26 agencies shall cooperate with the division of criminal justice services,
27 as otherwise authorized by law, in making their records available for
28 such checks. The division of criminal justice services, upon determining
29 that an individual is ineligible to possess a license, or is no longer a
30 valid license holder, shall notify the applicable licensing official of
31 such determination and such licensing official shall not issue a license
32 or revoke such license and any weapons owned or possessed by such indi-
33 vidual shall be removed consistent with the provisions of subdivision
34 eleven of section 400.00 of this article. Local and state law enforce-
35 ment shall have access to such database, as otherwise authorized by law,
36 in the performance of their duties. Records assembled or collected for
37 purposes of inclusion in the database established by this section shall
38 be released pursuant to a court order.

39 § 50. The penal law is amended by adding a new section 400.03 to read
40 as follows:

41 § 400.03 Sellers of ammunition.

42 1. A seller of ammunition as defined in subdivision twenty-four of
43 section 265.00 of this chapter shall register with the superintendent of
44 state police in a manner provided by the superintendent. Any dealer in
45 firearms that is validly licensed pursuant to section 400.00 of this
46 article shall not be required to complete such registration.

47 2. Any seller of ammunition or dealer in firearms shall keep a record
48 book approved as to form by the superintendent of state police. In the
49 record book shall be entered at the time of every transaction involving
50 ammunition the date, name, age, occupation and residence of any person
51 from whom ammunition is received or to whom ammunition is delivered, and
52 the amount, calibre, manufacturer's name and serial number, or if none,
53 any other distinguishing number or identification mark on such ammuni-
54 tion. The record book shall be maintained on the premises mentioned and
55 described in the license and shall be open at all reasonable hours for
56 inspection by any peace officer, acting pursuant to his or her special
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1 duties, or police officer. Any record produced pursuant to this section
2 and any transmission thereof to any government agency shall not be
3 considered a public record for purposes of article six of the public
4 officers law.

5 3. No later than thirty days after the superintendent of the state
6 police certifies that the statewide license and record database estab-
7 lished pursuant to section 400.02 of this article is operational for the
8 purposes of this section, a dealer in firearms licensed pursuant to
9 section 400.00 of this article, a seller of ammunition as defined in
10 subdivision twenty-four of section 265.00 of this chapter shall not
11 transfer any ammunition to any other person who is not a dealer in
12 firearms as defined in subdivision nine of such section 265.00 or a
13 seller of ammunition as defined in subdivision twenty-four of section
14 265.00 of this chapter, unless:

15 (a) before the completion of the transfer, the licensee or seller
16 contacts the statewide license and record database and provides the
17 database with information sufficient to identify such dealer or seller,
18 transferee based on information on the transferee's identification docu-
19 ment as defined in paragraph (c) of this subdivision, as well as the
20 amount, calibre, manufacturer's name and serial number, if any, of such
21 ammunition;

22 (b) the system provides the licensee or seller with a unique identifi-
23 cation number; and

24 (c) the transferor has verified the identity of the transferee by
25 examining a valid state identification document of the transferee issued
26 by the department of motor vehicles or if the transferee is not a resi-
27 dent of the state of New York, a valid identification document issued by
28 the transferee's state or country of residence containing a photograph
29 of the transferee.

30 4. If the database determines that the purchaser of ammunition is
31 eligible to possess ammunition pursuant to state and federal laws, the
32 system shall:

33 (a) assign a unique identification number to the transfer; and

34 (b) provide the licensee or seller with the number.

