

PROGRAM BILL # 1

S.

Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

CRIMIPLA

(Licensure, suspension and revoca-
tion of firearms licenses)

CP L. firearms licenses

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

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal

s20 Adams	s17 Felder	s63 Kennedy	s25 Montgomery	s23 Savino
s15 Addabbo	s02 Flanagan	s34 Klein	s54 Nozzolio	s29 Serrano
s11 Avella	s08 Fuschillo	s28 Krueger	s55 O'Brien	s51 Seward
s40 Ball	s59 Gallivan	s24 Lanza	s58 O'Mara	s09 Skelos
s42 Bonacic	s12 Gianaris	s39 Larkin	s21 Parker	s14 Smith
s04 Boyle	s41 Gipson	s37 Latimer	s13 Peralta	s26 Squadron
s44 Breslin	s22 Golden	s01 LaValle	s30 Perkins	s16 Stavisky
s38 Carlucci	s47 Griffo	s52 Libous	s61 Ranzenhofer	s35 Stewart- Cousins
s50 DeFrancisco	s60 Grisanti	s45 Little	s48 Ritchie	s53 Valesky
s32 Diaz	s06 Hannon	s05 Marcellino	s33 Rivera	s57 Young
s18 Dilan	s36 Hassell-	s43 Marchione	s56 Robach	s03 Zeldin
s31 Espaillat	Thompson	s07 Martins	s19 Sampson	s46
s49 Farley	s27 Hoylman	s62 Maziarz	s10 Sanders	

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

a049 Abbate	a034 DenDekker	a097 Jaffee	a136 Morelle	a111 Santabarbara
a092 Abinanti	a081 Dinowitz	a135 Johns	a057 Mosley	a029 Scarborough
a084 Arroyo	a147 DiPietro	a113 Jordan	a039 Moya	a016 Schimel
a035 Aubry	a115 Duprey	a094 Katz	a133 Nojay	a140 Schimminger
a120 Barclay	a004 Englebright	a074 Kavanagh	a037 Nolan	a087 Sepulveda
a106 Barrett	a054 Espinal	a142 Kearns	a130 Oaks	a065 Silver
a060 Barron	a109 Fahy	a076 Kellner	a069 O'Donnell	a027 Simanowitz
a082 Benedetto	a071 Farrell	a040 Kim	a051 Ortiz	a036 Simotas
a117 Blankenbush	a126 Finch	a131 Kolb	a091 Otis	a104 Skartados
a062 Borelli	a008 Fitzpatrick	a105 Lalor	a132 Palmesano	a099 Skouris
a055 Boyland	a124 Friend	a013 Lavine	a088 Paulin	a022 Solages
a026 Braunstein	a143 Gabryszak	a050 Lentol	a141 Peoples-	a114 Stec
a044 Brennan	a095 Galef	a125 Lifton	Stokes	a110 Steck
a119 Brindisi	a137 Gantt	a102 Lopez, P.	a058 Perry	a079 Stevenson
a138 Bronson	a007 Garbarino	a053 Lopez, V.	a089 Pretlow	a127 Stirpe
a046 Brook-Krasny	a077 Gibson	a002 Losquadro	a073 Quart	a011 Sweeney
a093 Buchwald	a148 Giglio	a123 Lupardo	a019 Ra	a112 Tedisco
a118 Butler	a080 Gjonaj	a010 Lupinacci	a098 Rabbitt	a101 Tenney
a103 Cahill	a066 Glick	a121 Magee	a012 Raia	a001 Thiele
a043 Camara	a023 Goldfeder	a129 Maguarelli	a006 Ramos	a061 Titone
a086 Castro	a150 Goodell	a059 Maisel	a134 Reilich	a031 Titus
a145 Ceretto	a075 Gottfried	a064 Malliotakis	a078 Rivera	a146 Walter
a033 Clark	a005 Graf	a030 Markey	a128 Roberts	a041 Weinstein
a047 Colton	a100 Gunther	a090 Mayer	a056 Robinson	a028 Weisenberg
a032 Cook	a139 Hawley	a108 McDonald	a068 Rodriguez	a024 Weprin
a144 Corwin	a083 Heastie	a014 McDonough	a072 Rosa	a070 Wright
a085 Crespo	a003 Hennessey	a017 McKeivitt	a067 Rosenthal	a096 Zebrowski
a122 Crouch	a028 Hevesi	a107 McLaughlin	a025 Rozic	
a021 Curran	a048 Hkind	a038 Miller	a116 Russell	
a063 Cusick	a018 Hooper	a052 Millman	a149 Ryan	
a045 Cymbrowitz	a042 Jacobs	a015 Montesano	a009 Saladino	

1) Single House Bill (introduced and printed separately in either or both
houses). Uni-Bill (introduced simultaneously in both houses and printed as one
bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2 signed
copies of bill and 4 copies of memorandum in support (single house); or 4 signed
copies of bill and 8 copies of memorandum in support (uni-bill).

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:

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 incapaci-
7 tated 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:

1 3. Within a reasonable period prior to discharge of an inmate commit-
2 ted from a state correctional facility from a hospital in the department
3 of mental hygiene to the community, the director shall ensure that a
4 clinical assessment has been completed to determine whether the inmate
5 meets the criteria for assisted outpatient treatment pursuant to subdi-
6 vision (c) of section 9.60 of the mental hygiene law. If, as a result
7 of such assessment, the director determines that the inmate meets such
8 criteria, prior to discharge the director of the hospital shall either
9 petition for a court order pursuant to section 9.60 of the mental
10 hygiene law, or report in writing to the director of community services
11 of the local governmental unit in which the inmate is expected to reside
12 so that an investigation may be conducted pursuant to section 9.47 of
13 the mental hygiene law.

14 § 4. Subdivisions 1, 2 and 3 of section 842-a of the family court act,
15 as added by chapter 644 of the laws of 1996, paragraph (a) of subdivi-
16 sion 1 as amended by chapter 434 of the laws of 2000, the opening para-
17 graph of subdivision 3 as amended by chapter 597 of the laws of 1998,
18 paragraph (a) of subdivision 3 as amended by chapter 635 of the laws of
19 1999, are amended to read as follows:

20 1. [Mandatory and permissive suspension] Suspension of firearms
21 license and ineligibility for such a license upon the issuance of a
22 temporary order of protection. Whenever a temporary order of protection
23 is issued pursuant to section eight hundred twenty-eight of this
24 article, or pursuant to article four, five, six, seven or ten of this
25 act:

26 (a) the court shall suspend any such existing license possessed by the
27 respondent, order the respondent ineligible for such a license, and
28 order the immediate surrender pursuant to subparagraph (f) of paragraph

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

19 (b) the court [may] shall where the court finds a substantial risk
20 that the respondent may use or threaten to use a firearm unlawfully
21 against the person or persons for whose protection the temporary order
22 of protection is issued, suspend any such existing license possessed by
23 the respondent, order the respondent ineligible for such a license, and
24 order the immediate surrender pursuant to subparagraph (f) of paragraph
25 one of subdivision a of section 265.20 and subdivision six of section
26 400.05 of the penal law, of any or all firearms owned or possessed.

27 2. [Mandatory and permissive revocation] Revocation or suspension of
28 firearms license and ineligibility for such a license upon the issuance

1 of an order of protection. Whenever an order of protection is issued
2 pursuant to section eight hundred forty-one of this part, or pursuant to
3 article four, five, six, seven or ten of this act:

4 (a) the court shall revoke any such existing license possessed by the
5 respondent, order the respondent 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 where
9 the court finds that the conduct which resulted in the issuance of the
10 order of protection involved (i) the infliction of [serious] physical
11 injury, as defined in subdivision [ten] nine of section 10.00 of the
12 penal law, (ii) the use or threatened use of a deadly weapon or danger-
13 ous instrument as those terms are defined in subdivisions twelve and
14 thirteen of section 10.00 of the penal law, or (iii) behavior constitut-
15 ing any violent felony offense as defined in section 70.02 of the penal
16 law; and

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

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

1 penal law or stalking in the fourth degree as defined in section 120.45
2 of such law; and

3 (b) the court [may] shall where the court finds a substantial risk
4 that the respondent may use or threaten to use a firearm unlawfully
5 against the person or persons for whose protection the order of
6 protection was issued, (i) revoke any such existing license possessed by
7 the respondent, order the respondent ineligible for such a license,
8 whether or not the respondent possesses such a license, and order the
9 immediate surrender pursuant to subparagraph (f) of paragraph one of
10 subdivision a of section 265.20 and subdivision six of section 400.05 of
11 the penal law, of any or all firearms owned or possessed or (ii) suspend
12 any such existing license possessed by the respondent, order the
13 respondent ineligible for such a license, and order the immediate
14 surrender of any or all firearms owned or possessed.

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

17 § 846-a. Powers on failure to obey order. If a respondent is brought
18 before the court for failure to obey any lawful order issued under this
19 article or an order of protection or temporary order of protection
20 issued pursuant to this act or issued by a court of competent jurisdic-
21 tion of another state, territorial or tribal jurisdiction [in a proceed-
22 ing] and if, after hearing, the court is satisfied by competent proof
23 that the respondent has willfully failed to obey any such order, the
24 court may modify an existing order or temporary order of protection to
25 add reasonable conditions of behavior to the existing order [of
26 protection], make a new order of protection in accordance with section
27 eight hundred forty-two of this part, may order the forfeiture of bail
28 in a manner consistent with article five hundred forty of the criminal

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 subdivi-
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.

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

3 § 446-a. Firearms; surrender and license suspension, revocation and
4 ineligibility. Upon the issuance of an order of protection or temporary
5 order of protection, or upon a violation of such order, the court shall
6 make a determination regarding the suspension and revocation of a
7 license to carry, possess, repair or dispose of a firearm or firearms,
8 ineligibility for such a license and the surrender of firearms in
9 accordance with section eight hundred forty-two-a of this act.

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

12 § 552. Firearms; surrender and license suspension, revocation and
13 ineligibility. Upon the issuance of an order of protection or temporary
14 order of protection, or upon a violation of such order, the court shall
15 make a determination regarding the suspension and revocation of a
16 license to carry, possess, repair or dispose of a firearm or firearms,
17 ineligibility for such a license and the surrender of firearms in
18 accordance with section eight hundred forty-two-a of this act.

19 § 8. The family court act is amended by adding a new section 656-a to
20 read as follows:

21 § 656-a. Firearms; surrender and license suspension, revocation and
22 ineligibility. Upon the issuance of an order of protection or temporary
23 order of protection, or upon a violation of such order, the court shall
24 make a determination regarding the suspension and revocation of a
25 license to carry, possess, repair or dispose of a firearm or firearms,
26 ineligibility for such a license and the surrender of firearms in
27 accordance with section eight hundred forty-two-a of this act.

