

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

BILL NUMBER: S2230

SPONSOR: KLEIN

TITLE OF BILL:

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

PURPOSE:

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

In a range of reforms the bill attends to the weaknesses in the state's current regulatory structure to bring a consistency and rationality that must be the cornerstone of a safe society. A single standard across the State will ensure that legal gun owners obtain their licenses expeditiously while those prohibited are denied that privilege. A state-wide database will keep the registry current and guard against the dangerous or unstable possessing guns. New rules will close a loophole that excludes private sales of guns from a federal background check; tighten provisions governing gun ownership by persons with serious mental illness; require safe storage of guns for gun owners who live with someone who has been convicted of certain crimes, is under an order of protection, or who has been involuntarily committed as a result of a mental illness. The bill also creates new and enhanced penalties for

illegal gun use, and enhances protections for victims of domestic violence by requiring the firearm surrenders and gun license suspension and revocation in cases where an order of protection has been issued.

SUMMARY OF PROVISIONS:

Assault Weapons

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

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

Ammunition

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

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

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

Licensing

Section 49 creates a new Penal Law § 400.02 establishing a statewide gun license and record database. Section 18 amends Section 212 of the Judiciary Law to require that records submitted to the Federal Bureau of

Investigation regarding individuals for whom a guardian has been appointed be transmitted to the State and checked against the statewide gun license and record database.

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

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

Private Sales

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

Safe Storage

To prevent, among other things, unauthorized and unlicensed use of guns, section 47 of the bill adds a new Penal Law § 265.45 establishing safe storage requirements for rifles, shotguns and firearms. Under this new section, a gun owner who lives with someone who the owner has reason to know is prohibited from possessing a gun because the prohibited person has been convicted of a crime punishable by a term of imprisonment exceeding one year, has been adjudicated mentally defective or committed to a mental institution, is subject to a court order of protection or has been convicted of a misdemeanor crime of domestic violence whose sentence has been completed in the last five years must, when the gun is out of the owner's immediate control, keep the gun secured in a safe storage depository (for example, a safe or similar secure container with a lock that can be opened only with a key or combination, or other locking mechanism) or render it incapable of being fired by putting a safety lock on the gun.

Provisions Related to Persons with Mental Illness

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

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

New and Enhanced Criminal Penalties

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

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

Section 41 increases the penalty for possession of a firearm on school grounds or on a school bus from a misdemeanor to a Class E Felony. Section 41-a creates a new subdivision of criminal possession of a weapon in the third degree, a Class D violent felony, when a person possesses an unloaded firearm and also commits a drug trafficking felony or possesses an unloaded firearm and also commits any violent felony as part of the same criminal transaction. The mandatory minimum sentence for these new Class D felonies is a three and one-half year determinate

sentence, although the court may consider mitigating factors and impose a lesser sentence in some limited circumstances involving drug trafficking.

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

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

Section 43 amends Penal Law § 265.17 to include criminal sale or disposal of a weapon by providing a firearm, rifle or shotgun to a person knowing he or she is prohibited by law from possessing such firearm, rifle or shotgun. The penalty is raised from a Class A misdemeanor to a Class D felony.

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

Safer Schools

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

EXISTING LAW:

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

STATEMENT IN SUPPORT:

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

While the Second Amendment protects the right to keep and bear arms, the Supreme Court has said that that right is "not unlimited." *District of Columbia v. Heller*, 554 U.S. 570, 595, 626 (2008). In the *Heller* case, the Supreme Court explained, "nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of

firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms." 554 U.S. at 626-27. The Court also recognized there is a "historical tradition of prohibiting the carrying of 'dangerous and unusual' weapons." Id. This piece of legislation heeds the guidance of the Supreme Court by refining and improving the assault weapon ban and increasing the safety of New Yorkers while observing the protections of the Second Amendment.

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

Ammunition

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

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

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

Licensing

Currently in New York State, outside of New York City, Westchester, Nassau and Suffolk Counties, a gun license never expires. Lack of a renewal procedure means there is no periodic review of a licensee's qualifications. Thus, if a license holder becomes disqualified from

carrying a gun subsequent to obtaining a license, he or she will likely retain the license. This law requires every license holder to recertify the licensee's gun license every five years. Failure of a licensee to have his or her license recertified will result in revocation of the license.

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

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

Private Gun Sales

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

Safe Storage

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

Persons with Mental Illness

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

New and Enhanced Criminal Penalties

The new and amended sections of the Penal Law are focused on the methods by which gun violence is often carried out in our communities, giving law enforcement better tools to punish and deter such conduct. As the presence of illegal guns on our streets endangers the welfare of entire communities, these provisions ensure appropriate penalties for

making guns available to prohibited persons, as well as putting our children at risk by, among other dangerous and illegal activities, possessing guns near school grounds. In addition, recognizing the widespread violence caused by gang activity, the bill establishes penalties for participation in gang activity resulting in the commission of a violent crime.

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

LEGISLATIVE HISTORY:

New proposal.

BUDGET IMPLICATIONS:

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

EFFECTIVE DATE:

The bill will take effect immediately except where otherwise provided.

STATE OF NEW YORK

S. 2230

A. 2388

2013-2014 Regular Sessions

SENATE - ASSEMBLY

January 14, 2013

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

IN ASSEMBLY -- Introduced by M. of A. SILVER, LENTOL, ORTIZ,
MORELLE,
FARRELL, WEINSTEIN, CAMARA, HOOPER, O'DONNELL, TITONE, PAULIN,
MOYA,
GLICK, WRIGHT, SCHIMEL, GOTTFRIED, ROSENTHAL, KAVANAGH, STECK,
WEPRIN
-- Multi-Sponsored by -- M. of A. ABINANTI, BOYLAND,
BRENNAN,
BROOK-KRASNY, BUCHWALD, CASTRO, COLTON, DINOWITZ, ENGLEBRIGHT,
ESPI-

MARKEY,
Gover-
NAL, FAHY, JACOBS, JAFFEE, KELLNER, KIM, LAVINE, LIFTON,
MAYER, MILLMAN, MOSLEY, OTIS, ROSA, ROZIC -- (at request of the
nor) -- read once and referred to the Committee on Codes

the 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
surro- gate's court procedure act, in relation to suspension and
revocation of firearms licenses; private sale or disposal of firearms, rifles
or shotguns and establishing a minimum age to possess a firearm; to
amend the family court act, the domestic relations law and the
criminal procedure law, in relation to providing for the mandatory
suspension or revocation of the firearms license of a person against whom
an order of protection or a temporary order of protection has been
issued under certain circumstances, or upon violation of any such order;
to amend the penal law, in relation to community guns and the
criminal sale of a firearm and in relation to the definitions of aggravated
and first degree murder; to amend chapter 408 of the laws of 1999
consti- tuting 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
Assem- bly, do enact as follows:

EXPLANATION--Matter in italics (underscored) is new; matter in
brackets

[-] is old law to be omitted.

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A.

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:

28 3. Within a reasonable period prior to discharge of an inmate
commit-
29 ted from a state correctional facility from a hospital in the
department
30 of mental hygiene to the community, the director shall ensure
that a
31 clinical assessment has been completed to determine whether the
inmate
32 meets the criteria for assisted outpatient treatment pursuant to
subdi-
33 vision (c) of section 9.60 of the mental hygiene law. If, as a
result

34 of such assessment, the director determines that the inmate meets
35 such
36 criteria, prior to discharge the director of the hospital shall
37 either
38 petition for a court order pursuant to section 9.60 of the
39 mental
40 hygiene law, or report in writing to the director of community
41 services
42 of the local governmental unit in which the inmate is expected to
43 reside
44 so that an investigation may be conducted pursuant to section 9.47
45 of
46 the mental hygiene law.