35 5. If the statewide license and record database notifies the licensee
36 or seller that the information available to the database does not demon-
37 strate that the receipt of ammunition by such other person would violate
38 18 U.S.C. 922(g) or state law, and the licensee transfers ammunition to
39 such other person, the licensee shall indicate to the database that such
40 transaction has been completed at which point a record of such trans-
41 action shall be created which shall be accessible by the division of
42 state police and maintained for no longer than one year from point of
43 purchase, which shall not be incorporated into the database established
44 pursuant to section 400.02 of this article or the registry established
45 pursuant to subdivision sixteen-a of section 400.00 of this article. The
46 division of state police may share such information with a local law
47 enforcement agency. Evidence of the purchase of ammunition is not
48 sufficient to establish probable cause to believe that the purchaser has
49 committed a crime absent other information tending to prove the commis-
50 sion of a crime. Records assembled or accessed pursuant to this section
51 shall not be subject to disclosure pursuant to article six of the public
52 officers law. This requirement of this section shall not apply (i) if a
53 background check cannot be completed because the system is not opera-
54 tional as determined by the superintendent of state police, or where it
55 cannot be accessed by the practitioner due to a temporary technological
56 or electrical failure, as set forth in regulation, or (ii) a dealer or
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1 seller has been granted a waiver from conducting such background check
2 if the superintendent of state police determines that such dealer is
3 incapable of such check due to technological limitations that are not
4 reasonably within the control of the dealer, or other exceptional
5 circumstances demonstrated by the dealer, pursuant to a process estab-
6 lished in regulation, and at the discretion of such superintendent.

7 6. If the superintendent of state police certifies that background
8 checks of ammunition purchasers may be conducted through the national
9 instant criminal background check system, use of that system by a dealer
10 or seller shall be sufficient to satisfy subdivisions four and five of
11 this section and such checks shall be conducted through such system,
12 provided that a record of such transaction shall be forwarded to the
13 state police in a form determined by the superintendent.

14 7. No commercial transfer of ammunition shall take place unless a
15 licensed dealer in firearms or registered seller of ammunition acts as
16 an intermediary between the transferor and the ultimate transferee of
17 the ammunition for the purposes of contacting the statewide license and
18 record database pursuant to this section. Such transfer between the
19 dealer or seller, and transferee must occur in person.

20 8. A seller of ammunition who fails to register pursuant to this
21 section and sells ammunition, for a first offense, shall be guilty of a
22 violation and subject to the fine of one thousand dollars and for a

23 second offense, shall be guilty of a class A misdemeanor.

24 A seller of ammunition that fails to keep any record required pursuant
25 to this section, for a first offense shall be guilty of a violation and
26 subject to a fine of five hundred dollars, and for a second offense
27 shall be guilty of a class B misdemeanor, and the registration of such
28 seller shall be revoked.

29 § 51. Section 400.10 of the penal law, as added by chapter 531 of the
30 laws of 1984, and subdivision 1 as amended and subdivision 3 as added by
31 chapter 189 of the laws of 2000, is amended to read as follows:

32 § 400.10 Report of theft or loss of a firearm, rifle or shotgun.

33 1. (a) Any owner or other person lawfully in possession of: (i) a
34 firearm, rifle or, shotgun who suffers the loss or theft of said weapon;
35 (ii) ammunition as well as a firearm, rifle or shotgun who suffers the
36 loss or theft of such ammunition as well as a firearm, rifle or shotgun;
37 or (iii) ammunition and is a dealer in firearms or seller of ammunition
38 who suffers the loss or theft of such ammunition shall within twenty-
39 four hours of the discovery of the loss or theft report the facts and
40 circumstances of the loss or theft to a police department or sheriff's
41 office.

42 (b) Whenever a person reports the theft or loss of a firearm, rifle
43 [~~or~~], shotgun or ammunition to any police department or sheriff's
44 office, the officer or department receiving such report shall forward
45 notice of such theft or loss to the division of state police via the New
46 York Statewide Police Information Network. The notice shall contain
47 information in compliance with the New York Statewide Police Information
48 Network Operating Manual, including the caliber, make, model, manufac-
49 turer's name and serial number, if any, and any other distinguishing
50 number or identification mark on the weapon.

51 2. The division of state police shall receive, collect and file the
52 information referred to in subdivision one of this section. The division
53 shall cooperate, and undertake to furnish or make available to law
54 enforcement agencies this information, for the purpose of coordinating
55 law enforcement efforts to locate such weapons.

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1 3. Notwithstanding any other provision of law, a violation of para-
2 graph (a) of subdivision one of this section shall be [~~punishable only~~
3 ~~by a fine not to exceed one hundred dollars~~] a class A misdemeanor.

4 § 52. The penal law is amended by adding a new section 460.22 to read
5 as follows:

6 § 460.22 Aggravated enterprise corruption.