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

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

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

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

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

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

27 h. Upon issuance of an order of protection or temporary order of
28 protection or upon a violation of such order, the court [may] shall make

1 [an order] a determination regarding the suspension and revocation of a
2 license to carry, possess, repair or dispose of a firearm or firearms,
3 ineligibility for such a license and the surrender of firearms in
4 accordance with [section] sections eight hundred forty-two-a and eight
5 hundred forty-six-a of the family court act [directing the surrender of
6 firearms, revoking or suspending a party's firearms license, and/or
7 directing that such party be ineligible to receive a firearms license],
8 as applicable. Upon issuance of an order of protection pursuant to this
9 section or upon a finding of a violation thereof, the court also may
10 direct payment of restitution in an amount not to exceed ten thousand
11 dollars in accordance with subdivision (e) of section eight hundred
12 forty-one of such act; provided, however, that in no case shall an order
13 of restitution be issued where the court determines that the party
14 against whom the order would be issued has already compensated the
15 injured party or where such compensation is incorporated in a final
16 judgment or settlement of the action.

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

19 9. Upon issuance of an order of protection or temporary order of
20 protection or upon a violation of such order, the court [may take an
21 order] shall make a determination regarding the suspension and revoca-
22 tion of a license to carry, possess, repair or dispose of a firearm or
23 firearms, ineligibility for such a license and the surrender of firearms
24 in accordance with [section] sections eight hundred forty-two-a and
25 eight hundred forty-six-a of the family court act [directing the surren-
26 der of firearms, revoking or suspending a party's firearms license,
27 and/or directing that such party be ineligible to receive a firearms
28 license], as applicable. Upon issuance of an order of protection pursu-

1 ant to this section or upon a finding of a violation thereof, the court
2 also may direct payment of restitution in an amount not to exceed ten
3 thousand dollars in accordance with subdivision (e) of section eight
4 hundred forty-one of such act; provided, however, that in no case shall
5 an order of restitution be issued where the court determines that the
6 party against whom the order would be issued has already compensated the
7 injured party or where such compensation is incorporated in a final
8 [judgement] judgment or settlement of the action.

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

12 [Mandatory and permissive suspension] Suspension of firearms license
13 and ineligibility for such a license upon issuance of temporary order of
14 protection. Whenever a temporary order of protection is issued pursuant
15 to subdivision one of section 530.12 or subdivision one of section
16 530.13 of this article:

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

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

1 [Mandatory and permissive revocation] Revocation or suspension of
2 firearms license and ineligibility for such a license upon issuance of
3 an order of protection. Whenever an order of protection is issued pursu-
4 ant to subdivision five of section 530.12 or subdivision four of section
5 530.13 of this article:

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

18 § 15. The opening paragraph and paragraph (b) of subdivision 3 of
19 section 530.14 of the criminal procedure law, the opening paragraph as
20 amended by chapter 597 of the laws of 1998 and paragraph (b) as added by
21 chapter 644 of the laws of 1996, are amended to read as follows:

22 [Mandatory and permissive revocation] Revocation or suspension of
23 firearms license and ineligibility for such a license upon a finding of
24 a willful failure to obey an order of protection. Whenever a defendant
25 has been found pursuant to subdivision eleven of section 530.12 or
26 subdivision eight of section 530.13 of this article to have willfully
27 failed to obey an order of protection issued by a court of competent
28 jurisdiction in this state or another state, territorial or tribal

1 jurisdiction, in addition to any other remedies available pursuant to
2 subdivision eleven of section 530.12 or subdivision eight of section
3 530.13 of this article:

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

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

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

26 § 17. The general business law is amended by adding a new article
27 39-DDD to read as follows:

1 ARTICLE 39-DDD

2 PRIVATE SALE OR DISPOSAL OF FIREARMS, RIFLES AND SHOTGUNS

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

4 § 898. Private sale or disposal of firearms, rifles and shotguns. 1.

5 In addition to any other requirements pursuant to state and federal law,

6 all sales, exchanges or disposals of firearms, rifles or shotguns shall

7 be conducted in accordance with this section unless such sale, exchange

8 or disposal is conducted by a licensed importer, licensed manufacturer

9 or licensed dealer, as those terms are defined in 18 USC § 922, when

10 such sale, exchange or disposal is conducted pursuant to that person's

11 federal firearms license or such sale, exchange or disposal is between

12 members of an immediate family. For purposes of this section, "immediate

13 family" shall mean spouses, domestic partners, children and step-chil-

14 dren.

15 2. Before any sale, exchange or disposal pursuant to this article, a

16 national instant criminal background check must be completed by a dealer

17 who consents to conduct such check, and upon completion of such back-

18 ground check, shall complete a document, the form of which shall be

19 approved by the superintendent of state police, that identifies and

20 confirms that such check was performed.

21 3. All dealers shall maintain a record of such transactions conducted

22 pursuant to this section and such record shall be maintained on the

23 premises mentioned and described in the license and shall be open at all

24 reasonable hours for inspection by any peace officer, acting pursuant to

25 his or her special duties, or police officer.

26 4. A dealer may require that any sale or transfer conducted pursuant

27 to this section be subject to a fee of not to exceed ten dollars per

28 transaction.

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

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

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

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

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

25 (j) (1) The commissioner, in cooperation with other applicable state
26 agencies, shall [be authorized to] collect, retain or modify data or
27 records, [or to] and shall transmit such data or records: (i) to the
28 division of criminal justice services, or to the criminal justice infor-

1 mation services division of the federal bureau of investigation, for the
2 purposes of responding to queries to the national instant criminal back-
3 ground check system regarding attempts to purchase or otherwise take
4 possession of firearms, as defined in 18 USC 921(a)(3), in accordance
5 with applicable federal laws or regulations, or (ii) to the division of
6 criminal justice services, which may re-disclose such data and records
7 only for determining whether a license issued pursuant to section 400.00
8 of the penal law should be denied, suspended or revoked, under subdivi-
9 sion eleven of such section, or for determining whether a person is no
10 longer permitted under federal or state law to possess a firearm. Such
11 records, which may not be used for any other purpose, shall include only
12 names and other non-clinical identifying information of persons who have
13 been involuntarily committed to a hospital pursuant to article nine of
14 this chapter, or section four hundred two or subdivision two of section
15 five hundred eight of the correction law, or article seven hundred thir-
16 ty or section 330.20 of the criminal procedure law or sections 322.2 or
17 353.4 of the family court act, or to a secure treatment facility pursu-
18 ant to article ten of this chapter.

19 (2) The commissioner shall establish within the office of mental
20 health an administrative process to permit a person who has been or may
21 be disqualified from possessing such a firearm pursuant to 18 USC
22 922(4)(d) or who has been or may be disqualified from continuing to have
23 a license to carry, possess, repair, or dispose of a firearm under
24 section 400.00 of the penal law because such person was involuntarily
25 committed or civilly confined to a facility under the jurisdiction of
26 the commissioner, to petition for relief from that disability where such
27 person's record and reputation are such that such person will not be
28 likely to act in a manner dangerous to public safety and where the

1 granting of the relief would not be contrary to public safety. The
2 commissioner shall promulgate regulations to establish the relief from
3 disabilities program, which shall include, but not be limited to,
4 provisions providing for: (i) an opportunity for a disqualified person
5 to petition for relief in writing; (ii) the authority for the agency to
6 require that the petitioner undergo a clinical evaluation and risk
7 assessment; and (iii) a requirement that the agency issue a decision in
8 writing explaining the reasons for a denial or grant of relief. The
9 denial of a petition for relief from disabilities may be reviewed de
10 novo pursuant to the proceedings under article seventy-eight of the
11 civil practice law and rules.

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

14 § 9.46 Reports of substantial risk or threat of harm by mental health
15 professionals.

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

19 (b) Notwithstanding any other law to the contrary, when a mental
20 health professional currently providing treatment services to a person
21 determines, in the exercise of reasonable professional judgment, that
22 such person is likely to engage in conduct that would result in serious
23 harm to self or others, he or she shall be required to report, as soon
24 as practicable, to the director of community services, or the director's
25 designee, who shall report to the division of criminal justice services
26 whenever he or she agrees that the person is likely to engage in such
27 conduct. Information transmitted to the division of criminal justice
28 services shall be limited to names and other non-clinical identifying

1 information, which may only be used for determining whether a license
2 issued pursuant to section 400.00 of the penal law should be suspended
3 or revoked, or for determining whether a person is ineligible for a
4 license issued pursuant to section 400.00 of the penal law, or is no
5 longer permitted under state or federal law to possess a firearm.

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

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

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

17 (5) ensuring evaluation of the need for ongoing assisted outpatient
18 treatment pursuant to subdivision (k) of section 9.60 of this article
19 prior to the expiration of any assisted outpatient treatment order;

20 (6) if he or she has been ordered to provide for or arrange for
21 assisted outpatient treatment pursuant to paragraph five of subdivision
22 (j) of section 9.60 of this article or became the appropriate director
23 pursuant to this paragraph or subdivision (c) of section 9.48 of this
24 article, notifying the director of community services of the new county
25 of residence when he or she has reason to believe that an assisted
26 outpatient has or will change his or her county of residence during the
27 pendency of an assisted outpatient treatment order. Upon such change of
28 residence, the director of the new county of residence shall become the

1 appropriate director, as such term is defined in section 9.60 of this
2 article; and

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

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

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

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

27 (2) If after hearing all relevant evidence, the court finds by clear
28 and convincing evidence that the subject of the petition meets the

1 criteria for assisted outpatient treatment, and there is no appropriate
2 and feasible less restrictive alternative, the court may order the
3 subject to receive assisted outpatient treatment for an initial period
4 not to exceed [six months] one year. In fashioning the order, the court
5 shall specifically make findings by clear and convincing evidence that
6 the proposed treatment is the least restrictive treatment appropriate
7 and feasible for the subject. The order shall state an assisted outpa-
8 tient treatment plan, which shall include all categories of assisted
9 outpatient treatment, as set forth in paragraph one of subdivision (a)
10 of this section, which the assisted outpatient is to receive, but shall
11 not include any such category that has not been recommended in both the
12 proposed written treatment plan and the testimony provided to the court
13 pursuant to subdivision (i) of this section.

14 (5) If the petitioner is the director of a hospital that operates an
15 assisted outpatient treatment program, the court order shall direct the
16 hospital director to provide or arrange for all categories of assisted
17 outpatient treatment for the assisted outpatient throughout the period
18 of the order. [For all other persons] In all other instances, the order
19 shall require the appropriate director [of community services of the
20 appropriate local governmental unit], as that term is defined in this
21 section, to provide or arrange for all categories of assisted outpatient
22 treatment for the assisted outpatient throughout the period of the
23 order.