47 § 4. Subdivisions 1, 2 and 3 of section 842-a of the family court
48 act,
49 as added by chapter 644 of the laws of 1996, paragraph (a) of
50 subdivi-
51 sion 1 as amended by chapter 434 of the laws of 2000, the opening
52 para-
53 graph of subdivision 3 as amended by chapter 597 of the laws of
54 1998,
55 paragraph (a) of subdivision 3 as amended by chapter 635 of the laws
56 of

57 1999, are amended to read as follows:

58 1. [~~Mandatory and permissive suspension~~] Suspension of
59 firearms
60 license and ineligibility for such a license upon the issuance
61 of a
62 temporary order of protection. Whenever a temporary order of
63 protection
64 is issued pursuant to section eight hundred twenty-eight of
65 this
66 article, or pursuant to article four, five, six, seven or ten of
67 this

68 act:
69 (a) the court shall suspend any such existing license possessed by
70 the
71 respondent, order the respondent ineligible for such a license,
72 and
73 order the immediate surrender pursuant to subparagraph (f) of
74 paragraph
75 one of subdivision a of section 265.20 and subdivision six of
76 section

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79 1 400.05 of the penal law, of any or all firearms owned or possessed
80 where
81 2 the court receives information that gives the court good cause
82 to
83 3 believe that: (i) the respondent has a prior conviction of any
84 violent
85 4 felony offense as defined in section 70.02 of the penal law; (ii)
86 the
87 5 respondent has previously been found to have willfully failed to obey
88 a

6 prior order of protection and such willful failure involved (A)
the
7 infliction of [~~serious~~] physical injury, as defined in subdivision
[~~ten~~]
8 nine of section 10.00 of the penal law, (B) the use or threatened use
of
9 a deadly weapon or dangerous instrument as those terms are defined
in
10 subdivisions twelve and thirteen of section 10.00 of the penal law,
or
11 (C) behavior constituting any violent felony offense as defined
in
12 section 70.02 of the penal law; or (iii) the respondent has a
prior
13 conviction for stalking in the first degree as defined in section
120.60
14 of the penal law, stalking in the second degree as defined in
section
15 120.55 of the penal law, stalking in the third degree as defined
in
16 section 120.50 of the penal law or stalking in the fourth degree
as
17 defined in section 120.45 of such law; and
18 (b) the court [~~may~~] shall where the court finds a substantial
risk
19 that the respondent may use or threaten to use a firearm
unlawfully
20 against the person or persons for whose protection the temporary
order
21 of protection is issued, suspend any such existing license possessed
by
22 the respondent, order the respondent ineligible for such a license,
and
23 order the immediate surrender pursuant to subparagraph (f) of
paragraph
24 one of subdivision a of section 265.20 and subdivision six of
section
25 400.05 of the penal law, of any or all firearms owned or possessed.
26 2. [~~Mandatory and permissive revocation~~] Revocation or suspension
of
27 firearms license and ineligibility for such a license upon the
issuance
28 of an order of protection. Whenever an order of protection is
issued
29 pursuant to section eight hundred forty-one of this part, or pursuant
to
30 article four, five, six, seven or ten of this act:
31 (a) the court shall revoke any such existing license possessed by
the
32 respondent, order the respondent ineligible for such a license,
and
33 order the immediate surrender pursuant to subparagraph (f) of
paragraph
34 one of subdivision a of section 265.20 and subdivision six of
section
35 400.05 of the penal law, of any or all firearms owned or possessed
where

36 the court finds that the conduct which resulted in the issuance of
the
37 order of protection involved (i) the infliction of [~~serious~~]
physical
38 injury, as defined in subdivision [~~ten~~] nine of section 10.00 of
the
39 penal law, (ii) the use or threatened use of a deadly weapon or
danger-
40 ous instrument as those terms are defined in subdivisions twelve
and
41 thirteen of section 10.00 of the penal law, or (iii) behavior
constitut-
42 ing any violent felony offense as defined in section 70.02 of the
penal
43 law; and
44 (b) the court [~~may~~] shall, where the court finds a substantial
risk
45 that the respondent may use or threaten to use a firearm
unlawfully
46 against the person or persons for whose protection the order
of
47 protection is issued, (i) revoke any such existing license possessed
by
48 the respondent, order the respondent ineligible for such a license
and
49 order the immediate surrender pursuant to subparagraph (f) of
paragraph
50 one of subdivision a of section 265.20 and subdivision six of
section
51 400.05 of the penal law, of any or all firearms owned or possessed
or
52 (ii) suspend or continue to suspend any such existing license
possessed
53 by the respondent, order the respondent ineligible for such a
license,
54 and order the immediate surrender pursuant to subparagraph (f) of
para-
55 graph one of subdivision a of section 265.20 and subdivision six
of
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1 section 400.05 of the penal law, of any or all firearms owned
or
2 possessed.
3 3. [~~Mandatory and permissive revocation~~] Revocation or suspension
of
4 firearms license and ineligibility for such a license upon a finding
of
5 a willful failure to obey an order of protection or temporary order
of
6 protection. Whenever a respondent has been found, pursuant to
section
7 eight hundred forty-six-a of this part to have willfully failed to
obey
8 an order of protection or temporary order of protection issued
pursuant

9 to this act or the domestic relations law, or by this court or [~~an~~
order
10 ~~of protection issued~~] by a court of competent jurisdiction in
another
11 state, territorial or tribal jurisdiction, in addition to any
other
12 remedies available pursuant to section eight hundred forty-six-a of
this
13 part:
14 (a) the court shall revoke any such existing license possessed by
the
15 respondent, order the respondent ineligible for such a license,
and
16 order the immediate surrender pursuant to subparagraph (f) of
paragraph
17 one of subdivision a of section 265.20 and subdivision six of
section
18 400.05 of the penal law, of any or all firearms owned or possessed
where
19 the willful failure to obey such order involves (i) the infliction
of
20 [~~serious~~] physical injury, as defined in subdivision [~~ten~~] nine
of
21 section 10.00 of the penal law, (ii) the use or threatened use
of a
22 deadly weapon or dangerous instrument as those terms are defined
in
23 subdivisions twelve and thirteen of section 10.00 of the penal law,
or
24 (iii) behavior constituting any violent felony offense as defined
in
25 section 70.02 of the penal law; or (iv) behavior constituting
stalking
26 in the first degree as defined in section 120.60 of the penal
law,
27 stalking in the second degree as defined in section 120.55 of the
penal
28 law, stalking in the third degree as defined in section 120.50 of
the
29 penal law or stalking in the fourth degree as defined in section
120.45
30 of such law; and
31 (b) the court [~~may~~] shall where the court finds a substantial
risk
32 that the respondent may use or threaten to use a firearm
unlawfully
33 against the person or persons for whose protection the order
of
34 protection was issued, (i) revoke any such existing license possessed
by
35 the respondent, order the respondent ineligible for such a
license,
36 whether or not the respondent possesses such a license, and order
the
37 immediate surrender pursuant to subparagraph (f) of paragraph one
of

38 subdivision a of section 265.20 and subdivision six of section 400.05
of
39 the penal law, of any or all firearms owned or possessed or (ii)
suspend
40 any such existing license possessed by the respondent, order
the
41 respondent ineligible for such a license, and order the
immediate
42 surrender of any or all firearms owned or possessed.
43 § 5. Section 846-a of the family court act, as amended by chapter
597
44 of the laws of 1998, is amended to read as follows:
45 § 846-a. Powers on failure to obey order. If a respondent is
brought
46 before the court for failure to obey any lawful order issued under
this
47 article or an order of protection or temporary order of
protection
48 issued pursuant to this act or issued by a court of competent
jurisdic-
49 tion of another state, territorial or tribal jurisdiction [~~in-a~~
~~proceed-~~
50 ~~ing~~] and if, after hearing, the court is satisfied by competent
proof
51 that the respondent has willfully failed to obey any such order,
the
52 court may modify an existing order or temporary order of protection
to
53 add reasonable conditions of behavior to the existing order
[~~of~~
54 ~~protection~~], make a new order of protection in accordance with
section
55 eight hundred forty-two of this part, may order the forfeiture of
bail
56 in a manner consistent with article five hundred forty of the
criminal
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1 procedure law if bail has been ordered pursuant to this act, may
order
2 the respondent to pay the petitioner's reasonable and necessary
counsel
3 fees in connection with the violation petition where the court
finds
4 that the violation of its order was willful, and may commit the
respond-
5 ent to jail for a term not to exceed six months. Such commitment may
be
6 served upon certain specified days or parts of days as the court
may
7 direct, and the court may, at any time within the term of such
sentence,
8 revoke such suspension and commit the respondent for the remainder
of
9 the original sentence, or suspend the remainder of such sentence. If
the

10 court determines that the willful failure to obey such order
involves
11 violent behavior constituting the crimes of menacing, reckless
endanger-
12 ment, assault or attempted assault and if such a respondent is
licensed
13 to carry, possess, repair and dispose of firearms pursuant to
section
14 400.00 of the penal law, the court may also immediately revoke
such
15 license and may arrange for the immediate surrender pursuant to
subpara-
16 graph (f) of paragraph one of subdivision a of section 265.20 and
subdi-
17 vision six of section 400.05 of the penal law, and disposal of
any
18 firearm such respondent owns or possesses. If the willful failure
to
19 obey such order involves the infliction of [~~serious~~] physical injury
as
20 defined in subdivision [~~ten~~] nine of section 10.00 of the penal law
or
21 the use or threatened use of a deadly weapon or dangerous instrument,
as
22 those terms are defined in subdivisions twelve and thirteen of
section
23 10.00 of the penal law, such revocation and immediate surrender
pursuant
24 to subparagraph (f) of paragraph one of subdivision a of section
265.20
25 and subdivision six of section 400.05 of the penal law six and
disposal
26 of any firearm owned or possessed by respondent shall be
mandatory,
27 pursuant to subdivision eleven of section 400.00 of the penal law.
28 § 6. The family court act is amended by adding a new section 446-a
to
29 read as follows:
30 § 446-a. Firearms; surrender and license suspension, revocation
and
31 ineligibility. Upon the issuance of an order of protection or
temporary
32 order of protection, or upon a violation of such order, the court
shall
33 make a determination regarding the suspension and revocation of
a
34 license to carry, possess, repair or dispose of a firearm or
firearms,
35 ineligibility for such a license and the surrender of firearms
in
36 accordance with section eight hundred forty-two-a of this act.
37 § 7. The family court act is amended by adding a new section 552
to
38 read as follows:
39 § 552. Firearms; surrender and license suspension, revocation
and