7 A person is guilty of aggravated enterprise corruption when he or she
8 commits the crime of enterprise corruption and two or more of the acts
9 that constitute his or her pattern of criminal activity are class B
10 felonies or higher, and at least two acts are armed felonies as defined
11 in paragraph (a) of subdivision forty-one of section 1.20 of the crimi-
12 nal procedure law or one act is such an armed felony and one act is a
13 violation of subdivision two of section 265.17 of this chapter or one
14 act is a class B violent felony and two are violations of subdivision
15 two of section 265.17 of this chapter.

16 Aggravated enterprise corruption is a class A-I felony.

17 § 53. The surrogate's court procedure act is amended by adding a new
18 section 2509 to read as follows:

19 § 2509. Firearms inventory

20 Whenever, by regulation, rule or statute, a fiduciary or attorney of
21 record must file a list of assets constituting a decedent's estate, such
22 list must include a particularized description of every firearm, shotgun

23 and rifle, as such terms are defined in section 265.00 of the penal law,
24 that are part of such estate. Such list must be filed with the surro-
25 gate's court in the county in which the estate proceeding, if any, is
26 pending and a copy must be filed with the division of criminal justice
27 services.

28 § 54. Section 18 of chapter 408 of the laws of 1999, constituting
29 Kendra's Law, as amended by chapter 139 of the laws of 2010, is amended
30 to read as follows:

31 § 18. This act shall take effect immediately, provided that section
32 fifteen of this act shall take effect April 1, 2000, provided, further,
33 that subdivision (e) of section 9.60 of the mental hygiene law as added
34 by section six of this act shall be effective 90 days after this act
35 shall become law; and that this act shall expire and be deemed repealed
36 June 30, [~~2015~~] 2017.

37 § 55. The education law is amended by adding a new section 2801-b to
38 read as follows:

39 § 2801-b. New York state school safety improvement teams. The gover-
40 nor shall establish New York state school safety improvement teams,
41 which may be composed of representatives from the division of homeland
42 security and emergency services, the division of state police, the divi-
43 sion of criminal justice services, and the department. Such New York
44 State School Safety Improvement Teams shall review and assess school
45 safety plans submitted, on a voluntary basis, by school districts having
46 a population of less than one hundred twenty-five thousand inhabitants,
47 boards of cooperative educational services, and county vocational educa-
48 tion and extension boards, and may make recommendations to improve such
49 school safety plans.

50 § 56. Subdivision 6-c of section 3602 of the education law, as amended
51 by section 1 of part A-2 of chapter 62 of the laws of 2003, is amended
52 to read as follows:

53 6-c. a. Building aid for metal detectors, and safety devices for elec-
54 trically operated partitions, room dividers and doors. In addition to
55 the apportionments payable to a school district pursuant to subdivision
56 six of this section, the commissioner is hereby authorized to apportion
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1 to any school district additional building aid pursuant to this subdivi-
2 sion for its approved expenditures in the base year for the purchase of
3 stationary metal detectors, security cameras, safety devices for elec-
4 trically operated partitions and room dividers required pursuant to
5 section four hundred nine-f of this chapter, or other security devices
6 approved by the commissioner that increase the safety of students and
7 school personnel, provided, however, that funds apportioned to school
8 districts pursuant to this section shall not supplant funds for existing
9 district expenditures or for existing contractual obligations of the
10 district for stationary metal detectors, security cameras, partition and
11 room divider safety devices, or security devices. Portable or hand held
12 metal detectors shall not be eligible for aid pursuant to this subdivi-
13 sion. Such additional aid shall equal the product of the building aid
14 ratio computed for use in the current year pursuant to paragraph c of
15 subdivision six of this section and the actual approved expenditures
16 incurred in the base year pursuant to this subdivision, provided that
17 the limitations on cost allowances prescribed by paragraph a of subdivi-
18 sion six of this section shall not apply. The commissioner shall annual-
19 ly prescribe a special cost allowance for metal detectors, and security
20 cameras, and the approved expenditures shall not exceed such cost allow-
21 ance. The commissioner shall annually prescribe a special cost allowance

22 for partition and room divider safety devices, and the approved expendi-
23 tures shall not exceed such cost allowance.