24 (k) Petition for additional periods of treatment. (1) Prior to the
25 expiration of an order pursuant to this section, the appropriate direc-
26 tor shall review whether the assisted outpatient continues to meet the
27 criteria for assisted outpatient treatment. If, as documented in the
28 petition, the director determines that such criteria continue to be met

1 or has made appropriate attempts to, but has not been successful in
2 eliciting, the cooperation of the subject to submit to an examination,
3 within thirty days prior to the expiration of an order of assisted
4 outpatient treatment, such director may petition the court to order
5 continued assisted outpatient treatment pursuant to paragraph two of
6 this subdivision. Upon determining whether such criteria continue to be
7 met, such director shall notify the program coordinator in writing as to
8 whether a petition for continued assisted outpatient treatment is
9 warranted and whether such a petition was or will be filed.

10 (2) Within thirty days prior to the expiration of an order of assisted
11 outpatient treatment, the appropriate director or the current petition-
12 er, if the current petition was filed pursuant to subparagraph (i) or
13 (ii) of paragraph one of subdivision (e) of this section, and the
14 current petitioner retains his or her original status pursuant to the
15 applicable subparagraph, may petition the court to order continued
16 assisted outpatient treatment for a period not to exceed one year from
17 the expiration date of the current order. If the court's disposition of
18 such petition does not occur prior to the expiration date of the current
19 order, the current order shall remain in effect until such disposition.
20 The procedures for obtaining any order pursuant to this subdivision
21 shall be in accordance with the provisions of the foregoing subdivisions
22 of this section; provided that the time restrictions included in para-
23 graph four of subdivision (c) of this section shall not be applicable.
24 The notice provisions set forth in paragraph six of subdivision (j) of
25 this section shall be applicable. Any court order requiring periodic
26 blood tests or urinalysis for the presence of alcohol or illegal drugs
27 shall be subject to review after six months by the physician who devel-
28 oped the written treatment plan or another physician designated by the

1 director, and such physician shall be authorized to terminate such blood
2 tests or urinalysis without further action by the court.

3 (n) Failure to comply with assisted outpatient treatment. Where in the
4 clinical judgment of a physician, (i) the assisted outpatient, has
5 failed or refused to comply with the assisted outpatient treatment, (ii)
6 efforts were made to solicit compliance, and (iii) such assisted outpa-
7 tient may be in need of involuntary admission to a hospital pursuant to
8 section 9.27 of this article or immediate observation, care and treat-
9 ment pursuant to section 9.39 or 9.40 of this article, such physician
10 may request the appropriate director of community services, the direc-
11 tor's designee, or any physician designated by the director of community
12 services pursuant to section 9.37 of this article, to direct the removal
13 of such assisted outpatient to an appropriate hospital for an examina-
14 tion to determine if such person has a mental illness for which hospi-
15 talization is necessary pursuant to section 9.27, 9.39 or 9.40 of this
16 article. Furthermore, if such assisted outpatient refuses to take medi-
17 cations as required by the court order, or he or she refuses to take, or
18 fails a blood test, urinalysis, or alcohol or drug test as required by
19 the court order, such physician may consider such refusal or failure
20 when determining whether the assisted outpatient is in need of an exam-
21 ination to determine whether he or she has a mental illness for which
22 hospitalization is necessary. Upon the request of such physician, the
23 appropriate director, the director's designee, or any physician desig-
24 nated pursuant to section 9.37 of this article, may direct peace offi-
25 cers, acting pursuant to their special duties, or police officers who
26 are members of an authorized police department or force or of a sher-
27 iff's department to take the assisted outpatient into custody and trans-
28 port him or her to the hospital operating the assisted outpatient treat-

1 ment program or to any hospital authorized by the director of community
2 services to receive such persons. Such law enforcement officials shall
3 carry out such directive. Upon the request of such physician, the appro-
4 priate director, the director's designee, or any physician designated
5 pursuant to section 9.37 of this article, an ambulance service, as
6 defined by subdivision two of section three thousand one of the public
7 health law, or an approved mobile crisis outreach team as defined in
8 section 9.58 of this article shall be authorized to take into custody
9 and transport any such person to the hospital operating the assisted
10 outpatient treatment program, or to any other hospital authorized by the
11 appropriate director of community services to receive such persons. Any
12 director of community services, or designee, shall be authorized to
13 direct the removal of an assisted outpatient who is present in his or
14 her county to an appropriate hospital, in accordance with the provisions
15 of this subdivision, based upon a determination of the appropriate
16 director of community services directing the removal of such assisted
17 outpatient pursuant to this subdivision. Such person may be retained for
18 observation, care and treatment and further examination in the hospital
19 for up to seventy-two hours to permit a physician to determine whether
20 such person has a mental illness and is in need of involuntary care and
21 treatment in a hospital pursuant to the provisions of this article. Any
22 continued involuntary retention in such hospital beyond the initial
23 seventy-two hour period shall be in accordance with the provisions of
24 this article relating to the involuntary admission and retention of a
25 person. If at any time during the seventy-two hour period the person is
26 determined not to meet the involuntary admission and retention
27 provisions of this article, and does not agree to stay in the hospital
28 as a voluntary or informal patient, he or she must be released. Failure

1 to comply with an order of assisted outpatient treatment shall not be
2 grounds for involuntary civil commitment or a finding of contempt of
3 court.

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

7 (g) (1) The commissioner, in cooperation with other applicable state
8 agencies, shall [be authorized to] collect, retain or modify data or
9 records, [or to] and shall transmit such data or records to: (i) the
10 division of criminal justice services, or to the criminal justice infor-
11 mation services division of the federal bureau of investigation, for the
12 purposes of responding to queries to the national instant criminal back-
13 ground check system regarding attempts to purchase or otherwise take
14 possession of firearms, as defined in 18 USC 921(a)(3), in accordance
15 with applicable federal laws or regulations, or (ii) to the division of
16 criminal justice services, for the purposes of determining whether a
17 license issued pursuant to section 400.00 of the penal law should be
18 denied, suspended or revoked, under subdivision eleven of such section,
19 or for determining whether a person is no longer permitted under federal
20 or state law to possess a firearm. Such records shall include only
21 names and other non-clinical identifying information of persons who have
22 had a guardian appointed for them pursuant to any provision of state
23 law, based on a determination that as a result of marked subnormal
24 intelligence, mental illness, incapacity, condition or disease, they
25 lack the mental capacity to contract or manage their own affairs, and
26 persons who have been involuntarily committed to a facility pursuant to
27 article fifteen of this chapter, or article seven hundred thirty or

1 section 330.20 of the criminal procedure law or sections 322.2 or 353.4
2 of the family court act.

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

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

27 12. to a director of community services as defined in article nine of
28 this chapter or his or her designee, provided that such director or his

1 or her designee (i) requests such information in the exercise of his or
2 her statutory functions, powers and duties pursuant to section 9.37,
3 9.45, 9.47, 9.48, 9.60 or 41.13 of this chapter; or (ii) the disclosure
4 of information is required pursuant to section 9.46 of this chapter.

5 15. to the division of criminal justice services, names and other
6 non-clinical identifying information for the sole purpose of implement-
7 ing the division's responsibilities and duties under sections 400.00 and
8 400.02 of the penal law.

9 § 26. Section 10.00 of the penal law is amended by adding a new subdi-
10 vision 21 to read as follows:

11 21. "Drug trafficking felony" means any of the following offenses
12 defined in article two hundred twenty of this chapter: violation of use
13 of a child to commit a controlled substance offense as defined in
14 section 220.28; criminal sale of a controlled substance in the fourth
15 degree as defined in section 220.34; criminal sale of a controlled
16 substance in the third degree as defined in section 220.39; criminal
17 sale of a controlled substance in the second degree as defined in
18 section 220.41; criminal sale of a controlled substance in the first
19 degree as defined in section 220.43; criminal sale of a controlled
20 substance in or near school grounds as defined in section 220.44; unlaw-
21 ful manufacture of methamphetamine in the second degree as defined in
22 section 220.74; unlawful manufacture of methamphetamine in the first
23 degree as defined in section 220.75; or operating as a major trafficker
24 as defined in section 220.77.

25 § 26-a. The penal law is amended by adding a new section 60.11-a to
26 read as follows:

27 § 60.11-a Authorized dispositions; certain criminal possession of a
28 weapon in the third degree offenders.

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

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

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

1 an act of terrorism in the first degree as defined in section 490.15,
2 hindering prosecution of terrorism in the second degree as defined in
3 section 490.30, and criminal possession of a chemical weapon or biolog-
4 ical weapon in the third degree as defined in section 490.37.

5 (c) Class D violent felony offenses: an attempt to commit any of the
6 class C felonies set forth in paragraph (b); reckless assault of a child
7 as defined in section 120.02, assault in the second degree as defined in
8 section 120.05, menacing a police officer or peace officer as defined in
9 section 120.18, stalking in the first degree, as defined in subdivision
10 one of section 120.60, strangulation in the second degree as defined in
11 section 121.12, rape in the second degree as defined in section 130.30,
12 criminal sexual act in the second degree as defined in section 130.45,
13 sexual abuse in the first degree as defined in section 130.65, course of
14 sexual conduct against a child in the second degree as defined in
15 section 130.80, aggravated sexual abuse in the third degree as defined
16 in section 130.66, facilitating a sex offense with a controlled
17 substance as defined in section 130.90, criminal possession of a weapon
18 in the third degree as defined in subdivision five, six, seven [or],
19 eight, nine or ten of section 265.02, criminal sale of a firearm in the
20 third degree as defined in section 265.11, intimidating a victim or
21 witness in the second degree as defined in section 215.16, soliciting or
22 providing support for an act of terrorism in the second degree as
23 defined in section 490.10, and making a terroristic threat as defined in
24 section 490.20, falsely reporting an incident in the first degree as
25 defined in section 240.60, placing a false bomb or hazardous substance
26 in the first degree as defined in section 240.62, placing a false bomb
27 or hazardous substance in a sports stadium or arena, mass transportation
28 facility or enclosed shopping mall as defined in section 240.63, and

1 aggravated unpermitted use of indoor pyrotechnics in the first degree as
2 defined in section 405.18.

3 § 28. The opening paragraph of paragraph (c) of subdivision 2 of
4 section 70.02 of the penal law, as amended by chapter 764 of the laws of
5 2005, is amended to read as follows:

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

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

20 (b) For a class C felony, the term must be at least three and one-half
21 years and must not exceed fifteen years, provided, however, that the
22 term must be: (i) at least seven years and must not exceed twenty years
23 where the sentence is for the crime of aggravated manslaughter in the
24 second degree as defined in section 125.21 of this chapter; (ii) at
25 least seven years and must not exceed twenty years where the sentence is
26 for the crime of attempted aggravated assault upon a police officer or
27 peace officer as defined in section 120.11 of this chapter; [and] (iii)
28 at least three and one-half years and must not exceed twenty years where

1 the sentence is for the crime of aggravated criminally negligent homi-
2 cide as defined in section 125.11 of this chapter; and (iv) at least
3 five years and must not exceed fifteen years where the sentence is
4 imposed for the crime of aggravated criminal possession of a weapon as
5 defined in section 265.19 of this chapter;

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

9 (c) For a class D felony, the term must be at least two years and must
10 not exceed seven years, provided, however, that the term must be: (i) at
11 least two years and must not exceed eight years where the sentence is
12 for the crime of menacing a police officer or peace officer as defined
13 in section 120.18 of this chapter; and (ii) at least three and one-half
14 years and must not exceed seven years where the sentence is imposed for
15 the crime of criminal possession of a weapon in the third degree as
16 defined in subdivision ten of section 265.02 of this chapter;

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

19 § 115.20 Criminal facilitation; definitions and construction.