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

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

47 read as follows:

48 § 656-a. Firearms; surrender and license suspension, revocation
and

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

55 § 9. The family court act is amended by adding a new section 780-a
to

56 read as follows:

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

8 § 10. The family court act is amended by adding a new section
1056-a

9 to read as follows:

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

14 this act.
15 § 11. The first undesignated and closing paragraphs of subdivision
3
16 of section 240 of the domestic relations law, as added by chapter 606
of
17 the laws of 1999, are amended to read as follows:
18 g. Any party moving for a temporary order of protection pursuant
to
19 this subdivision during hours when the court is open shall be
entitled
20 to file such motion or pleading containing such prayer for
emergency
21 relief on the same day that such person first appears at such court,
and
22 a hearing on the motion or portion of the pleading requesting such
emer-
23 gency relief shall be held on the same day or the next day that
the
24 court is in session following the filing of such motion or pleading.
25 h. Upon issuance of an order of protection or temporary order
of
26 protection or upon a violation of such order, the court [~~may~~] shall
make
27 [~~an order~~] a determination regarding the suspension and revocation of
a
28 license to carry, possess, repair or dispose of a firearm or
firearms,
29 ineligibility for such a license and the surrender of firearms
in
30 accordance with [~~section~~] sections eight hundred forty-two-a and
eight
31 hundred forty-six-a of the family court act [~~directing the surrender~~
~~of~~
32 ~~firearms, revoking or suspending a party's firearms license,~~
~~and/or~~
33 ~~directing that such party be ineligible to receive a firearms~~
~~license~~],
34 as applicable. Upon issuance of an order of protection pursuant to
this
35 section or upon a finding of a violation thereof, the court also
may
36 direct payment of restitution in an amount not to exceed ten
thousand
37 dollars in accordance with subdivision (e) of section eight
hundred
38 forty-one of such act; provided, however, that in no case shall an
order
39 of restitution be issued where the court determines that the
party
40 against whom the order would be issued has already compensated
the
41 injured party or where such compensation is incorporated in a
final
42 judgment or settlement of the action.
43 § 12. Subdivision 9 of section 252 of the domestic relations law,
as

44 added by chapter 606 of the laws of 1999, is amended to read as
follows:
45 9. Upon issuance of an order of protection or temporary order
of
46 protection or upon a violation of such order, the court [~~may take~~
~~an~~
47 ~~order~~] shall make a determination regarding the suspension and
revoca-
48 tion of a license to carry, possess, repair or dispose of a firearm
or
49 firearms, ineligibility for such a license and the surrender of
firearms
50 in accordance with [~~section~~] sections eight hundred forty-two-a
and
51 eight hundred forty-six-a of the family court act [~~directing the~~
~~surren-~~
52 ~~der of firearms, revoking or suspending a party's firearms~~
~~license,~~
53 ~~and/or directing that such party be ineligible to receive a~~
~~firearms~~
54 ~~license~~], as applicable. Upon issuance of an order of protection
pursu-
55 ant to this section or upon a finding of a violation thereof, the
court
56 also may direct payment of restitution in an amount not to exceed
ten
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1 thousand dollars in accordance with subdivision (e) of section
eight
2 hundred forty-one of such act; provided, however, that in no case
shall
3 an order of restitution be issued where the court determines that
the
4 party against whom the order would be issued has already compensated
the
5 injured party or where such compensation is incorporated in a
final
6 [~~judgement~~] judgment or settlement of the action.
7 § 13. The opening paragraph and paragraph (b) of subdivision 1
of
8 section 530.14 of the criminal procedure law, as added by chapter 644
of
9 the laws of 1996, are amended to read as follows:
10 [~~Mandatory and permissive suspension~~] Suspension of firearms
license
11 and ineligibility for such a license upon issuance of temporary order
of
12 protection. Whenever a temporary order of protection is issued
pursuant
13 to subdivision one of section 530.12 or subdivision one of
section
14 530.13 of this article:
15 (b) the court [~~may~~] shall where the court finds a substantial
risk

16 that the defendant may use or threaten to use a firearm
unlawfully
17 against the person or persons for whose protection the temporary
order
18 of protection is issued, suspend any such existing license possessed
by
19 the defendant, order the defendant ineligible for such a license
and
20 order the immediate surrender pursuant to subparagraph (f) of
paragraph
21 one of subdivision a of section 265.20 and subdivision six of
section
22 400.05 of the penal law, of any or all firearms owned or possessed.
23 § 14. The opening paragraph and paragraph (b) of subdivision 2
of
24 section 530.14 of the criminal procedure law, as added by chapter 644
of
25 the laws of 1996, are amended to read as follows:
26 [~~Mandatory and permissive revocation~~] Revocation or suspension
of
27 firearms license and ineligibility for such a license upon issuance
of
28 an order of protection. Whenever an order of protection is issued
pursu-
29 ant to subdivision five of section 530.12 or subdivision four of
section
30 530.13 of this article:
31 (b) the court [~~may~~] shall where the court finds a substantial
risk
32 that the defendant may use or threaten to use a firearm
unlawfully
33 against the person or persons for whose protection the order
of
34 protection is issued, (i) revoke any such existing license possessed
by
35 the defendant, order the defendant ineligible for such a license
and
36 order the immediate surrender of any or all firearms owned or
possessed
37 or (ii) suspend or continue to suspend any such existing
license
38 possessed by the defendant, order the defendant ineligible for such
a
39 license and order the immediate surrender pursuant to subparagraph
(f)
40 of paragraph one of subdivision a of section 265.20 and subdivision
six
41 of section 400.05 of the penal law, of any or all firearms owned
or
42 possessed.
43 § 15. The opening paragraph and paragraph (b) of subdivision 3
of
44 section 530.14 of the criminal procedure law, the opening paragraph
as
45 amended by chapter 597 of the laws of 1998 and paragraph (b) as added
by
46 chapter 644 of the laws of 1996, are amended to read as follows:

47 ~~[Mandatory and permissive revocation]~~ Revocation or suspension
of
48 firearms license and ineligibility for such a license upon a finding
of
49 a willful failure to obey an order of protection. Whenever a
defendant
50 has been found pursuant to subdivision eleven of section 530.12
or
51 subdivision eight of section 530.13 of this article to have
willfully
52 failed to obey an order of protection issued by a court of
competent
53 jurisdiction in this state or another state, territorial or
tribal
54 jurisdiction, in addition to any other remedies available pursuant
to
55 subdivision eleven of section 530.12 or subdivision eight of
section
56 530.13 of this article:
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1 (b) the court ~~[may]~~ shall where the court finds a substantial
risk
2 that the defendant may use or threaten to use a firearm
unlawfully
3 against the person or persons for whose protection the order
of
4 protection was issued, (i) revoke any such existing license possessed
by
5 the defendant, order the defendant ineligible for such a license
and
6 order the immediate surrender pursuant to subparagraph (f) of
paragraph
7 one of subdivision a of section 265.20 and subdivision six of
section
8 400.05 of the penal law, of any or all firearms owned or possessed
or
9 (ii) suspend any such existing license possessed by the defendant,
order
10 the defendant ineligible for such a license and order the
immediate
11 surrender pursuant to subparagraph (f) of paragraph one of
subdivision a
12 of section 265.20 and subdivision six of section 400.05 of the
penal
13 law, of any or all firearms owned or possessed.
14 § 16. Section 837 of the executive law is amended by adding a
new
15 subdivision 19 to read as follows:
16 19. Receive names and other non-clinical identifying
information
17 pursuant to section 9.46 of the mental hygiene law; provided,
however,
18 any such information shall be destroyed five years after such
receipt,

19 or pursuant to a proceeding brought under article seventy-eight of
the
20 civil practice law and rules determining that an individual is
eligible
21 for a license pursuant to section 400.00 of the penal law and
otherwise
22 permitted to possess a firearm.
23 § 17. The general business law is amended by adding a new
article
24 39-DDD to read as follows:
25 ARTICLE 39-DDD
26 PRIVATE SALE OR DISPOSAL OF FIREARMS, RIFLES AND SHOTGUNS
27 Section 898. Private sale or disposal of firearms, rifles and
shotguns.
28 § 898. Private sale or disposal of firearms, rifles and shotguns.
1.
29 In addition to any other requirements pursuant to state and federal
law,
30 all sales, exchanges or disposals of firearms, rifles or shotguns
shall
31 be conducted in accordance with this section unless such sale,
exchange
32 or disposal is conducted by a licensed importer, licensed
manufacturer
33 or licensed dealer, as those terms are defined in 18 USC § 922,
when
34 such sale, exchange or disposal is conducted pursuant to that
person's
35 federal firearms license or such sale, exchange or disposal is
between
36 members of an immediate family. For purposes of this section,
"immediate
37 family" shall mean spouses, domestic partners, children and step-
chil-
38 dren.
39 2. Before any sale, exchange or disposal pursuant to this
article, a
40 national instant criminal background check must be completed by a
dealer
41 who consents to conduct such check, and upon completion of such
back-
42 ground check, shall complete a document, the form of which shall
be
43 approved by the superintendent of state police, that identifies
and
44 confirms that such check was performed.
45 3. All dealers shall maintain a record of such transactions
conducted
46 pursuant to this section and such record shall be maintained on
the
47 premises mentioned and described in the license and shall be open at
all
48 reasonable hours for inspection by any peace officer, acting pursuant
to
49 his or her special duties, or police officer.
50 4. A dealer may require that any sale or transfer conducted
pursuant

51 to this section be subject to a fee of not to exceed ten dollars
per
52 transaction.