24 b. For projects approved by the commissioner authorized to receive
25 additional building aid pursuant to this subdivision for the purchase of
26 stationary metal detectors, security cameras or other security devices
27 approved by the commissioner that increase the safety of students and
28 school personnel, provided that for purposes of this paragraph such
29 other security devices shall be limited to electronic security systems
30 and hardened doors, and provided that for projects approved by the
31 commissioner on or after the first day of July two thousand thirteen and
32 before the first day of July two thousand sixteen such additional aid
33 shall equal the product of (i) the building aid ratio computed for use
34 in the current year pursuant to paragraph c of subdivision six of this
35 section plus ten percentage points, except that in no case shall this
36 amount exceed one hundred percent, and (ii) the actual approved expendi-
37 tures incurred in the base year pursuant to this subdivision, provided
38 that the limitations on cost allowances prescribed by paragraph a of
39 subdivision six of this section shall not apply, and provided further
40 that any projects aided under this paragraph must be included in a
41 district's school safety plan. The commissioner shall annually prescribe
42 a special cost allowance for metal detectors, and security cameras, and
43 the approved expenditures shall not exceed such cost allowance.

44 § 57. Severability. If any clause, sentence, paragraph, section or
45 part of this act shall be adjudged by any court of competent jurisdic-
46 tion to be invalid and after exhaustion of all further judicial review,
47 the judgment shall not affect, impair or invalidate the remainder there-
48 of, but shall be confined in its operation to the clause, sentence,
49 paragraph, section or part of this act directly involved in the contro-
50 versy in which the judgment shall have been rendered.

51 § 58. This act shall take effect immediately; provided, however, that:
52 a. Sections one, two, three, four, five, six, seven, eight, nine, ten,
53 eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eigh-
54 teen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-
55 four, twenty-five, twenty-six, twenty-six-a, twenty-seven, twenty-eight,
56 twenty-nine, thirty, thirty-one, thirty-two, thirty-three, thirty-four,
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1 thirty-five, thirty-six, thirty-nine, forty, forty-one, forty-one-a,
2 forty-one-b, forty-two, forty-three, forty-five, forty-six, forty-six-a,
3 forty-seven, fifty-one, fifty-two, fifty-three, fifty-four, fifty-five,
4 and fifty-six of this act shall take effect on the sixtieth day after it
5 shall have become a law;

6 b. The amendments to subdivision 23 of section 265.00 of the penal law
7 made by section thirty-eight of this act shall take effect on the nine-
8 tieth day after this act shall have become a law, except that the amend-
9 ments made to paragraph (a) of subdivision 23 shall take effect imme-
10 diately;

11 c. The amendments to subdivision 1, paragraph (a) of subdivision 3,
12 and subdivisions 4, 9, 10, 11, 12, 15, and 16-b of section 400.00 of the
13 penal law made by section forty-eight of this act shall take effect one
14 year after this act shall have become a law;

15 d. The amendments to subdivision 16-a of section 400.00 of the penal
16 law made by section forty-eight of this act shall take effect on the
17 ninetieth day after this act shall have become a law;

18 e. The amendments to sections 400.02 and 400.03 of the penal law made
19 by sections forty-nine and fifty of this act shall take effect one year
20 after it shall have become a law; and

21 f. The amendments to subdivision (b) of section 9.47 and sections 9.48
22 and 9.60 of the mental hygiene law made by sections twenty-one, twenty-
23 two and twenty-three of this act shall not affect the expiration and
24 repeal of such paragraph and sections and shall be deemed repealed ther-
25 ewith.

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S2230

SPONSOR: KLEIN

TITLE OF BILL:

An act to amend the criminal procedure law, the correction law, the family court act, the executive law, the general business law, the judiciary law, the mental hygiene law, the penal law and the surrogate's court procedure act, in relation to suspension and revocation of firearms licenses; private sale or disposal of firearms, rifles or shotguns and establishing a minimum age to possess a firearm; to amend the family court act, the domestic relations law and the criminal procedure law, in relation to providing for the mandatory suspension or revocation of the firearms license of a person against whom an order of protection or a temporary order of protection has been issued under certain circumstances, or upon violation of any such order; to amend the penal law, in relation to community guns and the criminal sale of a firearm and in relation to the definitions of aggravated and first degree murder; to amend chapter 408 of the laws of 1999 constituting Kendra's Law, in relation to extending the expiration thereof; and to amend the education law, in relation to the New York state school safety improvement teams; and in relation to building aid for metal detectors and safety devices

PURPOSE:

This legislation will protect New Yorkers by reducing the availability of assault weapons and deterring the criminal use of firearms while promoting a fair, consistent and efficient method of ensuring that sportsmen and other legal gun owners have full enjoyment of the guns to which they are entitled. A thoughtful network of laws provides the toughest, most comprehensive and balanced answer in the nation to gun violence. Through this legislation, New York is the first in the nation to completely ban all pre-1994 high capacity magazines; to ban any magazine that holds more than seven rounds (rather than a limit of ten) and to both track ammunition purchases in real time to permit alerts on high volume buyers, while also checking on the buyer's background.