20 For purposes of this article, such conduct shall include, but not be
21 limited to, making available, selling, exchanging, giving or disposing
22 of a community gun, which in fact, aids a person to commit a crime.
23 "Community gun" shall mean a firearm that is actually shared, made
24 available, sold, exchanged, given or disposed of among or between two or
25 more persons, at least one of whom is not authorized pursuant to law to
26 possess such firearm. "Dispose of" shall have the same meaning as that
27 term is defined in section 265.00 of this chapter. "Share" and "make
28 available" shall, in the case of a firearm, be construed to include

1 knowingly placing such firearm at a location accessible and known to one
2 or more other persons.

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

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

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

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

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

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

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

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

3 (ii-a) the intended victim was a firefighter, emergency medical tech-
4 nician, ambulance driver, paramedic, physician or registered nurse
5 involved in a first response team, or any other individual who, in the
6 course of official duties, performs emergency response activities and
7 was engaged in such activities at the time of killing and the defendant
8 knew or reasonably should have known that the intended victim was such
9 firefighter, emergency medical technician, ambulance driver, paramedic,
10 physician or registered nurse; or

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

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

16 (i) a folding or telescoping stock;

17 (ii) a pistol grip that protrudes conspicuously beneath the action of
18 the weapon;

19 (iii) a bayonet mount;

20 (iv) a flash suppressor or threaded barrel designed to accommodate a
21 flash suppressor;

22 (v) a grenade launcher; or

23 (b) a semiautomatic shotgun that has at least two of the following
24 characteristics:

25 (i) a folding or telescoping stock;

26 (ii) a pistol grip that protrudes conspicuously beneath the action of
27 the weapon;

28 (iii) a fixed magazine capacity in excess of five rounds;

1 (iv) an ability to accept a detachable magazine; or

2 (c) a semiautomatic pistol that has an ability to accept a detachable
3 magazine and has at least two of the following characteristics:

4 (i) an ammunition magazine that attaches to the pistol outside of the
5 pistol grip;

6 (ii) a threaded barrel capable of accepting a barrel extender, flash
7 suppressor, forward handgrip, or silencer;

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

11 (iv) a manufactured weight of fifty ounces or more when the pistol is
12 unloaded;

13 (v) a semiautomatic version of an automatic rifle, shotgun or firearm;
14 or

15 (d) any of the weapons, or functioning frames or receivers of such
16 weapons, or copies or duplicates of such weapons, in any caliber, known
17 as:

18 (i) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all
19 models);

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

21 (iii) Beretta Ar70 (SC-70);

22 (iv) Colt AR-15;

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

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

25 (vii) Steyr AUG;

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

27 (ix) revolving cylinder shotguns, such as (or similar to) the Street
28 Sweeper and Striker 12;

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

5 (ii) a semiautomatic rifle that cannot accept a detachable magazine
6 that holds more than five rounds of ammunition;

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

9 (iv) a rifle, shotgun or pistol, or a replica or a duplicate thereof,
10 specified in Appendix A to section 922 of 18 U.S.C. as such weapon was
11 manufactured on October first, nineteen hundred ninety-three. The mere
12 fact that a weapon is not listed in Appendix A shall not be construed to
13 mean that such weapon is an assault weapon; or

14 (v) a semiautomatic rifle, a semiautomatic shotgun or a semiautomatic
15 pistol or any of the weapons defined in paragraph (d) of this subdivi-
16 sion lawfully possessed prior to September fourteenth, nineteen hundred
17 ninety-four.]

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

20 (i) a folding or telescoping stock;

21 (ii) a pistol grip that protrudes conspicuously beneath the action of
22 the weapon;

23 (iii) a thumbhole stock;

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

26 (v) a bayonet mount;

- 1 (vi) a flash suppressor, muzzle break, muzzle compensator, or threaded
2 barrel designed to accommodate a flash suppressor, muzzle break, or
3 muzzle compensator;
- 4 (vii) a grenade launcher; or
- 5 (b) a semiautomatic shotgun that has at least one of the following
6 characteristics:
- 7 (i) a folding or telescoping stock;
8 (ii) a thumbhole stock;
9 (iii) a second handgrip or a protruding grip that can be held by the
10 non-trigger hand;
- 11 (iv) a fixed magazine capacity in excess of seven rounds;
12 (v) an ability to accept a detachable magazine; or
- 13 (c) a semiautomatic pistol that has an ability to accept a detachable
14 magazine and has at least one of the following characteristics:
- 15 (i) a folding or telescoping stock;
16 (ii) a thumbhole stock;
17 (iii) a second handgrip or a protruding grip that can be held by the
18 non-trigger hand;
- 19 (iv) capacity to accept an ammunition magazine that attaches to the
20 pistol outside of the pistol grip;
- 21 (v) a threaded barrel capable of accepting a barrel extender, flash
22 suppressor, forward handgrip, or silencer;
- 23 (vi) a shroud that is attached to, or partially or completely encir-
24 cles, the barrel and that permits the shooter to hold the firearm with
25 the non-trigger hand without being burned;
- 26 (vii) a manufactured weight of fifty ounces or more when the pistol is
27 unloaded; or

1 (viii) a semiautomatic version of an automatic rifle, shotgun or
2 firearm;

3 (d) a revolving cylinder shotgun;

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

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

14 (g) provided, however, that such term does not include:

15 (i) any rifle, shotgun or pistol that (A) is manually operated by
16 bolt, pump, lever or slide action; (B) has been rendered permanently
17 inoperable; or (C) is an antique firearm as defined in 18 U.S.C.
18 921(a)(16);

19 (ii) a semiautomatic rifle that cannot accept a detachable magazine
20 that holds more than five rounds of ammunition;

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

23 (iv) a rifle, shotgun or pistol, or a replica or a duplicate thereof,
24 specified in Appendix A to 18 U.S.C. 922 as such weapon was manufactured
25 on October first, nineteen hundred ninety-three. The mere fact that a
26 weapon is not listed in Appendix A shall not be construed to mean that
27 such weapon is an assault weapon;

1 (v) any weapon validly registered pursuant to subdivision sixteen-a of
2 section 400.00 of this chapter. Such weapons shall be subject to the
3 provisions of paragraph (h) of this subdivision;

4 (vi) any firearm, rifle, or shotgun that was manufactured at least
5 fifty years prior to the current date, but not including replicas there-
6 of that is validly registered pursuant to subdivision sixteen-a of
7 section 400.00 of this chapter;

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

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

26 23. "Large capacity ammunition feeding device" means a magazine, belt,
27 drum, feed strip, or similar device, [manufactured after September thir-
28 teenth, nineteen hundred ninety-four,] that (a) has a capacity of, or

1 that can be readily restored or converted to accept, more than ten
2 rounds of ammunition, or (b) contains more than seven rounds of ammuni-
3 tion, or (c) is obtained after the effective date of the chapter of the
4 laws of two thousand thirteen which amended this subdivision and has a
5 capacity of, or that can be readily restored or converted to accept,
6 more than seven rounds of ammunition; provided, however, that such term
7 does not include an attached tubular device designed to accept, and
8 capable of operating only with, .22 caliber rimfire ammunition or a
9 feeding device that is a curio or relic. A feeding device that is a
10 curio or relic is defined as a device that (i) was manufactured at least
11 fifty years prior to the current date, (ii) is only capable of being
12 used exclusively in a firearm, rifle, or shotgun that was manufactured
13 at least fifty years prior to the current date, but not including repli-
14 cas thereof, (iii) is possessed by an individual who is not prohibited
15 by state or federal law from possessing a firearm and (iv) is registered
16 with the division of state police pursuant to subdivision sixteen-a of
17 section 400.00 of this chapter, except such feeding devices transferred
18 into the state may be registered at any time, provided they are regis-
19 tered within thirty days of their transfer into the state. Notwith-
20 standing paragraph (h) of subdivision twenty-two of this section, such
21 feeding devices may be transferred provided that such transfer shall be
22 subject to the provisions of section 400.03 of this chapter including
23 the check required to be conducted pursuant to such section.

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

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

1 § 40. Section 265.01 of the penal law, as added by chapter 1041 of the
2 laws of 1974, subdivision 1 as amended by chapter 257 of the laws of
3 2008, subdivision 2 as amended by chapter 220 of the laws of 1988,
4 subdivision 3 as amended by chapter 199 of the laws of 2006, subdivision
5 4 as amended by chapter 357 of the laws of 2011, subdivision 7 as added
6 by chapter 807 of the laws of 1981, and subdivision 8 as added by chap-
7 ter 646 of the laws of 1986, is amended to read as follows:

8 § 265.01 Criminal possession of a weapon in the fourth degree.

9 A person is guilty of criminal possession of a weapon in the fourth
10 degree when:

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

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

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

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

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

6 (6) He is a person who has been certified not suitable to possess a
7 rifle or shotgun, as defined in subdivision sixteen of section 265.00,
8 and refuses to yield possession of such rifle or shotgun upon the demand
9 of a police officer. Whenever a person is certified not suitable to
10 possess a rifle or shotgun, a member of the police department to which
11 such certification is made, or of the state police, shall forthwith
12 seize any rifle or shotgun possessed by such person. A rifle or shotgun
13 seized as herein provided shall not be destroyed, but shall be delivered
14 to the headquarters of such police department, or state police, and
15 there retained until the aforesaid certificate has been rescinded by the
16 director or physician in charge, or other disposition of such rifle or
17 shotgun has been ordered or authorized by a court of competent jurisdic-
18 tion.

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

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

23 Criminal possession of a weapon in the fourth degree is a class A
24 misdemeanor.

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

27 § 265.01-a. Criminal possession of a weapon on school grounds.

1 A person is guilty of criminal possession of a weapon on school
2 grounds when he or she knowingly has in his or her possession a rifle,
3 shotgun, or firearm in or upon a building or grounds, used for educa-
4 tional purposes, of any school, college, or university, except the
5 forestry lands, wherever located, owned and maintained by the State
6 University of New York college of environmental science and forestry, or
7 upon a school bus as defined in section one hundred forty-two of the
8 vehicle and traffic law, without the written authorization of such
9 educational institution.

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

11 § 41-a. The penal law is amended by adding a new section 265.01-b to
12 read as follows:

13 § 265.01-b Criminal possession of a firearm.