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

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

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

6 follows:

7 (q) Adopt rules to require transmission, to the criminal
justice
8 information services division of the federal bureau of investigation
or
9 to the division of criminal justice services, of the name and
other
10 identifying information of each person who has a guardian appointed
for
11 him or her pursuant to any provision of state law, based on a
determi-

12 nation that as a result of marked subnormal intelligence,
mental
13 illness, incapacity, condition or disease, he or she lacks the
mental
14 capacity to contract or manage his or her own affairs. Any such

records
15 transmitted directly to the federal bureau of investigation must also
be
16 transmitted to the division of criminal justice services, and
any
17 records received by the division of criminal justice services
pursuant
18 to this paragraph may be checked against the statewide license
and
19 record database.

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

22 (j) (1) The commissioner, in cooperation with other applicable
state
23 agencies, shall ~~[be authorized to]~~ collect, retain or modify data
or
24 records, ~~[or to]~~ and shall transmit such data or records: (i) to
the

25 division of criminal justice services, or to the criminal justice
infor-
26 mation services division of the federal bureau of investigation, for
the
27 purposes of responding to queries to the national instant criminal
back-
28 ground check system regarding attempts to purchase or otherwise
take
29 possession of firearms, as defined in 18 USC 921(a)(3), in
accordance
30 with applicable federal laws or regulations, or (ii) to the division
of
31 criminal justice services, which may re-disclose such data and
records
32 only for determining whether a license issued pursuant to section
400.00
33 of the penal law should be denied, suspended or revoked, under
subdivi-
34 sion eleven of such section, or for determining whether a person is
no
35 longer permitted under federal or state law to possess a firearm.
Such
36 records, which may not be used for any other purpose, shall include
only
37 names and other non-clinical identifying information of persons who
have
38 been involuntarily committed to a hospital pursuant to article nine
of
39 this chapter, or section four hundred two or subdivision two of
section
40 five hundred eight of the correction law, or article seven hundred
thir-
41 ty or section 330.20 of the criminal procedure law or sections 322.2
or
42 353.4 of the family court act, or to a secure treatment facility
pursu-
43 ant to article ten of this chapter.
44 (2) The commissioner shall establish within the office of
mental
45 health an administrative process to permit a person who has been or
may
46 be disqualified from possessing such a firearm pursuant to 18
USC
47 922(4)(d) or who has been or may be disqualified from continuing to
have
48 a license to carry, possess, repair, or dispose of a firearm
under
49 section 400.00 of the penal law because such person was
involuntarily
of
50 committed or civilly confined to a facility under the jurisdiction
of
51 the commissioner, to petition for relief from that disability where
such
52 person's record and reputation are such that such person will not
be
53 likely to act in a manner dangerous to public safety and where
the

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

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

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

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

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

27 issued pursuant to section 400.00 of the penal law should be
suspended
28 or revoked, or for determining whether a person is ineligible for
a
29 license issued pursuant to section 400.00 of the penal law, or is
no
30 longer permitted under state or federal law to possess a firearm.
31 (c) Nothing in this section shall be construed to require a
mental
32 health professional to take any action which, in the exercise of
reason-
33 able professional judgment, would endanger such mental health
profes-
34 sional or increase the danger to a potential victim or victims.
35 (d) The decision of a mental health professional to disclose or not
to
36 disclose in accordance with this section, when made reasonably and
in
37 good faith, shall not be the basis for any civil or criminal
liability
38 of such mental health professional.

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

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

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1 § 22. Section 9.48 of the mental hygiene law is amended by adding
a

2 new subdivision (c) to read as follows:

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

26 § 23. Paragraph 3 of subdivision (a), paragraphs 2 and 5 of
27 subdivi-
28 sion (j) and subdivisions (k) and (n) of section 9.60 of the
29 mental
30 hygiene law, as amended by chapter 158 of the laws of 2005, are
31 amended
32 to read as follows:

33 (3) "director of community services" and "local governmental
34 unit"
35 shall have the same meanings as provided in article forty-one of
36 this
37 chapter. The "appropriate director" shall mean the director of
38 communi-
39 ty services of the county where the assisted outpatient resides, even
40 if
41 it is a different county than the county where the assisted
42 outpatient
43 treatment order was originally issued.

44 (2) If after hearing all relevant evidence, the court finds by
45 clear
46 and convincing evidence that the subject of the petition meets
47 the
48 criteria for assisted outpatient treatment, and there is no
49 appropriate
50 and feasible less restrictive alternative, the court may order
51 the
52 subject to receive assisted outpatient treatment for an initial
53 period
54 not to exceed [~~six months~~] one year. In fashioning the order, the
55 court
56 shall specifically make findings by clear and convincing evidence
57 that

32 the proposed treatment is the least restrictive treatment
appropriate
33 and feasible for the subject. The order shall state an assisted
outpa-
34 tient treatment plan, which shall include all categories of
assisted
35 outpatient treatment, as set forth in paragraph one of subdivision
(a)
36 of this section, which the assisted outpatient is to receive, but
shall
37 not include any such category that has not been recommended in both
the
38 proposed written treatment plan and the testimony provided to the
court
39 pursuant to subdivision (i) of this section.

40 (5) If the petitioner is the director of a hospital that operates
an
41 assisted outpatient treatment program, the court order shall direct
the
42 hospital director to provide or arrange for all categories of
assisted
43 outpatient treatment for the assisted outpatient throughout the
period
44 of the order. [~~For all other persons~~] In all other instances, the
order
45 shall require the appropriate director [~~of community services of~~
~~the~~
46 ~~appropriate local governmental unit~~], as that term is defined in
this
47 section, to provide or arrange for all categories of assisted
outpatient
48 treatment for the assisted outpatient throughout the period of
the
49 order.

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

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1 within thirty days prior to the expiration of an order of
assisted
2 outpatient treatment, such director may petition the court to
order
3 continued assisted outpatient treatment pursuant to paragraph two
of

4 this subdivision. Upon determining whether such criteria continue to
5 be met, such director shall notify the program coordinator in writing as
6 to whether a petition for continued assisted outpatient treatment
7 is warranted and whether such a petition was or will be filed.

8 (2) Within thirty days prior to the expiration of an order of
assisted
9 outpatient treatment, the appropriate director or the current
petition-
10 er, if the current petition was filed pursuant to subparagraph (i)
or
11 (ii) of paragraph one of subdivision (e) of this section, and
the
12 current petitioner retains his or her original status pursuant to
the
13 applicable subparagraph, may petition the court to order
continued
14 assisted outpatient treatment for a period not to exceed one year
from
15 the expiration date of the current order. If the court's disposition
of
16 such petition does not occur prior to the expiration date of the
current
17 order, the current order shall remain in effect until such
disposition.

18 The procedures for obtaining any order pursuant to this
subdivision
19 shall be in accordance with the provisions of the foregoing
subdivisions
20 of this section; provided that the time restrictions included in
para-
21 graph four of subdivision (c) of this section shall not be
applicable.
22 The notice provisions set forth in paragraph six of subdivision (j)
of
23 this section shall be applicable. Any court order requiring
periodic
24 blood tests or urinalysis for the presence of alcohol or illegal
drugs
25 shall be subject to review after six months by the physician who
devel-
26 oped the written treatment plan or another physician designated by
the
27 director, and such physician shall be authorized to terminate such
blood
28 tests or urinalysis without further action by the court.