In a range of reforms the bill attends to the weaknesses in the state's current regulatory structure to bring a consistency and rationality that must be the cornerstone of a safe society. A single standard across the State will ensure that legal gun owners obtain their licenses expeditiously while those prohibited are denied that privilege. A state-wide database will keep the registry current and guard against the dangerous or unstable possessing guns. New rules will close a loophole that excludes private sales of guns from a federal background check; tighten provisions governing gun ownership by persons with serious

mental illness; require safe storage of guns for gun owners who live with someone who has been convicted of certain crimes, is under an order of protection, or who has been involuntarily committed as a result of a mental illness. The bill also creates new and enhanced penalties for illegal gun use, and enhances protections for victims of domestic violence by requiring the firearm surrenders and gun license suspension and revocation in cases where an order of protection has been issued.

SUMMARY OF PROVISIONS:

Assault Weapons

Section 37 of the bill amends Penal Law § 265.00(22) in order to strengthen New York's assault weapon ban, expanding its reach and making it easier to enforce. The proposed amendments replace the existing ban consisting of and a "two-feature" test adopted from the now-expired federal assault weapons ban with a clearer "one-feature" test. The "two-feature" test bans any gun that is semi-automatic, has a detachable magazine (in the case of pistols and rifles), and possesses two features that are commonly associated with military weapons. The "one-feature" test would ban semi-automatic guns with detachable magazines that possess one feature commonly associated with military weapons. This section also adds to the list of "features" that characterize a banned weapon.

Within one year of the effective date, all weapons defined as assault weapons under the new "one-feature" test, as well as weapons grandfathered in under the original assault weapons ban, must be registered. Current owners of these banned weapons may transfer the weapons only to a firearms dealer or transfer to an out of state buyer. All registered owners will be subject to a review of disqualifiers by the State Police.

Ammunition

Section 38 of the bill amends Penal Law § 265.00(23) to ban all large capacity magazines that have the capacity to hold more than ten rounds of ammunition including those that were grandfathered in under the original assault weapons ban and creates a new ban on magazines that hold more than seven rounds of ammunition. Magazines that can hold more than seven rounds but not more than ten rounds and are currently possessed will be grandfathered in, but may only contain seven rounds of ammunition. Exceptions are made for large capacity magazines that are curios or relics.

Section 39 also adds a new section to Penal Law § 265.00 to define seller of ammunition.

Section 50 of the bill enhances control over sales of ammunition by adding a new Penal Law § 400.03 requiring (1) that sellers of ammunition register with the superintendent of the State police (2) that prior to a sale of ammunition, a seller must run the buyer through a State-created review of disqualifiers to ensure that the buyer is not prohibited by law from possessing ammunition, and (3) that ammunition sales are electronically accessible to the State. In addition, to prevent from purchasing ammunition, the bill requires that any ammunition sold commercially must be conducted by a seller that can perform a background check.

Licensing

Section 49 creates a new Penal Law § 400.02 establishing a statewide gun license and record database. Section 18 amends Section 212 of the Judiciary Law to require that records submitted to the Federal Bureau of Investigation regarding individuals for whom a guardian has been appointed be transmitted to the State and checked against the statewide gun license and record database.