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

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

21 § 41-b. Subdivision 8 of section 265.02 of the penal law, as amended
22 by chapter 764 of the laws of 2005, is amended and two new subdivisions
23 9 and 10 are added to read as follows:

24 (8) Such person possesses a large capacity ammunition feeding device.
25 For purposes of this subdivision, a large capacity ammunition feeding
26 device shall not include an ammunition feeding device lawfully possessed
27 by such person before the effective date of the chapter of the laws of
28 two thousand thirteen which amended this subdivision, that has a capaci-

1 ty of, or that can be readily restored or converted to accept more than
2 seven but less than eleven rounds of ammunition, or that was manufac-
3 tured before September thirteenth, nineteen hundred ninety-four, that
4 has a capacity of, or that can be readily restored or converted to
5 accept, more than ten rounds of ammunition; or

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

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

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

14 (2) Sentencing. Notwithstanding any other provision of law to the
15 contrary, when a person is convicted of criminal use of a firearm in the
16 first degree as defined in subdivision one of this section, the court
17 shall impose an additional consecutive sentence of five years to the
18 [minimum term of an indeterminate] sentence imposed on the underlying
19 class B violent felony offense where the person convicted of such crime
20 displays a loaded weapon from which a shot, readily capable of producing
21 death or other serious injury may be discharged, in furtherance of the
22 commission of such crime, provided, however, that such additional
23 sentence shall not be imposed if the court, having regard to the nature
24 and circumstances of the crime and to the history and character of the
25 defendant, finds on the record that such additional consecutive sentence
26 would be unduly harsh and that not imposing such sentence would be
27 consistent with the public safety and would not deprecate the serious-
28 ness of the crime. Notwithstanding any other provision of law to the

1 contrary, the aggregate of the five year consecutive term imposed pursu-
2 ant to this subdivision and the minimum term of the indeterminate
3 sentence imposed on the underlying class B violent felony shall consti-
4 tute the new aggregate minimum term of imprisonment, and a person
5 subject to such term shall be required to serve the entire aggregate
6 minimum term and shall not be eligible for release on parole or condi-
7 tional release during such term. This subdivision shall not apply where
8 the defendant's criminal liability for displaying a loaded weapon from
9 which a shot, readily capable of producing death or other serious injury
10 may be discharged, in furtherance of the commission of crime is based on
11 the conduct of another pursuant to section 20.00 of [the penal law] this
12 chapter.

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

15 § 265.17 Criminal purchase or disposal of a weapon.

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

17 1. Knowing that he or she is prohibited by law from possessing a
18 firearm, rifle or shotgun because of a prior conviction or because of
19 some other disability which would render him or her ineligible to
20 lawfully possess a firearm, rifle or shotgun in this state, such person
21 [attempts to purchase] purchases a firearm, rifle or shotgun from another
22 person; or

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

26 3. Knowing that another person is prohibited by law from possessing a
27 firearm, rifle or shotgun because of a prior conviction or because of
28 some other disability which would render him or her ineligible to

1 lawfully possess a firearm, rifle or shotgun in this state, a person
2 disposes of a firearm, rifle or shotgun to such other person.

3 Criminal purchase or disposal of a weapon is a class [A misdemeanor] D
4 felony.

5 § 44. Intentionally omitted.

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

8 § 265.19 Aggravated criminal possession of a weapon.

9 A person is guilty of aggravated criminal possession of a weapon when
10 he or she commits the crime of criminal possession of a weapon in the
11 second degree as defined in subdivision three of section 265.03 of this
12 article and also commits any violent felony offense as defined in subdi-
13 vision one of section 70.02 of this chapter or a drug trafficking felony
14 as defined in subdivision twenty-one of section 10.00 of this chapter
15 arising out of the same criminal transaction.

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

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

20 3. Possession of a pistol or revolver by a person to whom a license
21 therefor has been issued as provided under section 400.00 or 400.01 of
22 this chapter or possession of a weapon as defined in paragraph (e) or
23 (f) of subdivision twenty-two of section 265.00 of this article which is
24 registered pursuant to paragraph (a) of subdivision sixteen-a of section
25 400.00 of this chapter or is included on an amended license issued
26 pursuant to section 400.00 of this chapter. In the event such license
27 is revoked, other than because such licensee is no longer permitted to
28 possess a firearm, rifle or shotgun under federal or state law, informa-

1 tion sufficient to satisfy the requirements of subdivision sixteen-a of
2 section 400.00 of this chapter, shall be transmitted by the licensing
3 officer to the state police, in a form as determined by the superinten-
4 dent of state police. Such transmission shall constitute a valid regis-
5 tration under such section. Further provided, notwithstanding any other
6 section of this title, a failure to register such weapon by an individ-
7 ual who possesses such weapon before the enactment of the chapter of the
8 laws of two thousand thirteen which amended this paragraph and may so
9 lawfully possess it thereafter upon registration, shall only be subject
10 to punishment pursuant to paragraph (c) of subdivision sixteen-a of
11 section 400.00 of this chapter; provided, that such a license or regis-
12 tration shall not preclude a conviction for the offense defined in
13 subdivision three of section 265.01 of this article or section 265.01-a
14 of this article.

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

26 § 46-a. The penal law is amended by adding two new sections 265.36 and
27 265.37 to read as follows:

1 § 265.36 Unlawful possession of a large capacity ammunition feeding
2 device.

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

10 An individual who has a reasonable belief that such device is of such
11 a character that it may lawfully be possessed and who surrenders or
12 lawfully disposes of such device within thirty days of being notified by
13 law enforcement or county licensing officials that such possession is
14 unlawful shall not be guilty of this offense. It shall be a rebuttable
15 presumption that such person knows that such large capacity ammunition
16 feeding device may not be lawfully possessed if he or she has been
17 contacted by law enforcement or county licensing officials and informed
18 that such device may not be lawfully possessed.

19 Unlawful possession of a large capacity ammunition feeding device is a
20 class A misdemeanor.

21 § 265.37 Unlawful possession of certain ammunition feeding devices.

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

1 If such device containing more than seven rounds of ammunition is
2 possessed within the home of the possessor, the person so possessing the
3 device shall, for a first offense, be guilty of a violation and subject
4 to a fine of two hundred dollars, and for a second offense, be guilty of
5 a class B misdemeanor and subject to a fine of two hundred dollars and a
6 term of up to three months imprisonment.

7 If such device containing more than seven rounds of ammunition is
8 possessed in any location other than the home of the possessor, the
9 person so possessing the device shall, for a first offense, be guilty of
10 a class B misdemeanor and subject to a fine of two hundred dollars and a
11 term of up to six months imprisonment, and for a second offense, be
12 guilty of a class A misdemeanor.

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

15 § 265.45 Safe storage of rifles, shotguns, and firearms.

16 No person who owns or is custodian of a rifle, shotgun or firearm who
17 resides with an individual who such person knows or has reason to know
18 is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(g)
19 (1), (4), (8) or (9) shall store or otherwise leave such rifle, shotgun
20 or firearm out of his or her immediate possession or control without
21 having first securely locked such rifle, shotgun or firearm in an appro-
22 priate safe storage depository or rendered it incapable of being fired
23 by use of a gun locking device appropriate to that weapon. For purposes
24 of this section "safe storage depository" shall mean a safe or other
25 secure container which, when locked, is incapable of being opened with-
26 out the key, combination or other unlocking mechanism and is capable of
27 preventing an unauthorized person from obtaining access to and
28 possession of the weapon contained therein. With respect to a person

1 who is prohibited from possessing a firearm pursuant to 18 USC §
2 922(g)(9), for purposes of this section, this section applies only if
3 such person has been convicted of a crime included in subdivision one of
4 section 370.15 of the criminal procedure law and such gun is possessed
5 within five years from the later of the date of conviction or completion
6 of sentence.

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

8 § 48. Subdivision 1, paragraph (a) of subdivision 3, subdivisions 4,
9 5, 9, 10, 11, 12 and 15 of section 400.00 of the penal law, subdivision
10 1 as amended by chapter 189 of the laws of 2000, paragraph (a) of subdivi-
11 sion 3 as designated by chapter 778 of the laws of 1985, subdivision 4
12 as amended by chapter 331 of the laws of 2005, subdivision 5 as amended
13 by chapter 332 of the laws of 1994, subdivision 9 as amended by chapter
14 172 of the laws of 1973, subdivision 10 as amended by chapter 447 of the
15 laws of 1997, subdivision 11 as amended by chapter 210 of the laws of
16 1999, and subdivision 12 as amended by chapter 449 of the laws of 1993,
17 are amended and two new subdivisions 16-a and 16-b are added to read as
18 follows:

19 1. Eligibility. No license shall be issued or renewed pursuant to this
20 section except by the licensing officer, and then only after investi-
21 gation and finding that all statements in a proper application for a
22 license are true. No license shall be issued or renewed except for an
23 applicant (a) twenty-one years of age or older, provided, however, that
24 where such applicant has been honorably discharged from the United
25 States army, navy, marine corps, air force or coast guard, or the
26 national guard of the state of New York, no such age restriction shall
27 apply; (b) of good moral character; (c) who has not been convicted
28 anywhere of a felony or a serious offense; (d) who is not a fugitive

1 from justice; (e) who is not an unlawful user of or addicted to any
2 controlled substance as defined in section 21 U.S.C. 802; (f) who being
3 an alien (i) is not illegally or unlawfully in the United States or (ii)
4 has not been admitted to the United States under a nonimmigrant visa
5 subject to the exception in 18 U.S.C. 922(y)(2); (g) who has not been
6 discharged from the Armed Forces under dishonorable conditions; (h) who,
7 having been a citizen of the United States, has not renounced his or her
8 citizenship; (i) who has stated whether he or she has ever suffered any
9 mental illness [or been confined to any hospital or institution, public
10 or private, for mental illness]; (j) who has not been involuntarily
11 committed to a facility under the jurisdiction of an office of the
12 department of mental hygiene pursuant to article nine or fifteen of the
13 mental hygiene law, article seven hundred thirty or section 330.20 of
14 the criminal procedure law, section four hundred two or five hundred
15 eight of the correction law, section 322.2 or 353.4 of the family court
16 act, or has not been civilly confined in a secure treatment facility
17 pursuant to article ten of the mental hygiene law; [(e)] (k) who has not
18 had a license revoked or who is not under a suspension or ineligibility
19 order issued pursuant to the provisions of section 530.14 of the crimi-
20 nal procedure law or section eight hundred forty-two-a of the family
21 court act; [(f)] (l) in the county of Westchester, who has successfully
22 completed a firearms safety course and test as evidenced by a certif-
23 icate of completion issued in his or her name and endorsed and affirmed
24 under the penalties of perjury by a duly authorized instructor, except
25 that: (i) persons who are honorably discharged from the United States
26 army, navy, marine corps or coast guard, or of the national guard of the
27 state of New York, and produce evidence of official qualification in
28 firearms during the term of service are not required to have completed

1 those hours of a firearms safety course pertaining to the safe use,
2 carrying, possession, maintenance and storage of a firearm; and (ii)
3 persons who were licensed to possess a pistol or revolver prior to the
4 effective date of this paragraph are not required to have completed a
5 firearms safety course and test; [and (g)] (m) who has not had a guardi-
6 an appointed for him or her pursuant to any provision of state law,
7 based on a determination that as a result of marked subnormal intelli-
8 gence, mental illness, incapacity, condition or disease, he or she lacks
9 the mental capacity to contract or manage his or her own affairs; and
10 (n) concerning whom no good cause exists for the denial of the license.
11 No person shall engage in the business of gunsmith or dealer in firearms
12 unless licensed pursuant to this section. An applicant to engage in such
13 business shall also be a citizen of the United States, more than twen-
14 ty-one years of age and maintain a place of business in the city or
15 county where the license is issued. For such business, if the applicant
16 is a firm or partnership, each member thereof shall comply with all of
17 the requirements set forth in this subdivision and if the applicant is a
18 corporation, each officer thereof shall so comply.