29 (n) Failure to comply with assisted outpatient treatment. Where in
the
30 clinical judgment of a physician, (i) the assisted outpatient,
has
31 failed or refused to comply with the assisted outpatient treatment,
(ii)
32 efforts were made to solicit compliance, and (iii) such assisted
outpa-

33 tient may be in need of involuntary admission to a hospital pursuant
to
34 section 9.27 of this article or immediate observation, care and
treat-
35 ment pursuant to section 9.39 or 9.40 of this article, such
physician
36 may request the appropriate director of community services, the
direc-
37 tor's designee, or any physician designated by the director of
community
38 services pursuant to section 9.37 of this article, to direct the
removal
39 of such assisted outpatient to an appropriate hospital for an
examina-
40 tion to determine if such person has a mental illness for which
hospi-
41 talization is necessary pursuant to section 9.27, 9.39 or 9.40 of
this
42 article. Furthermore, if such assisted outpatient refuses to take
medi-
43 cations as required by the court order, or he or she refuses to take,
or
44 fails a blood test, urinalysis, or alcohol or drug test as required
by
45 the court order, such physician may consider such refusal or
failure
46 when determining whether the assisted outpatient is in need of an
exam-
47 ination to determine whether he or she has a mental illness for
which
48 hospitalization is necessary. Upon the request of such physician,
the
49 appropriate director, the director's designee, or any physician
desig-
50 nated pursuant to section 9.37 of this article, may direct peace
offi-
51 cers, acting pursuant to their special duties, or police officers
who
52 are members of an authorized police department or force or of a
sher-
53 iff's department to take the assisted outpatient into custody and
trans-
54 port him or her to the hospital operating the assisted outpatient
treat-
55 ment program or to any hospital authorized by the director of
community
56 services to receive such persons. Such law enforcement officials
shall

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1 carry out such directive. Upon the request of such physician, the
appro-
2 priate director, the director's designee, or any physician
designated
3 pursuant to section 9.37 of this article, an ambulance service,
as

4 defined by subdivision two of section three thousand one of the
public
5 health law, or an approved mobile crisis outreach team as defined
in
6 section 9.58 of this article shall be authorized to take into
custody
7 and transport any such person to the hospital operating the
assisted
8 outpatient treatment program, or to any other hospital authorized by
the
9 appropriate director of community services to receive such persons.
Any
10 director of community services, or designee, shall be authorized
to
11 direct the removal of an assisted outpatient who is present in his
or
12 her county to an appropriate hospital, in accordance with the
provisions
13 of this subdivision, based upon a determination of the
appropriate
14 director of community services directing the removal of such
assisted
15 outpatient pursuant to this subdivision. Such person may be retained
for
16 observation, care and treatment and further examination in the
hospital
17 for up to seventy-two hours to permit a physician to determine
whether
18 such person has a mental illness and is in need of involuntary care
and
19 treatment in a hospital pursuant to the provisions of this article.
Any
20 continued involuntary retention in such hospital beyond the
initial
21 seventy-two hour period shall be in accordance with the provisions
of
22 this article relating to the involuntary admission and retention of
a
23 person. If at any time during the seventy-two hour period the person
is
24 determined not to meet the involuntary admission and
retention
25 provisions of this article, and does not agree to stay in the
hospital
26 as a voluntary or informal patient, he or she must be released.
Failure
27 to comply with an order of assisted outpatient treatment shall not
be
28 grounds for involuntary civil commitment or a finding of contempt
of
29 court.
30 § 24. Subdivision (g) of section 13.09 of the mental hygiene law,
as
31 amended by chapter 168 of the laws of 2010, is amended to read
as
32 follows:

33 (g) (1) The commissioner, in cooperation with other applicable
state
34 agencies, shall [~~be authorized to~~] collect, retain or modify data
or
35 records, [~~or to~~] and shall transmit such data or records to: (i)
the
36 division of criminal justice services, or to the criminal justice
infor-
37 mation services division of the federal bureau of investigation, for
the
38 purposes of responding to queries to the national instant criminal
back-
39 ground check system regarding attempts to purchase or otherwise
take
40 possession of firearms, as defined in 18 USC 921(a)(3), in
accordance
41 with applicable federal laws or regulations, or (ii) to the division
of
42 criminal justice services, for the purposes of determining
whether a
43 license issued pursuant to section 400.00 of the penal law should
be
44 denied, suspended or revoked, under subdivision eleven of such
section,
45 or for determining whether a person is no longer permitted under
federal
46 or state law to possess a firearm. Such records shall include
only
47 names and other non-clinical identifying information of persons who
have
48 had a guardian appointed for them pursuant to any provision of
state
49 law, based on a determination that as a result of marked
subnormal
50 intelligence, mental illness, incapacity, condition or disease,
they
51 lack the mental capacity to contract or manage their own affairs,
and
52 persons who have been involuntarily committed to a facility pursuant
to
53 article fifteen of this chapter, or article seven hundred thirty
or
54 section 330.20 of the criminal procedure law or sections 322.2 or
353.4
55 of the family court act.

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1 (2) The commissioner shall establish within the office for people
with
2 developmental disabilities an administrative process to permit a
person
3 who has been or may be disqualified from possessing such a
firearm
4 pursuant to 18 USC 922(4)(d), or who has been or may be
disqualified

5 from continuing to have a license to carry, possess, repair, or
6 dispose
7 of a firearm under section 400.00 of the penal law because such
8 person
9 was involuntarily committed or civilly confined to a facility under
10 the
11 jurisdiction of the commissioner, to petition for relief from that
12 disability where such person's record and reputation are such that
13 such person will not be likely to act in a manner dangerous to public
14 safety and where the granting of the relief would not be contrary to
15 public safety. The commissioner shall promulgate regulations to establish
16 the relief from disabilities program, which shall include, but not be
17 limit-
18 ed to, provisions providing for: (i) an opportunity for a
19 disqualified
20 person to petition for relief in writing; (ii) the authority for
21 the
22 agency to require that the petitioner undergo a clinical evaluation
23 and
24 risk assessment; and (iii) a requirement that the agency issue a
25 deci-
26 sion in writing explaining the reasons for a denial or grant of
27 relief.
28 The denial of a petition for relief from disabilities may be reviewed
29 de
30 novo pursuant to the proceedings under article seventy-eight of
31 the
32 civil practice law and rules.
33 § 25. Paragraph 12 of subdivision (c) of section 33.13 of the
34 mental
35 hygiene law, as amended by chapter 158 of the laws of 2005, is
36 amended
37 and a new paragraph 15 is added to read as follows:
38 12. to a director of community services as defined in article nine
39 of
40 this chapter or his or her designee, provided that such director or
41 his
42 or her designee (i) requests such information in the exercise of his
43 or
44 her statutory functions, powers and duties pursuant to section
45 9.37,
46 9.45, 9.47, 9.48, 9.60 or 41.13 of this chapter; or (ii) the
47 disclosure
48 of information is required pursuant to section 9.46 of this chapter.
49 15. to the division of criminal justice services, names and
50 other
51 non-clinical identifying information for the sole purpose of
52 implement-
53 ing the division's responsibilities and duties under sections 400.00
54 and
55 400.02 of the penal law.

35 § 26. Section 10.00 of the penal law is amended by adding a new
subdi-
36 vision 21 to read as follows:
37 21. "Drug trafficking felony" means any of the following
offenses
38 defined in article two hundred twenty of this chapter: violation of
use
39 of a child to commit a controlled substance offense as defined
in
40 section 220.28; criminal sale of a controlled substance in the
fourth
41 degree as defined in section 220.34; criminal sale of a
controlled
42 substance in the third degree as defined in section 220.39;
criminal
43 sale of a controlled substance in the second degree as defined
in
44 section 220.41; criminal sale of a controlled substance in the
first
45 degree as defined in section 220.43; criminal sale of a
controlled
46 substance in or near school grounds as defined in section 220.44;
unlaw-
47 ful manufacture of methamphetamine in the second degree as defined
in
48 section 220.74; unlawful manufacture of methamphetamine in the
first
49 degree as defined in section 220.75; or operating as a major
trafficker
50 as defined in section 220.77.

51 § 26-a. The penal law is amended by adding a new section 60.11-a
to
52 read as follows:
53 § 60.11-a Authorized dispositions; certain criminal possession of
a
54 weapon in the third degree offenders.
55 When a person is to be sentenced upon conviction of the crime of
crim-
56 inal possession of a weapon in the third degree as defined in
subdivi-

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1 sion ten of section 265.02 of this chapter, the court must sentence
such
2 defendant to a determinate sentence as provided in subparagraph (ii)
of
3 paragraph (c) of subdivision three of section 70.02 of this
chapter,
4 unless a greater minimum sentence is otherwise required by
another
5 provision of this chapter.