Several sections of the bill strengthen statutory provisions related to the licensing of firearms, shotguns, and rifles. Section 1 amends Criminal Procedure Law (CPL) § 330.20 to require the revocation of any gun license from and the surrender of any gun by a defendant upon an entry of a verdict of not responsible by reason of mental disease or defect, upon the acceptance of a plea of not responsible by reason of mental disease or defect, or upon a finding that a defendant is an incapacitated person pursuant to the CPL. Section 2 adds a new section to the CPL that requires a sentencing judge to demand surrender of a gun license or registration and all guns possessed by the defendant upon judgment of conviction for an offense that requires the seizure of a gun and the revocation of a gun license or registration. Sections 4 through 16 amend the Family Court Act, the Domestic Relations Law and the CPL to require, under certain circumstances, the mandatory suspension or revocation of the firearms license of a person against whom an order of protection or a temporary order of protection has been issued.

Section 48 of the bill amends the Penal Law to require that every county recertify a gun license holder's license every five years. Failure to recertify during this five year period equates to revocation of the license. The section also adds bases for denial of a license to an applicant, including connection of a felony or serious offense, being presently subject to an order of protection; and expands the criteria for denial based on an applicant's history of mental illness.

Private Sales

Under current New York law, background checks on gun purchasers are required for all purchases of guns from gun dealers and at gun shows. Section 17 will expand this requirement by adding a new article to the General Business Law requiring background checks to be completed for all gun sales, except for immediate family. Thus private sellers may transfer a gun only if the buyer has obtained a federal "NICS" check. Further, dealers must maintain records of private sale background checks, and private sellers may charge a fee of up to \$10 on a transaction. Transfers between immediate family members will be exempt from the requirements of this section.

Safe Storage

To prevent, among other things, unauthorized and unlicensed use of guns, section 47 of the bill adds a new Penal Law § 265.45 establishing safe storage requirements for rifles, shotguns and firearms. Under this new section, a gun owner who lives with someone who the owner has reason to know is prohibited from possessing a gun because the prohibited person has been convicted of a crime punishable by a term of imprisonment exceeding one year, has been adjudicated mentally defective or committed to a mental institution, is subject to a court order of protection or has been convicted of a misdemeanor crime of domestic violence whose sentence has been completed in the last five years must, when the gun is out of the owner's immediate control, keep the gun

secured in a safe storage depository (for example, a safe or similar secure container with a lock that can be opened only with a key or combination, or other locking mechanism) or render it incapable of being fired by putting a safety lock on the gun.

Provisions Related to Persons with Mental Illness

Amendments to the Mental Hygiene Law will help ensure that persons who are mentally ill and dangerous cannot retain or obtain a firearm. First, mental health records that are currently sent to NIDCS for a federal background check will also be housed in a New York State database. A new Section 9.46 of the Mental Hygiene Law will require mental health professionals, in the exercise of reasonable professional judgment, to report if an individual they are treating is likely to engage in conduct that will cause serious harm to him- or herself or others. A good faith decision about whether to report will not be a basis for any criminal or civil liability. When a Section 9.46 report is made, the Division of Criminal Justice Services will determine whether the person possesses a firearms license and, if so, will notify the appropriate local licensing official, who must suspend the license. The person's firearms will then be removed.

The bill extends Kendra's Law through 2017 and amends the law by: extending the duration of the initial assisted out-patient treatment order from 6 months to one year; requiring a review before the assisted out-patient treatment order for a mentally ill inmate is terminated; requiring an assisted out-patient treatment order to follow a person from one county to another if he or she changes residence; and will require the Office of Mental Hygiene (OMH) to conduct an assisted out-patient treatment assessment with a state prisoner is being discharged to the community from and OHM hospital.

New and Enhanced Criminal Penalties

Several sections of the bill create new and enhanced penalties for illegal gun use. Sections 33 through 36, known as "Mark's Law," will include the intentional murder of certain first responders in the Class A-1 felonies of murder in the first degree and aggravated murder. The mandatory penalty for a conviction of aggravated murder is life without parole.

A new Penal Law Section 460.22, aggravated enterprise corruption, recognizes the significant threat to public safety posed by organized violent gangs and their illegal purchases of weapons by creating an A-1 felony for cases when members of the enterprise commit certain combinations of offenses. Those combinations are: first, a pattern of criminal activity that constitutes Class B felonies or higher, and at least two of those acts are armed felonies; or second, one act is a Class B violent felony and two acts constitute a violation of the newly added Section 265.17 (3) which prohibits the purchase on behalf of or disposal of a weapon to an individual who is prohibited by law from possessing such a weapon. This provision also addresses the issue of "straw purchasers" where individuals who are not prohibited by law to purchase weapons do so for others, for example, gang members who may not possess a weapon because of a prior conviction or other disability under law.