19 (a) Applications shall be made and renewed, in the case of a license
20 to carry or possess a pistol or revolver, to the licensing officer in
21 the city or county, as the case may be, where the applicant resides, is
22 principally employed or has his or her principal place of business as
23 merchant or storekeeper; and, in the case of a license as gunsmith or
24 dealer in firearms, to the licensing officer where such place of busi-
25 ness is located. Blank applications shall, except in the city of New
26 York, be approved as to form by the superintendent of state police. An
27 application shall state the full name, date of birth, residence, present
28 occupation of each person or individual signing the same, whether or not

1 he or she is a citizen of the United States, whether or not he or she
2 complies with each requirement for eligibility specified in subdivision
3 one of this section and such other facts as may be required to show the
4 good character, competency and integrity of each person or individual
5 signing the application. An application shall be signed and verified by
6 the applicant. Each individual signing an application shall submit one
7 photograph of himself or herself and a duplicate for each required copy
8 of the application. Such photographs shall have been taken within thirty
9 days prior to filing the application. In case of a license as gunsmith
10 or dealer in firearms, the photographs submitted shall be two inches
11 square, and the application shall also state the previous occupation of
12 each individual signing the same and the location of the place of such
13 business, or of the bureau, agency, subagency, office or branch office
14 for which the license is sought, specifying the name of the city, town
15 or village, indicating the street and number and otherwise giving such
16 apt description as to point out reasonably the location thereof. In such
17 case, if the applicant is a firm, partnership or corporation, its name,
18 date and place of formation, and principal place of business shall be
19 stated. For such firm or partnership, the application shall be signed
20 and verified by each individual composing or intending to compose the
21 same, and for such corporation, by each officer thereof.

22 4. Investigation. Before a license is issued or renewed, there shall
23 be an investigation of all statements required in the application by the
24 duly constituted police authorities of the locality where such applica-
25 tion is made, including but not limited to such records as may be acces-
26 sible to the division of state police or division of criminal justice
27 services pursuant to section 400.02 of this article. For that purpose,
28 the records of the appropriate office of the department of mental

1 hygiene concerning previous or present mental illness of the applicant
2 shall be available for inspection by the investigating officer of the
3 police authority. In order to ascertain any previous criminal record,
4 the investigating officer shall take the fingerprints and physical
5 descriptive data in quadruplicate of each individual by whom the appli-
6 cation is signed and verified. Two copies of such fingerprints shall be
7 taken on standard fingerprint cards eight inches square, and one copy
8 may be taken on a card supplied for that purpose by the federal bureau
9 of investigation; provided, however, that in the case of a corporate
10 applicant that has already been issued a dealer in firearms license and
11 seeks to operate a firearm dealership at a second or subsequent
12 location, the original fingerprints on file may be used to ascertain any
13 criminal record in the second or subsequent application unless any of
14 the corporate officers have changed since the prior application, in
15 which case the new corporate officer shall comply with procedures
16 governing an initial application for such license. When completed, one
17 standard card shall be forwarded to and retained by the division of
18 criminal justice services in the executive department, at Albany. A
19 search of the files of such division and written notification of the
20 results of the search to the investigating officer shall be made without
21 unnecessary delay. Thereafter, such division shall notify the licensing
22 officer and the executive department, division of state police, Albany,
23 of any criminal record of the applicant filed therein subsequent to the
24 search of its files. A second standard card, or the one supplied by the
25 federal bureau of investigation, as the case may be, shall be forwarded
26 to that bureau at Washington with a request that the files of the bureau
27 be searched and notification of the results of the search be made to the
28 investigating police authority. [The failure or refusal of the federal

1 bureau of investigation to make the fingerprint check provided for in
2 this section shall not constitute the sole basis for refusal to issue a
3 permit pursuant to the provisions of this section.] Of the remaining two
4 fingerprint cards, one shall be filed with the executive department,
5 division of state police, Albany, within ten days after issuance of the
6 license, and the other remain on file with the investigating police
7 authority. No such fingerprints may be inspected by any person other
8 than a peace officer, who is acting pursuant to his special duties, or a
9 police officer, except on order of a judge or justice of a court of
10 record either upon notice to the licensee or without notice, as the
11 judge or justice may deem appropriate. Upon completion of the investi-
12 gation, the police authority shall report the results to the licensing
13 officer without unnecessary delay.

14 5. Filing of approved applications. (a) The application for any
15 license, if granted, shall be filed by the licensing officer with the
16 clerk of the county of issuance, except that in the city of New York
17 and, in the counties of Nassau and Suffolk, the licensing officer shall
18 designate the place of filing in the appropriate division, bureau or
19 unit of the police department thereof, and in the county of Suffolk the
20 county clerk is hereby authorized to transfer all records or applica-
21 tions relating to firearms to the licensing authority of that county.
22 [The] Except as provided in paragraphs (b) through (f) of this subdivi-
23 sion, the name and address of any person to whom an application for any
24 license has been granted shall be a public record. Upon application by a
25 licensee who has changed his place of residence such records or applica-
26 tions shall be transferred to the appropriate officer at the licensee's
27 new place of residence. A duplicate copy of such application shall be
28 filed by the licensing officer in the executive department, division of

1 state police, Albany, within ten days after issuance of the license.
2 The superintendent of state police may designate that such application
3 shall be transmitted to the division of state police electronically. In
4 the event the superintendent of the division of state police determines
5 that it lacks any of the records required to be filed with the division,
6 it may request that such records be provided to it by the appropriate
7 clerk, department or authority and such clerk, department or authority
8 shall provide the division with such records. In the event such clerk,
9 department or authority lacks such records, the division may request the
10 license holder provide information sufficient to constitute such record
11 and such license holder shall provide the division with such informa-
12 tion. Such information shall be limited to the license holder's name,
13 date of birth, gender, race, residential address, social security number
14 and firearms possessed by said license holder. Nothing in this subdivi-
15 sion shall be construed to change the expiration date or term of such
16 licenses if otherwise provided for in law. Records assembled or
17 collected for purposes of inclusion in the database established by this
18 section shall be released pursuant to a court order. Records assembled
19 or collected for purposes of inclusion in the database created pursuant
20 to section 400.02 of this chapter shall not be subject to disclosure
21 pursuant to article six of the public officers law.

22 (b) Each application for a license pursuant to paragraph (a) of this
23 subdivision shall include, on a separate written form prepared by the
24 division of state police within thirty days of the effective date of the
25 chapter of the laws of two thousand thirteen, which amended this
26 section, and provided to the applicant at the same time and in the same
27 manner as the application for a license, an opportunity for the appli-
28 cant to request an exception from his or her application information

1 becoming public record pursuant to paragraph (a) of this subdivision.
2 Such forms, which shall also be made available to individuals who had
3 applied for or been granted a license prior to the effective date of the
4 chapter of the laws of two thousand thirteen which amended this section,
5 shall notify applicants that, upon discovery that an applicant knowingly
6 provided false information, such applicant may be subject to penalties
7 pursuant to section 175.30 of this chapter, and further, that his or her
8 request for an exception shall be null and void, provided that written
9 notice containing such determination is provided to the applicant.
10 Further, such forms shall provide each applicant an opportunity to spec-
11 ify the grounds on which he or she believes his or her application
12 information should not be publicly disclosed. These grounds, which shall
13 be identified on the application with a box beside each for checking, as
14 applicable, by the applicant, shall be as follows:

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

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

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

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

23 (D) the applicant is participating or previously participated as a
24 juror in a criminal proceeding, or is or was a member of a grand jury;
25 or

26 (E) the applicant is a spouse, domestic partner or household member of
27 a person identified in this subparagraph or subparagraph (ii) of this

1 paragraph, specifying which subparagraph or subparagraphs and clauses
2 apply.

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

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

7 (c) Each form provided for recertification pursuant to paragraph (b)
8 of subdivision ten of this section shall include an opportunity for the
9 applicant to request an exception from the information provided on such
10 form becoming public record pursuant to paragraph (a) of this subdivi-
11 sion. Such forms shall notify applicants that, upon discovery that an
12 applicant knowingly provided false information, such applicant may be
13 subject to penalties pursuant to section 175.30 of this chapter, and
14 further, that his or her request for an exception shall be null and
15 void, provided that written notice containing such determination is
16 provided to the applicant. Further, such forms shall provide each
17 applicant an opportunity to either decline to request the grant or
18 continuation of an exception, or specify the grounds on which he or she
19 believes his or her information should not be publicly disclosed. These
20 grounds, which shall be identified in the application with a box beside
21 each for checking, as applicable, by the applicant, shall be the same as
22 provided in paragraph (b) of this subdivision.

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

27 (e) (i) Upon receiving a request for exception from disclosure, the
28 licensing officer shall grant such exception, unless the request is

1 determined to be null and void, pursuant to paragraph (b) or (c) of this
2 subdivision.

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

5 (iii) If an exception is sought and granted pursuant to paragraph (b)
6 of this subdivision, the application information shall not be public
7 record, unless the request is determined to be null and void. If an
8 exception is sought and granted pursuant to paragraph (c) of this subdivi-
9 vision, the information concerning such recertification application
10 shall not be public record, unless the request is determined to be null
11 and void.

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

24 (g) If a request for an exception is determined to be null and void
25 pursuant to paragraph (b) or (c) of this subdivision, an applicant may
26 request review of such determination pursuant to article seventy-eight
27 of the civil practice laws and rules. Such proceeding must commence
28 within thirty days after service of the written notice containing the

1 adverse determination. Notice of the right to commence such a petition,
2 and the time period therefor, shall be included in the notice of the
3 determination. Disclosure following such a petition shall not be made
4 prior to the disposition of such review.