6 § 27. Paragraphs (b) and (c) of subdivision 1 of section 70.02 of
the
7 penal law, paragraph (b) as amended by chapter 148 of the laws of
2011

8 and paragraph (c) as amended by chapter 405 of the laws of 2010,
are
9 amended to read as follows:
10 (b) Class C violent felony offenses: an attempt to commit any of
the
11 class B felonies set forth in paragraph (a) of this subdivision;
aggra-
12 vated criminally negligent homicide as defined in section 125.11,
aggra-
13 vated manslaughter in the second degree as defined in section
125.21,
14 aggravated sexual abuse in the second degree as defined in
section
15 130.67, assault on a peace officer, police officer, fireman or
emergency
16 medical services professional as defined in section 120.08, assault
on a
17 judge as defined in section 120.09, gang assault in the second degree
as
18 defined in section 120.06, strangulation in the first degree as
defined
19 in section 121.13, burglary in the second degree as defined in
section
20 140.25, robbery in the second degree as defined in section 160.10,
crim-
21 inal possession of a weapon in the second degree as defined in
section
22 265.03, criminal use of a firearm in the second degree as defined
in
23 section 265.08, criminal sale of a firearm in the second degree
as
24 defined in section 265.12, criminal sale of a firearm with the aid of
a
25 minor as defined in section 265.14, aggravated criminal possession
of a
26 weapon as defined in section 265.19, soliciting or providing support
for
27 an act of terrorism in the first degree as defined in section
490.15,
28 hindering prosecution of terrorism in the second degree as defined
in
29 section 490.30, and criminal possession of a chemical weapon or
biolog-
30 ical weapon in the third degree as defined in section 490.37.
31 (c) Class D violent felony offenses: an attempt to commit any of
the
32 class C felonies set forth in paragraph (b); reckless assault of a
child
33 as defined in section 120.02, assault in the second degree as defined
in
34 section 120.05, menacing a police officer or peace officer as defined
in
35 section 120.18, stalking in the first degree, as defined in
subdivision
36 one of section 120.60, strangulation in the second degree as defined
in

37 section 121.12, rape in the second degree as defined in section
130.30,
38 criminal sexual act in the second degree as defined in section
130.45,
39 sexual abuse in the first degree as defined in section 130.65, course
of
40 sexual conduct against a child in the second degree as defined
in
41 section 130.80, aggravated sexual abuse in the third degree as
defined
42 in section 130.66, facilitating a sex offense with a
controlled
43 substance as defined in section 130.90, criminal possession of a
weapon
44 in the third degree as defined in subdivision five, six, seven
[~~or~~],
45 eight, nine or ten of section 265.02, criminal sale of a firearm in
the
46 third degree as defined in section 265.11, intimidating a victim
or
47 witness in the second degree as defined in section 215.16, soliciting
or
48 providing support for an act of terrorism in the second degree
as
49 defined in section 490.10, and making a terroristic threat as defined
in
50 section 490.20, falsely reporting an incident in the first degree
as
51 defined in section 240.60, placing a false bomb or hazardous
substance
52 in the first degree as defined in section 240.62, placing a false
bomb
53 or hazardous substance in a sports stadium or arena, mass
transportation
54 facility or enclosed shopping mall as defined in section 240.63,
and
55 aggravated unpermitted use of indoor pyrotechnics in the first degree
as
56 defined in section 405.18.

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16

A.

1 § 28. The opening paragraph of paragraph (c) of subdivision 2
of
2 section 70.02 of the penal law, as amended by chapter 764 of the laws
of
3 2005, is amended to read as follows:
4 Except as provided in subdivision six of section 60.05, the
sentence
5 imposed upon a person who stands convicted of the class D violent
felony
6 offenses of criminal possession of a weapon in the third degree
as
7 defined in subdivision [~~four~~] five, seven [~~or~~], eight or nine
of
8 section 265.02, criminal sale of a firearm in the third degree
as

9 defined in section 265.11 or the class E violent felonies of
attempted
10 criminal possession of a weapon in the third degree as defined in
subdi-
11 vision [~~four~~], five, seven [~~or~~], eight or nine of section 265.02 must
be
12 a sentence to a determinate period of imprisonment, or, in the
alterna-
13 tive, a definite sentence of imprisonment for a period of no less
than
14 one year, except that:
15 § 29. Paragraph (b) of subdivision 3 of section 70.02 of the
penal
16 law, as amended by chapter 765 of the laws of 2005, is amended to
read
17 as follows:
18 (b) For a class C felony, the term must be at least three and one-
half
19 years and must not exceed fifteen years, provided, however, that
the
20 term must be: (i) at least seven years and must not exceed twenty
years
21 where the sentence is for the crime of aggravated manslaughter in
the
22 second degree as defined in section 125.21 of this chapter; (ii)
at
23 least seven years and must not exceed twenty years where the sentence
is
24 for the crime of attempted aggravated assault upon a police officer
or
25 peace officer as defined in section 120.11 of this chapter; [~~and~~]
(iii)
26 at least three and one-half years and must not exceed twenty years
where
27 the sentence is for the crime of aggravated criminally negligent
homi-
28 cide as defined in section 125.11 of this chapter; and (iv) at
least
29 five years and must not exceed fifteen years where the sentence
is
30 imposed for the crime of aggravated criminal possession of a weapon
as
31 defined in section 265.19 of this chapter;
32 § 30. Paragraph (c) of subdivision 3 of section 70.02 of the
penal
33 law, as amended by chapter 765 of the laws of 2005, is amended to
read
34 as follows:
35 (c) For a class D felony, the term must be at least two years and
must
36 not exceed seven years, provided, however, that the term must be: (i)
at
37 least two years and must not exceed eight years where the sentence
is
38 for the crime of menacing a police officer or peace officer as
defined

39 in section 120.18 of this chapter; and (ii) at least three and one-
40 half
41 years and must not exceed seven years where the sentence is imposed
42 for
43 the crime of criminal possession of a weapon in the third degree
44 as
45 defined in subdivision ten of section 265.02 of this chapter;
46 § 31. The penal law is amended by adding a new section 115.20 to
read
47 as follows:
48 § 115.20 Criminal facilitation; definitions and construction.
49 For purposes of this article, such conduct shall include, but not
50 be
51 limited to, making available, selling, exchanging, giving or
52 disposing
53 of a community gun, which in fact, aids a person to commit a
54 crime.
55 "Community gun" shall mean a firearm that is actually shared,
56 made
57 available, sold, exchanged, given or disposed of among or between two
58 or
59 more persons, at least one of whom is not authorized pursuant to law
60 to
61 possess such firearm. "Dispose of" shall have the same meaning as
62 that
63 term is defined in section 265.00 of this chapter. "Share" and
64 "make
65 available" shall, in the case of a firearm, be construed to
66 include
67 knowingly placing such firearm at a location accessible and known to
68 one
69 or more other persons.

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A.

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1 § 32. Section 120.05 of the penal law is amended by adding a
new
2 subdivision 4-a to read as follows:
3 4-a. He recklessly causes physical injury to another person who
4 is a
5 child under the age of eighteen by intentional discharge of a
6 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-

14 vision engaged at the time of the killing in the course of
performing

15 his or her official duties; and

16 § 35. Paragraph (a) of subdivision 1 of section 125.26 of the
penal

17 law is amended by adding a new subparagraph (ii-a) to read as
follows:

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

23 knew or reasonably should have known that the intended victim was
such

24 firefighter, emergency medical technician, ambulance driver,
paramedic,

25 physician or registered nurse; or

26 § 36. Paragraph (a) of subdivision 1 of section 125.27 of the
penal

27 law is amended by adding a new subparagraph (ii-a) to read as
follows:

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

33 knew or reasonably should have known that the intended victim was
such

34 firefighter, emergency medical technician, ambulance driver,
paramedic,

35 physician or registered nurse; or

36 § 37. Subdivision 22 of section 265.00 of the penal law, as added
by

37 chapter 189 of the laws of 2000, is amended to read as follows:

38 22. "Assault weapon" means [~~(a) a semiautomatic rifle that has~~

~~an~~
39 ~~ability to accept a detachable magazine and has at least two of~~

~~the~~
40 ~~following characteristics:~~

41 ~~(i) a folding or telescoping stock;~~

42 ~~(ii) a pistol grip that protrudes conspicuously beneath the action~~

~~of~~
43 ~~the weapon;~~

44 ~~(iii) a bayonet mount;~~

45 ~~(iv) a flash suppressor or threaded barrel designed to accommodate~~

~~a~~
46 ~~flash suppressor;~~

47 ~~(v) a grenade launcher; or~~
48 ~~(b) a semiautomatic shotgun that has at least two of the~~
following
49 characteristics:
50 ~~(i) a folding or telescoping stock;~~
51 ~~(ii) a pistol grip that protrudes conspicuously beneath the action~~
of
52 ~~the weapon;~~
53 ~~(iii) a fixed magazine capacity in excess of five rounds;~~
54 ~~(iv) an ability to accept a detachable magazine; or~~
55 ~~(c) a semiautomatic pistol that has an ability to accept a~~
detachable
56 magazine and has at least two of the following characteristics:
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1 ~~(i) an ammunition magazine that attaches to the pistol outside of~~
the
2 ~~pistol grip;~~
3 ~~(ii) a threaded barrel capable of accepting a barrel extender,~~
flash
4 ~~suppressor, forward handgrip, or silencer;~~
5 ~~(iii) a shroud that is attached to, or partially or completely~~
encir-
6 ~~cles, the barrel and that permits the shooter to hold the firearm~~
with
7 ~~the nontrigger hand without being burned;~~
8 ~~(iv) a manufactured weight of fifty ounces or more when the pistol~~
is
9 ~~unloaded;~~
10 ~~(v) a semiautomatic version of an automatic rifle, shotgun or~~
firearm;
11 or
12 ~~(d) any of the weapons, or functioning frames or receivers of~~
such
13 ~~weapons, or copies or duplicates of such weapons, in any caliber,~~
known
14 ~~as:~~
15 ~~(i) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs~~
(all
16 ~~models);~~
17 ~~(ii) Action Arms Israeli Military Industries UZI and Galil;~~
18 ~~(iii) Beretta Ar70 (SC-70);~~
19 ~~(iv) Colt AR-15;~~
20 ~~(v) Fabrique National FN/FAL, FN/LAR, and FNC;~~
21 ~~(vi) SWD M-10, M-11, M-11/9, and M-12;~~
22 ~~(vii) Steyr AUG;~~
23 ~~(viii) INTRATEC TEC-9, TEC-DC9 and TEC-22; and~~
24 ~~(ix) revolving cylinder shotguns, such as (or similar to) the~~
Street
25 ~~Sweeper and Striker 12;~~
26 ~~(e) provided, however, that such term does not include: (i) any~~
rifle,
27 ~~shotgun or pistol that (A) is manually operated by bolt, pump, lever~~
or
28 ~~slide action; (B) has been rendered permanently inoperable; or (C) is~~
an

