

GOVERNOR'S PROGRAM BILL 2018  
MEMORANDUM

AN ACT to amend the penal law, the criminal procedure law and the family court act, in relation to the possession of weapons by domestic violence offenders; and to repeal certain provisions of the criminal procedure law relating thereto

Purpose of the bill:

The purpose of this bill is to ensure that domestic violence offenders do not have access to firearms.

Summary of Provisions:

Section 1 of the bill would amend the penal law to include additional offenses, the conviction of which results in the loss of ability to possess a firearm.

Section 2 of the bill would amend the penal law to establish a procedure for determining whether certain misdemeanor crimes are serious offenses under the penal law.

Section 3 of the bill would amend the penal law to establish that notification be made to the Division of Criminal Justice Services upon conviction of certain misdemeanor offenses.

Section 4 of the bill would make conforming changes to the criminal procedure law to align with existing federal law. Further this section would amend the criminal procedure law to provide a process for the return of firearms upon the termination of a matter in a defendant's favor.

Section 5 of the bill would make conforming changes to the family court act to align with existing federal law.

Section 6 of the bill would amend the penal law to prohibit a licensing authority from issuing a new permit or renewing a permit for an individual with an outstanding felony or serious arrest warrant.

Section 7 of the bill would establish a procedure for the surrender of firearms, rifles and shotguns upon a judgement of conviction of a felony or serious offense.

Section 8 of the bill provides for the effective date.

Statement in Support:

Under Governor Cuomo's leadership, New York has passed the strongest gun control laws in the nation. However, New York does not have sufficient laws in place that ensure the removal of all types of firearms from individuals involved in domestic violence—an issue we know is closely tied to gun violence and gun violence deaths. In nine of the ten deadliest mass shootings in United States history, including Las Vegas and Sutherland Springs, the shooter had an existing record of committing violence against women, threatening violence against women, or harassing or disparaging women. In addition, when an abusive partner is permitted to access firearms, the risk that the other partner will be killed increases fivefold. In 2016, firearms were used in 25 domestic homicides in New York.

New York law prohibits the possession of firearms for individuals convicted of felony or "serious" offenses. However, this excludes certain misdemeanor offenses involving domestic violence. To ensure that all domestic violence offenders are held to the same standard, the bill will include additional domestic violence misdemeanors on the list of prohibited offenses.

Further, the bill would require long guns to be surrendered to law enforcement upon a finding by the court in matters involving orders of protection and in cases where there is a conviction of a serious offense. Currently, New York State requires surrender of hand guns for either (1) an order of protection issued by a judge or (2) a firearm license suspension/revocation due to a felony or "serious" offense conviction or a mental health disqualification by a health professional. However, this surrender does not always apply to long guns, such as rifles and shotguns. To correct this loophole, this bill would apply the same surrender procedures to long guns.

Budget Implications:

There is no fiscal connected to this bill.

Effective Date:

This act shall take effect 60 days after it shall become law.