5 9. License: amendment. Elsewhere than in the city of New York, a
6 person licensed to carry or possess a pistol or revolver may apply at
7 any time to his or her licensing officer for amendment of his or her
8 license to include one or more such weapons or to cancel weapons held
9 under license. If granted, a record of the amendment describing the
10 weapons involved shall be filed by the licensing officer in the execu-
11 tive department, division of state police, Albany. The superintendent of
12 state police may authorize that such amendment be completed and trans-
13 mitted to the state police in electronic form. Notification of any
14 change of residence shall be made in writing by any licensee within ten
15 days after such change occurs, and a record of such change shall be
16 inscribed by such licensee on the reverse side of his or her license.
17 Elsewhere than in the city of New York, and in the counties of Nassau
18 and Suffolk, such notification shall be made to the executive depart-
19 ment, division of state police, Albany, and in the city of New York to
20 the police commissioner of that city, and in the county of Nassau to the
21 police commissioner of that county, and in the county of Suffolk to the
22 licensing officer of that county, who shall, within ten days after such
23 notification shall be received by him or her, give notice in writing of
24 such change to the executive department, division of state police, at
25 Albany.

26 10. License: expiration, certification and renewal. (a) Any license
27 for gunsmith or dealer in firearms and, in the city of New York, any
28 license to carry or possess a pistol or revolver, issued at any time

1 pursuant to this section or prior to the first day of July, nineteen
2 hundred sixty-three and not limited to expire on an earlier date fixed
3 in the license, shall expire not more than three years after the date of
4 issuance. In the counties of Nassau, Suffolk and Westchester, any
5 license to carry or possess a pistol or revolver, issued at any time
6 pursuant to this section or prior to the first day of July, nineteen
7 hundred sixty-three and not limited to expire on an earlier date fixed
8 in the license, shall expire not more than five years after the date of
9 issuance; however, in the county of Westchester, any such license shall
10 be certified prior to the first day of April, two thousand, in accord-
11 ance with a schedule to be contained in regulations promulgated by the
12 commissioner of the division of criminal justice services, and every
13 such license shall be recertified every five years thereafter. For
14 purposes of this section certification shall mean that the licensee
15 shall provide to the licensing officer the following information only:
16 current name, date of birth, current address, and the make, model, cali-
17 ber and serial number of all firearms currently possessed. Such certifi-
18 cation information shall be filed by the licensing officer in the same
19 manner as an amendment. Elsewhere than in the city of New York and the
20 counties of Nassau, Suffolk and Westchester, any license to carry or
21 possess a pistol or revolver, issued at any time pursuant to this
22 section or prior to the first day of July, nineteen hundred sixty-three
23 and not previously revoked or cancelled, shall be in force and effect
24 until revoked as herein provided. Any license not previously cancelled
25 or revoked shall remain in full force and effect for thirty days beyond
26 the stated expiration date on such license. Any application to renew a
27 license that has not previously expired, been revoked or cancelled shall
28 thereby extend the term of the license until disposition of the applica-

1 tion by the licensing officer. In the case of a license for gunsmith or
2 dealer in firearms, in counties having a population of less than two
3 hundred thousand inhabitants, photographs and fingerprints shall be
4 submitted on original applications and upon renewal thereafter only at
5 six year intervals. Upon satisfactory proof that a currently valid
6 original license has been despoiled, lost or otherwise removed from the
7 possession of the licensee and upon application containing an additional
8 photograph of the licensee, the licensing officer shall issue a dupli-
9 cate license.

10 (b) All licensees shall be recertified to the division of state police
11 every five years thereafter. Any license issued before the effective
12 date of the chapter of the laws of two thousand thirteen which added
13 this paragraph shall be recertified by the licensee on or before January
14 thirty-first, two thousand eighteen, and not less than one year prior to
15 such date, the state police shall send a notice to all license holders
16 who have not recertified by such time. Such recertification shall be in
17 a form as approved by the superintendent of state police, which shall
18 request the license holder's name, date of birth, gender, race, residen-
19 tial address, social security number, firearms possessed by such license
20 holder, email address at the option of the license holder and an affir-
21 mation that such license holder is not prohibited from possessing
22 firearms. The form may be in an electronic form if so designated by the
23 superintendent of state police. Failure to recertify shall act as a
24 revocation of such license. If the New York state police discover as a
25 result of the recertification process that a licensee failed to provide
26 a change of address, the New York state police shall not require the
27 licensing officer to revoke such license.

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

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

23 (c) In any instance in which a person's license is suspended or
24 revoked under paragraph (a) or (b) of this subdivision, such person
25 shall surrender such license to the appropriate licensing official and
26 any and all firearms, rifles, or shotguns owned or possessed by such
27 person shall be surrendered to an appropriate law enforcement agency as
28 provided in subparagraph (f) of paragraph one of subdivision a of

1 section 265.20 of this chapter. In the event such license, firearm,
2 shotgun, or rifle is not surrendered, such items shall be removed and
3 declared a nuisance and any police officer or peace officer acting
4 pursuant to his or her special duties is authorized to remove any and
5 all such weapons.

6 12. Records required of gunsmiths and dealers in firearms. Any person
7 licensed as gunsmith or dealer in firearms shall keep a record book
8 approved as to form, except in the city of New York, by the superinten-
9 dent of state police. In the record book shall be entered at the time of
10 every transaction involving a firearm the date, name, age, occupation
11 and residence of any person from whom a firearm is received or to whom a
12 firearm is delivered, and the calibre, make, model, manufacturer's name
13 and serial number, or if none, any other distinguishing number or iden-
14 tification mark on such firearm. Before delivering a firearm to any
15 person, the licensee shall require him to produce either a license valid
16 under this section to carry or possess the same, or proof of lawful
17 authority as an exempt person pursuant to section 265.20. In addition,
18 before delivering a firearm to a peace officer, the licensee shall veri-
19 fy that person's status as a peace officer with the division of state
20 police. After completing the foregoing, the licensee shall remove and
21 retain the attached coupon and enter in the record book the date of such
22 license, number, if any, and name of the licensing officer, in the case
23 of the holder of a license to carry or possess, or the shield or other
24 number, if any, assignment and department, unit or agency, in the case
25 of an exempt person. The original transaction report shall be forwarded
26 to the division of state police within ten days of delivering a firearm
27 to any person, and a duplicate copy shall be kept by the licensee. The
28 superintendent of state police may designate that such record shall be

1 completed and transmitted in electronic form. A dealer may be granted a
2 waiver from transmitting such records in electronic form if the super-
3 intendent determines that such dealer is incapable of such transmission
4 due to technological limitations that are not reasonably within the
5 control of the dealer, or other exceptional circumstances demonstrated
6 by the dealer, pursuant to a process established in regulation, and at
7 the discretion of the superintendent. Records assembled or collected for
8 purposes of inclusion in the database created pursuant to section 400.02
9 of this article shall not be subject to disclosure pursuant to article
10 six of the public officers law. The record book shall be maintained on
11 the premises mentioned and described in the license and shall be open at
12 all reasonable hours for inspection by any peace officer, acting pursu-
13 ant to his special duties, or police officer. In the event of cancella-
14 tion or revocation of the license for gunsmith or dealer in firearms, or
15 discontinuance of business by a licensee, such record book shall be
16 immediately surrendered to the licensing officer in the city of New
17 York, and in the counties of Nassau and Suffolk, and elsewhere in the
18 state to the executive department, division of state police.

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

21 16-a. Registration. (a) An owner of a weapon defined in paragraph (e)
22 or (f) of subdivision twenty-two of section 265.00 of this chapter,
23 possessed before the date of the effective date of the chapter of the
24 laws of two thousand thirteen which added this paragraph, must make an
25 application to register such weapon with the superintendent of state
26 police, in the manner provided by the superintendent, or by amending a
27 license issued pursuant to this section within one year of the effective
28 date of this subdivision except any weapon defined under subparagraph

1 (vi) of paragraph (g) of subdivision twenty-two of section 265.00 of
2 this chapter transferred into the state may be registered at any time,
3 provided such weapons are registered within thirty days of their trans-
4 fer into the state. Registration information shall include the regis-
5 trant's name, date of birth, gender, race, residential address, social
6 security number and a description of each weapon being registered. A
7 registration of any weapon defined under subparagraph (vi) of paragraph
8 (g) of subdivision twenty-two of section 265.00 or a feeding device as
9 defined under subdivision twenty-three of section 265.00 of this chapter
10 shall be transferable, provided that the seller notifies the state
11 police within seventy-two hours of the transfer and the buyer provides
12 the state police with information sufficient to constitute a registra-
13 tion under this section. Such registration shall not be valid if such
14 registrant is prohibited or becomes prohibited from possessing a firearm
15 pursuant to state or federal law. The superintendent shall determine
16 whether such registrant is prohibited from possessing a firearm under
17 state or federal law. Such check shall be limited to determining wheth-
18 er the factors in 18 USC 922 (g) apply or whether a registrant has been
19 convicted of a serious offense as defined in subdivision sixteen-b of
20 section 265.00 of this chapter, so as to prohibit such registrant from
21 possessing a firearm, and whether a report has been issued pursuant to
22 section 9.46 of the mental hygiene law. All registrants shall recertify
23 to the division of state police every five years thereafter. Failure to
24 recertify shall result in a revocation of such registration.

25 (b) The superintendent of state police shall create and maintain an
26 internet website to educate the public as to which semiautomatic rifle,
27 semiautomatic shotgun or semiautomatic pistol or weapon that are illegal
28 as a result of the enactment of the chapter of the laws of two thousand

1 thirteen which added this paragraph, as well as such assault weapons
2 which are illegal pursuant to article two hundred sixty-five of this
3 chapter. Such website shall contain information to assist the public in
4 recognizing the relevant features proscribed by such article two hundred
5 sixty-five, as well as which make and model of weapons that require
6 registration.

7 (c) A person who knowingly fails to apply to register such weapon, as
8 required by this section, within one year of the effective date of the
9 chapter of the laws of two thousand thirteen which added this paragraph
10 shall be guilty of a class A misdemeanor and such person who unknowingly
11 fails to validly register such weapon within such one year period shall
12 be given a warning by an appropriate law enforcement authority about
13 such failure and given thirty days in which to apply to register such
14 weapon or to surrender it. A failure to apply or surrender such weapon
15 within such thirty-day period shall result in such weapon being removed
16 by an appropriate law enforcement authority and declared a nuisance.

17 16-b. The cost of the software, programming and interface required to
18 transmit any record that must be electronically transmitted by the deal-
19 er or licensing officer to the division of state police pursuant to this
20 chapter shall be borne by the state.

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

23 § 400.02 Statewide license and record database.