29 ~~antique firearm as defined in 18 U.S.C. 921(a)(16);~~
30 ~~(ii) a semiautomatic rifle that cannot accept a detachable~~
magazine
31 ~~that holds more than five rounds of ammunition;~~
32 ~~(iii) a semiautomatic shotgun that cannot hold more than five~~
rounds
33 ~~of ammunition in a fixed or detachable magazine;~~
34 ~~(iv) a rifle, shotgun or pistol, or a replica or a duplicate~~
thereof,
35 ~~specified in Appendix A to section 922 of 18 U.S.C. as such weapon~~
was
36 ~~manufactured on October first, nineteen hundred ninety-three. The~~
mere
37 ~~fact that a weapon is not listed in Appendix A shall not be construed~~
to
38 ~~mean that such weapon is an assault weapon; or~~
39 ~~(v) a semiautomatic rifle, a semiautomatic shotgun or a~~
semiautomatic
40 ~~pistol or any of the weapons defined in paragraph (d) of this~~
subdivi-
41 ~~sion lawfully possessed prior to September fourteenth, nineteen~~
hundred
42 ~~ninety-four.]~~

43 (a) a semiautomatic rifle that has an ability to accept a
detachable
44 magazine and has at least one of the following characteristics:
45 (i) a folding or telescoping stock;
46 (ii) a pistol grip that protrudes conspicuously beneath the action
of
47 the weapon;
48 (iii) a thumbhole stock;
49 (iv) a second handgrip or a protruding grip that can be held by
the
50 non-trigger hand;
51 (v) a bayonet mount;
52 (vi) a flash suppressor, muzzle break, muzzle compensator, or
threaded
53 barrel designed to accommodate a flash suppressor, muzzle break,
or
54 muzzle compensator;
55 (vii) a grenade launcher; or

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1 (b) a semiautomatic shotgun that has at least one of the
following
2 characteristics:
3 (i) a folding or telescoping stock;
4 (ii) a thumbhole stock;
5 (iii) a second handgrip or a protruding grip that can be held by
the
6 non-trigger hand;
7 (iv) a fixed magazine capacity in excess of seven rounds;
8 (v) an ability to accept a detachable magazine; or
9 (c) a semiautomatic pistol that has an ability to accept a
detachable
10 magazine and has at least one of the following characteristics:

11 (i) a folding or telescoping stock;
12 (ii) a thumbhole stock;
13 (iii) a second handgrip or a protruding grip that can be held by
the
14 non-trigger hand;
15 (iv) capacity to accept an ammunition magazine that attaches to
the
16 pistol outside of the pistol grip;
17 (v) a threaded barrel capable of accepting a barrel extender,
flash
18 suppressor, forward handgrip, or silencer;
19 (vi) a shroud that is attached to, or partially or completely
encir-
20 cles, the barrel and that permits the shooter to hold the firearm
with
21 the non-trigger hand without being burned;
22 (vii) a manufactured weight of fifty ounces or more when the pistol
is
23 unloaded; or
24 (viii) a semiautomatic version of an automatic rifle, shotgun
or
25 firearm;
26 (d) a revolving cylinder shotgun;
27 (e) a semiautomatic rifle, a semiautomatic shotgun or a
semiautomatic
28 pistol or weapon defined in subparagraph (v) of paragraph (e) of
subdi-
29 vision twenty-two of section 265.00 of this chapter as added by
chapter
30 one hundred eighty-nine of the laws of two thousand and
otherwise
31 lawfully possessed pursuant to such chapter of the laws of two
thousand
32 prior to September fourteenth, nineteen hundred ninety-four;
33 (f) a semiautomatic rifle, a semiautomatic shotgun or a
semiautomatic
34 pistol or weapon defined in paragraph (a), (b) or (c) of this
subdivi-
35 sion, possessed prior to the date of enactment of the chapter of
the
36 laws of two thousand thirteen which added this paragraph;
37 (g) provided, however, that such term does not include:
38 (i) any rifle, shotgun or pistol that (A) is manually operated
by
39 bolt, pump, lever or slide action; (B) has been rendered
permanently
40 inoperable; or (C) is an antique firearm as defined in 18
U.S.C.
41 921(a)(16);
42 (ii) a semiautomatic rifle that cannot accept a detachable
magazine
43 that holds more than five rounds of ammunition;
44 (iii) a semiautomatic shotgun that cannot hold more than five
rounds
45 of ammunition in a fixed or detachable magazine; or
46 (iv) a rifle, shotgun or pistol, or a replica or a duplicate
thereof,

47 specified in Appendix A to 18 U.S.C. 922 as such weapon was
48 manufactured
49 on October first, nineteen hundred ninety-three. The mere fact
50 that a
51 weapon is not listed in Appendix A shall not be construed to mean
52 that
53 such weapon is an assault weapon;
54 (v) any weapon validly registered pursuant to subdivision sixteen-a
55 of
56 section 400.00 of this chapter. Such weapons shall be subject to
57 the
58 provisions of paragraph (h) of this subdivision;
59 (vi) any firearm, rifle, or shotgun that was manufactured at
60 least
61 fifty years prior to the current date, but not including replicas
62 there-

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63 of that is validly registered pursuant to subdivision sixteen-a
64 of
65 section 400.00 of this chapter;
66 (h) Any weapon defined in paragraph (e) or (f) of this subdivision
67 and
68 any large capacity ammunition feeding device that was legally
69 possessed
70 of
71 by an individual prior to the enactment of the chapter of the laws
72 of
73 two thousand thirteen which added this paragraph, may only be sold
74 to,
75 exchanged with or disposed of to a purchaser authorized to possess
76 such
77 weapons or to an individual or entity outside of the state provided
78 that
79 any such transfer to an individual or entity outside of the state
80 must
81 be reported to the entity wherein the weapon is registered within
82 seven-
83 such
84 ty-two hours of such transfer. An individual who transfers any
85 weapon or large capacity ammunition device to an individual inside
86 New
87 York state or without complying with the provisions of this
88 paragraph
89 shall be guilty of a class A misdemeanor unless such large
90 capacity
91 ammunition feeding device, the possession of which is made illegal
92 by
93 the chapter of the laws of two thousand thirteen which added this
94 para-
95 graph, is transferred within one year of the effective date of the
96 chap-
97 ter of the laws of two thousand thirteen which added this paragraph.

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

21 23. "Large capacity ammunition feeding device" means a magazine,
belt,
22 drum, feed strip, or similar device, [~~manufactured after September~~
~~thir-~~
23 ~~teenth, nineteen hundred ninety-four,~~] that (a) has a capacity of,
or
24 that can be readily restored or converted to accept, more than
ten
25 rounds of ammunition, or (b) contains more than seven rounds of
ammuni-
26 tion, or (c) is obtained after the effective date of the chapter of
the
27 laws of two thousand thirteen which amended this subdivision and
has a
28 capacity of, or that can be readily restored or converted to
accept,
29 more than seven rounds of ammunition; provided, however, that such
term
30 does not include an attached tubular device designed to accept,
and
31 capable of operating only with, .22 caliber rimfire ammunition
or a
32 feeding device that is a curio or relic. A feeding device that is
a
33 curio or relic is defined as a device that (i) was manufactured at
least
34 fifty years prior to the current date, (ii) is only capable of
being
35 used exclusively in a firearm, rifle, or shotgun that was
manufactured
36 at least fifty years prior to the current date, but not including
repli-
37 cas thereof, (iii) is possessed by an individual who is not
prohibited
38 by state or federal law from possessing a firearm and (iv) is
registered
39 with the division of state police pursuant to subdivision sixteen-a
of
40 section 400.00 of this chapter, except such feeding devices
transferred
41 into the state may be registered at any time, provided they are
regis-
42 tered within thirty days of their transfer into the state.
Notwith-
43 standing paragraph (h) of subdivision twenty-two of this section,
such
44 feeding devices may be transferred provided that such transfer shall
be
45 subject to the provisions of section 400.03 of this chapter
including
46 the check required to be conducted pursuant to such section.
47 § 39. Section 265.00 of the penal law is amended by adding a
new
48 subdivision 24 to read as follows:
49 24. "Seller of ammunition" means any person, firm, partnership,
corpo-

50 ration or company who engages in the business of purchasing, selling
or
51 keeping ammunition.