Section 41 increases the penalty for possession of a firearm on school grounds or on a school bus from a misdemeanor to a Class E Felony. Section 41-a creates a new subdivision of criminal possession of a weapon in the third degree, a Class D violent felony, when a person

possesses an unloaded firearm and also commits a drug trafficking felony or possesses an unloaded firearm and also commits any violent felony as part of the same criminal transaction. The mandatory minimum sentence for these new Class D felonies is a three and one-half year determinate sentence, although the court may consider mitigating factors and impose a lesser sentence in some limited circumstances involving drug trafficking.

Section 45 creates the crime of aggravated criminal possession of a weapon, a Class C felony, which is committed when one possesses a loaded firearm under § 255.03 of the Penal Law and also commits any violent felony offense or a drug trafficking felony. The minimum mandatory sentence is 5 years.

Section 32 amends Penal Law § 120.05 by adding a new subdivision 4-a to create the crime of assault in the second degree when a person recklessly causes physical injury to a child by the intentional discharge of a firearm, rifle or shotgun.

Section 43 amends Penal Law § 265.17 to include criminal sale or disposal of a weapon by providing a firearm, rifle or shotgun to a person knowing he or she is prohibited by law from possessing such

firearm, rifle or shotgun. The penalty is raised from a Class A misdemeanor to a Class D felony.

Section 31 adds Penal Law § 115.20 making it a Class A misdemeanor to make available, sell, exchange, give or dispose of a community gun that aids a person in committing a crime. A community gun is defined as one that is made available to among or between two or more persons at least one of whom is not authorized pursuant to law to possess such firearm.

Safer Schools

The bill adds a new Section 2801-b to the Education Law to establish New York State School Safety Improvement Teams to review, assess, and make recommendations on School Safety Plans submitted by school districts on a voluntary basis. Section 3602 of the Education Law is amended to allow school districts that purchase various security devices included in their School Safety Plans to receive state building aid reimbursement at a rate ten percent higher than their current building aid ratio. Section 55 is the severability clause, and Section 56 establishes the effective date.

EXISTING LAW:

This bill amends the Correction Law, the Criminal Procedure Law, the Domestic Relations Law, the Executive Law, the Family Court Act, the General Business Law, the Judiciary Law, Kendra's Law (Section 18 of Chapter 408 of the Laws of 1999, as amended by Chapter 139 of the Laws of 2010), the Mental Hygiene Law, the Penal Law, and the Surrogates Court Act.

STATEMENT IN SUPPORT:

In the wrong hands, guns are weapons of untold destruction and heart-break: family and community members are taken from us in an instant; mass shootings shatter our sense of safety in public spaces; street crimes plague our neighborhoods. Nationwide, gun violence claims over 30,000 lives annually.

While the Second Amendment protects the right to keep and bear arms,

the Supreme Court has said that that right is "not unlimited." District of Columbia v. Heller, 554 U.S. 570, 595, 626 (2008). In the Heller case, the Supreme Court explained, "nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms." 554 U.S. at 626-27. The Court also recognized there is a "historical tradition of prohibiting the carrying of 'dangerous and unusual' weapons." Id. This piece of legislation heeds the guidance of the Supreme Court by refining and improving the assault weapon ban and increasing the safety of New Yorkers while observing the protections of the Second Amendment.

Some weapons are so dangerous and some ammunition devices so lethal that we simply cannot afford to continue selling them in our state. Assault weapons that have military-style features unnecessary for hunting and sporting purposes are this kind of weapon. The test adopted in this legislation is intended to bring a simplicity of definition focusing on the lethality of the weapon, amplified by the particular features. Given the difficulty of maintaining a list of guns that keeps pace with changes in weapon design, the one-feature test is a more comprehensive means for addressing these dangerous weapons.

Ammunition

The state's previous ban against high capacity magazines faltered because it was impossible to tell the difference between magazines manufactured before or after the effective date of the ban. This bill prohibits possession of all magazines with the capacity to contain more than ten rounds, regardless of the date of manufacture. Going forward, individuals will only be able to obtain magazines that can contain up to seven rounds. Those who currently possess magazines that can contain more than seven rounds will only be permitted to maintain up to seven rounds in such magazines.