24 There shall be a statewide license and record database which shall be
25 created and maintained by the division of state police the cost of which
26 shall not be borne by any municipality. Records assembled or collected
27 for purposes of inclusion in such database shall not be subject to
28 disclosure pursuant to article six of the public officers law. Records

1 containing granted license applications shall be periodically checked by
2 the division of criminal justice services against criminal conviction,
3 mental health, and all other records as are necessary to determine their
4 continued accuracy as well as whether an individual is no longer a
5 valid license holder. The division of criminal justice services shall
6 also check pending applications made pursuant to this article against
7 such records to determine whether a license may be granted. All state
8 agencies shall cooperate with the division of criminal justice services,
9 as otherwise authorized by law, in making their records available for
10 such checks. The division of criminal justice services, upon determining
11 that an individual is ineligible to possess a license, or is no longer a
12 valid license holder, shall notify the applicable licensing official of
13 such determination and such licensing official shall not issue a license
14 or revoke such license and any weapons owned or possessed by such indi-
15 vidual shall be removed consistent with the provisions of subdivision
16 eleven of section 400.00 of this article. Local and state law enforce-
17 ment shall have access to such database, as otherwise authorized by law,
18 in the performance of their duties. Records assembled or collected for
19 purposes of inclusion in the database established by this section shall
20 be released pursuant to a court order.

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

23 § 400.03 Sellers of ammunition.

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

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

15 3. No later than thirty days after the superintendent of the state
16 police certifies that the statewide license and record database estab-
17 lished pursuant to section 400.02 of this article is operational for the
18 purposes of this section, a dealer in firearms licensed pursuant to
19 section 400.00 of this article, a seller of ammunition as defined in
20 subdivision twenty-four of section 265.00 of this chapter shall not
21 transfer any ammunition to any other person who is not a dealer in
22 firearms as defined in subdivision nine of such section 265.00 or a
23 seller of ammunition as defined in subdivision twenty-four of section
24 265.00 of this chapter, unless:

25 (a) before the completion of the transfer, the licensee or seller
26 contacts the statewide license and record database and provides the
27 database with information sufficient to identify such dealer or seller,
28 transferee based on information on the transferee's identification docu-

1 ment as defined in paragraph (c) of this subdivision, as well as the
2 amount, calibre, manufacturer's name and serial number, if any, of such
3 ammunition;

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

6 (c) the transferor has verified the identity of the transferee by
7 examining a valid state identification document of the transferee issued
8 by the department of motor vehicles or if the transferee is not a resi-
9 dent of the state of New York, a valid identification document issued by
10 the transferee's state or country of residence containing a photograph
11 of the transferee.

12 4. If the database determines that the purchaser of ammunition is
13 eligible to possess ammunition pursuant to state and federal laws, the
14 system shall:

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

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

17 5. If the statewide license and record database notifies the licensee
18 or seller that the information available to the database does not demon-
19 strate that the receipt of ammunition by such other person would violate
20 18 U.S.C. 922(g) or state law, and the licensee transfers ammunition to
21 such other person, the licensee shall indicate to the database that such
22 transaction has been completed at which point a record of such trans-
23 action shall be created which shall be accessible by the division of
24 state police and maintained for no longer than one year from point of
25 purchase, which shall not be incorporated into the database established
26 pursuant to section 400.02 of this article or the registry established
27 pursuant to subdivision sixteen-a of section 400.00 of this article. The
28 division of state police may share such information with a local law

1 enforcement agency. Evidence of the purchase of ammunition is not
2 sufficient to establish probable cause to believe that the purchaser has
3 committed a crime absent other information tending to prove the commis-
4 sion of a crime. Records assembled or accessed pursuant to this section
5 shall not be subject to disclosure pursuant to article six of the public
6 officers law. This requirement of this section shall not apply (i) if a
7 background check cannot be completed because the system is not opera-
8 tional as determined by the superintendent of state police, or where it
9 cannot be accessed by the practitioner due to a temporary technological
10 or electrical failure, as set forth in regulation, or (ii) a dealer or
11 seller has been granted a waiver from conducting such background check
12 if the superintendent of state police determines that such dealer is
13 incapable of such check due to technological limitations that are not
14 reasonably within the control of the dealer, or other exceptional
15 circumstances demonstrated by the dealer, pursuant to a process estab-
16 lished in regulation, and at the discretion of such superintendent.

17 6. If the superintendent of state police certifies that background
18 checks of ammunition purchasers may be conducted through the national
19 instant criminal background check system, use of that system by a dealer
20 or seller shall be sufficient to satisfy subdivisions four and five of
21 this section and such checks shall be conducted through such system,
22 provided that a record of such transaction shall be forwarded to the
23 state police in a form determined by the superintendent.

24 7. No commercial transfer of ammunition shall take place unless a
25 licensed dealer in firearms or registered seller of ammunition acts as
26 an intermediary between the transferor and the ultimate transferee of
27 the ammunition for the purposes of contacting the statewide license and

1 record database pursuant to this section. Such transfer between the
2 dealer or seller, and transferee must occur in person.

3 8. A seller of ammunition who fails to register pursuant to this
4 section and sells ammunition, for a first offense, shall be guilty of a
5 violation and subject to the fine of one thousand dollars and for a
6 second offense, shall be guilty of a class A misdemeanor.

7 A seller of ammunition that fails to keep any record required pursuant
8 to this section, for a first offense shall be guilty of a violation and
9 subject to a fine of five hundred dollars, and for a second offense
10 shall be guilty of a class B misdemeanor, and the registration of such
11 seller shall be revoked.

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

15 § 400.10 Report of theft or loss of a firearm, rifle or shotgun.

16 1. (a) Any owner or other person lawfully in possession of: (i) a
17 firearm, rifle or, shotgun who suffers the loss or theft of said weapon;
18 (ii) ammunition as well as a firearm, rifle or shotgun who suffers the
19 loss or theft of such ammunition as well as a firearm, rifle or shotgun;
20 or (iii) ammunition and is a dealer in firearms or seller of ammunition
21 who suffers the loss or theft of such ammunition shall within twenty-
22 four hours of the discovery of the loss or theft report the facts and
23 circumstances of the loss or theft to a police department or sheriff's
24 office.

25 (b) Whenever a person reports the theft or loss of a firearm, rifle
26 [or], shotgun or ammunition to any police department or sheriff's
27 office, the officer or department receiving such report shall forward
28 notice of such theft or loss to the division of state police via the New

1 York Statewide Police Information Network. The notice shall contain
2 information in compliance with the New York Statewide Police Information
3 Network Operating Manual, including the caliber, make, model, manufac-
4 turer's name and serial number, if any, and any other distinguishing
5 number or identification mark on the weapon.

6 2. The division of state police shall receive, collect and file the
7 information referred to in subdivision one of this section. The division
8 shall cooperate, and undertake to furnish or make available to law
9 enforcement agencies this information, for the purpose of coordinating
10 law enforcement efforts to locate such weapons.

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

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

16 § 460.22 Aggravated enterprise corruption.

17 A person is guilty of aggravated enterprise corruption when he or she
18 commits the crime of enterprise corruption and two or more of the acts
19 that constitute his or her pattern of criminal activity are class B
20 felonies or higher, and at least two acts are armed felonies as defined
21 in paragraph (a) of subdivision forty-one of section 1.20 of the crimi-
22 nal procedure law or one act is such an armed felony and one act is a
23 violation of subdivision two of section 265.17 of this chapter or one
24 act is a class B violent felony and two are violations of subdivision
25 two of section 265.17 of this chapter.

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

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

1 § 2509. Firearms inventory

2 Whenever, by regulation, rule or statute, a fiduciary or attorney of
3 record must file a list of assets constituting a decedent's estate, such
4 list must include a particularized description of every firearm, shotgun
5 and rifle, as such terms are defined in section 265.00 of the penal law,
6 that are part of such estate. Such list must be filed with the surro-
7 gate's court in the county in which the estate proceeding, if any, is
8 pending and a copy must be filed with the division of criminal justice
9 services.

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

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

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

21 § 2801-b. New York state school safety improvement teams. The gover-
22 nor shall establish New York state school safety improvement teams,
23 which may be composed of representatives from the division of homeland
24 security and emergency services, the division of state police, the divi-
25 sion of criminal justice services, and the department. Such New York
26 State School Safety Improvement Teams shall review and assess school
27 safety plans submitted, on a voluntary basis, by school districts having
28 a population of less than one hundred twenty-five thousand inhabitants,

1 boards of cooperative educational services, and county vocational educa-
2 tion and extension boards, and may make recommendations to improve such
3 school safety plans.

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

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

1 ly prescribe a special cost allowance for metal detectors, and security
2 cameras, and the approved expenditures shall not exceed such cost allow-
3 ance. The commissioner shall annually prescribe a special cost allowance
4 for partition and room divider safety devices, and the approved expendi-
5 tures shall not exceed such cost allowance.

6 b. For projects approved by the commissioner authorized to receive
7 additional building aid pursuant to this subdivision for the purchase of
8 stationary metal detectors, security cameras or other security devices
9 approved by the commissioner that increase the safety of students and
10 school personnel, provided that for purposes of this paragraph such
11 other security devices shall be limited to electronic security systems
12 and hardened doors, and provided that for projects approved by the
13 commissioner on or after the first day of July two thousand thirteen and
14 before the first day of July two thousand sixteen such additional aid
15 shall equal the product of (i) the building aid ratio computed for use
16 in the current year pursuant to paragraph c of subdivision six of this
17 section plus ten percentage points, except that in no case shall this
18 amount exceed one hundred percent, and (ii) the actual approved expendi-
19 tures incurred in the base year pursuant to this subdivision, provided
20 that the limitations on cost allowances prescribed by paragraph a of
21 subdivision six of this section shall not apply, and provided further
22 that any projects aided under this paragraph must be included in a
23 district's school safety plan. The commissioner shall annually prescribe
24 a special cost allowance for metal detectors, and security cameras, and
25 the approved expenditures shall not exceed such cost allowance.

26 § 57. Severability. If any clause, sentence, paragraph, section or
27 part of this act shall be adjudged by any court of competent jurisdic-
28 tion to be invalid and after exhaustion of all further judicial review,

1 the judgment shall not affect, impair or invalidate the remainder there-
2 of, but shall be confined in its operation to the clause, sentence,
3 paragraph, section or part of this act directly involved in the contro-
4 versy in which the judgment shall have been rendered.

5 § 58. This act shall take effect immediately; provided, however, that:

6 a. Sections one, two, three, four, five, six, seven, eight, nine, ten,
7 eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eigh-
8 teen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-
9 four, twenty-five, twenty-six, twenty-six-a, twenty-seven, twenty-eight,
10 twenty-nine, thirty, thirty-one, thirty-two, thirty-three, thirty-four,
11 thirty-five, thirty-six, thirty-nine, forty, forty-one, forty-one-a,
12 forty-one-b, forty-two, forty-three, forty-five, forty-six, forty-six-a,
13 forty-seven, fifty-one, fifty-two, fifty-three, fifty-four, fifty-five,
14 and fifty-six of this act shall take effect on the sixtieth day after it
15 shall have become a law;

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

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

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

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

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