The new law also provides a mechanism to identify individual who purchase unusually high volumes of ammunition, either in person or over the Internet. Sellers must run the buyer's name through a State database modeled after the federal "NICS" database to ensure the buyer is not prohibited by law from possessing ammunition. Ammunition sellers are also required to electronically file with the State records of each ammunition sale, including amount sold.

In order to prevent circumvention of these new controls, this bill requires that any seller--whether located in New York or out of state--ship the ammunition to a dealer within New York for in-person pick-up. The dealer is required to maintain records of the ammunition sale and to perform a State review of disqualifiers. Direct shipment of ammunition without a face-to-face transaction prevents a seller from being able to adequately confirm the identity of a buyer through the in-person inspection of a valid photo ID. Without adequate confirmation of a buyer's identity, the benefits of background checks and record keeping are completely circumvented. A law requiring all ammunition sales to culminate in a face-to-face transfer, thereby allowing for effective confirmation of purchaser identity and corresponding background check, is consistent with this scheme.

Licensing

Currently in New York State, outside of New York City, Westchester, Nassau and Suffolk Counties, a gun license never expires. Lack of a renewal procedure means there is no periodic review of a licensee's qualifications. Thus, if a license holder becomes disqualified from carrying a gun subsequent to obtaining a license, he or she will likely retain the license. This law requires every license holder to recertify the licensee's gun license every five years. Failure of a licensee to have his or her license recertified will result in revocation of the license.

In addition, in order to ensure that legal gun license holders receive their licenses as swiftly as possible and to ensure the swift and accurate ability to match license holders with disqualifying events such as a felony conviction, the bill establishes an electronic license and record database. The electronic database will permit regular matching by the State against records of prohibited persons (e.g., those with criminal histories, orders of protection, and mental illnesses that bar gun ownership and licensing) as well as against other databases such as death records to ensure that New York's license records are up to date.

Furthermore, orders of protection are intended to protect victims of domestic violence from their abusers and prevent violent crimes from occurring. This bill enhances protections for victims of domestic violence by strengthening the provisions regarding the possession and surrender of firearms and the suspension and revocation of, and ineligibility for, licenses by individuals who are the respondents in an order of protection. The bill makes changes to the Family Court Act to conform to the 2007 amendments made to the CPL.

Private Gun Sales

Under current New York law, background checks on purchasers are required for all purchases of guns from gun dealers and at gun shows, however, individuals that purchase guns through private sellers are not required to undergo background checks. This bill requires background checks for all gun sales, including private sales, ensuring that otherwise disqualified individuals cannot circumvent the law by obtaining guns buying from a private seller.

Safe Storage

To prevent unauthorized possession and use of guns, this bill requires anyone who owns a gun or who lives with someone who the owner has reason to know is disqualified from possessing a gun under certain provisions of federal law to secure any gun in a safe storage depository or render it incapable of being fired by putting a safety lock on the gun if it is to be outside the owner's direct control.

Persons with Mental Illness

This bill adds provisions to revoke or suspend licenses of individuals with mental illness who, in the opinion of mental health professionals would pose a danger to themselves or others should they possess guns. The bill also extends and expands Kendra's Law to provide additional out-patient treatment services to persons with mental illness.

New and Enhanced Criminal Penalties

The new and amended sections of the Penal Law are focused on the meth-

ods by which gun violence is often carried out in our communities, giving law enforcement better tools to punish and deter such conduct. As the presence of illegal guns on our streets endangers the welfare of entire communities, these provisions ensure appropriate penalties for making guns available to prohibited persons, as well as putting our children at risk by, among other dangerous and illegal activities, possessing guns near school grounds. In addition, recognizing the widespread violence caused by gang activity, the bill establishes penalties for participation in gang activity resulting in the commission of a violent crime.

The bill also contains new provisions acknowledging the danger that our first responders face every day as they protect other New Yorkers by establishing an enhanced penalty for knowingly causing the death of a first responder in the course of his or her duties.

LEGISLATIVE HISTORY:

New proposal.

BUDGET IMPLICATIONS:

Any costs related to this bill will be paid out of the Division of State Police capital budget.

EFFECTIVE DATE:

The bill will take effect immediately except where otherwise provided.