52 § 40. Section 265.01 of the penal law, as added by chapter 1041 of
the
53 laws of 1974, subdivision 1 as amended by chapter 257 of the laws
of
54 2008, subdivision 2 as amended by chapter 220 of the laws of
1988,
55 subdivision 3 as amended by chapter 199 of the laws of 2006,
subdivision

56 4 as amended by chapter 357 of the laws of 2011, subdivision 7 as
added
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1 by chapter 807 of the laws of 1981, and subdivision 8 as added by
chap-

2 ter 646 of the laws of 1986, is amended to read as follows:

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

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

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

10 shot or slungshot, shirken or "Kung Fu star"; or

11 (2) He possesses any dagger, dangerous knife, dirk, razor,
stiletto,
12 imitation pistol, or any other dangerous or deadly instrument or
weapon

13 with intent to use the same unlawfully against another; or

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

21 ~~tion]; or~~

22 (4) He possesses a rifle, shotgun, antique firearm, black
powder
23 rifle, black powder shotgun, or any muzzle-loading firearm, and has
been

24 convicted of a felony or serious offense; or

25 (5) He possesses any dangerous or deadly weapon and is not a
citizen
26 of the United States; or
27 (6) He is a person who has been certified not suitable to possess
a
28 rifle or shotgun, as defined in subdivision sixteen of section
265.00,
29 and refuses to yield possession of such rifle or shotgun upon the
demand
30 of a police officer. Whenever a person is certified not suitable
to
31 possess a rifle or shotgun, a member of the police department to
which
32 such certification is made, or of the state police, shall
forthwith
33 seize any rifle or shotgun possessed by such person. A rifle or
shotgun
34 seized as herein provided shall not be destroyed, but shall be
delivered
35 to the headquarters of such police department, or state police,
and
36 there retained until the aforesaid certificate has been rescinded by
the
37 director or physician in charge, or other disposition of such rifle
or
38 shotgun has been ordered or authorized by a court of competent
jurisdic-
39 tion.
40 (7) He knowingly possesses a bullet containing an explosive
substance
41 designed to detonate upon impact.
42 (8) He possesses any armor piercing ammunition with intent to use
the
43 same unlawfully against another.
44 Criminal possession of a weapon in the fourth degree is a class
A
45 misdemeanor.
46 § 41. The penal law is amended by adding a new section 265.01-a
to
47 read as follows:
48 § 265.01-a. Criminal possession of a weapon on school grounds.
49 A person is guilty of criminal possession of a weapon on
school
50 grounds when he or she knowingly has in his or her possession a
rifle,
51 shotgun, or firearm in or upon a building or grounds, used for
educa-
52 tional purposes, of any school, college, or university, except
the
53 forestry lands, wherever located, owned and maintained by the
State
54 University of New York college of environmental science and forestry,
or
55 upon a school bus as defined in section one hundred forty-two of
the

1 vehicle and traffic law, without the written authorization of
such
2 educational institution.
3 Criminal possession of a weapon on school grounds is a class E
felony.

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

6 § 265.01-b Criminal possession of a firearm.
7 A person is guilty of criminal possession of a firearm when he or
she:
8 (1) possesses any firearm or; (2) lawfully possesses a firearm prior
to
9 the effective date of the chapter of the laws of two thousand
thirteen
10 which added this section subject to the registration requirements
of
11 subdivision sixteen-a of section 400.00 of this chapter and
knowingly

12 fails to register such firearm pursuant to such subdivision.
13 Criminal possession of a firearm is a class E felony.

14 § 41-b. Subdivision 8 of section 265.02 of the penal law, as
amended

15 by chapter 764 of the laws of 2005, is amended and two new
subdivisions

16 9 and 10 are added to read as follows:
17 (8) Such person possesses a large capacity ammunition feeding
device.

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

27 (9) Such person possesses an unloaded firearm and also commits a
drug
28 trafficking felony as defined in subdivision twenty-one of section
10.00
29 of this chapter as part of the same criminal transaction; or
30 (10) Such person possesses an unloaded firearm and also commits
any
31 violent felony offense as defined in subdivision one of section 70.02
of
32 this chapter as part of the same criminal transaction.

33 § 42. Subdivision 2 of section 265.09 of the penal law, as added
by
34 chapter 650 of the laws of 1996, is amended to read as follows:
35 (2) Sentencing. Notwithstanding any other provision of law to
the
36 contrary, when a person is convicted of criminal use of a firearm in
the
37 first degree as defined in subdivision one of this section, the
court
38 shall impose an additional consecutive sentence of five years to
the
39 ~~[minimum term of an indeterminate]~~ sentence imposed on the
underlying
40 class B violent felony offense where the person convicted of such
crime
41 displays a loaded weapon from which a shot, readily capable of
producing
42 death or other serious injury may be discharged, in furtherance of
the
43 commission of such crime, provided, however, that such
additional
44 sentence shall not be imposed if the court, having regard to the
nature
45 and circumstances of the crime and to the history and character of
the
46 defendant, finds on the record that such additional consecutive
sentence
47 would be unduly harsh and that not imposing such sentence would
be
48 consistent with the public safety and would not deprecate the
serious-
49 ness of the crime. Notwithstanding any other provision of law to
the
50 contrary, the aggregate of the five year consecutive term imposed
pursu-
51 ant to this subdivision and the minimum term of the
indeterminate
52 sentence imposed on the underlying class B violent felony shall
consti-
53 tute the new aggregate minimum term of imprisonment, and a
person
54 subject to such term shall be required to serve the entire
aggregate
55 minimum term and shall not be eligible for release on parole or
condi-
56 tional release during such term. This subdivision shall not apply
where

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1 the defendant's criminal liability for displaying a loaded weapon
from
2 which a shot, readily capable of producing death or other serious
injury
3 may be discharged, in furtherance of the commission of crime is based
on

4 the conduct of another pursuant to section 20.00 of [~~the penal law~~
this
5 chapter.
6 § 43. Section 265.17 of the penal law, as added by chapter 189 of
the
7 laws of 2000, is amended to read as follows:
8 § 265.17 Criminal purchase or disposal of a weapon.
9 A person is guilty of criminal purchase or disposal of a weapon
when:
10 1. Knowing that he or she is prohibited by law from possessing
a
11 firearm, rifle or shotgun because of a prior conviction or because
of
12 some other disability which would render him or her ineligible
to
13 lawfully possess a firearm, rifle or shotgun in this state, such
person
14 [~~attempts to purchase~~] purchases a firearm, rifle or shotgun from
anoth-
15 er person; or
16 2. Knowing that it would be unlawful for another person to possess
a
17 firearm, rifle or shotgun, he or she purchases a firearm, rifle or
shot-
18 gun for, on behalf of, or for the use of such other person[-]; or
19 3. Knowing that another person is prohibited by law from
possessing a
20 firearm, rifle or shotgun because of a prior conviction or because
of
21 some other disability which would render him or her ineligible
to
22 lawfully possess a firearm, rifle or shotgun in this state, a
person
23 disposes of a firearm, rifle or shotgun to such other person.
24 Criminal purchase or disposal of a weapon is a class [~~A~~
~~misdemeanor~~] D
25 felony.
26 § 44. Intentionally omitted.
27 § 45. The penal law is amended by adding a new section 265.19 to
read
28 as follows:
29 § 265.19 Aggravated criminal possession of a weapon.
30 A person is guilty of aggravated criminal possession of a weapon
when
31 he or she commits the crime of criminal possession of a weapon in
the
32 second degree as defined in subdivision three of section 265.03 of
this
33 article and also commits any violent felony offense as defined in
subdi-
34 vision one of section 70.02 of this chapter or a drug trafficking
felony
35 as defined in subdivision twenty-one of section 10.00 of this
chapter
36 arising out of the same criminal transaction.
37 Aggravated criminal possession of a weapon is a class C felony.

38 § 46. Paragraph 3 of subdivision a of section 265.20 of the penal
law,
39 as amended by chapter 210 of the laws of 1999, is amended and a
new
40 paragraph 7-f is added to read as follows:
41 3. Possession of a pistol or revolver by a person to whom a
license
42 therefor has been issued as provided under section 400.00 or 400.01
of
43 this chapter or possession of a weapon as defined in paragraph (e)
or
44 (f) of subdivision twenty-two of section 265.00 of this article which
is
45 registered pursuant to paragraph (a) of subdivision sixteen-a of
section
46 400.00 of this chapter or is included on an amended license
issued
47 pursuant to section 400.00 of this chapter. In the event such
license
48 is revoked, other than because such licensee is no longer permitted
to
49 possess a firearm, rifle or shotgun under federal or state law,
informa-
50 tion sufficient to satisfy the requirements of subdivision sixteen-a
of
51 section 400.00 of this chapter, shall be transmitted by the
licensing
52 officer to the state police, in a form as determined by the
superinten-
53 dent of state police. Such transmission shall constitute a valid
regis-
54 tration under such section. Further provided, notwithstanding any
other
55 section of this title, a failure to register such weapon by an
individ-
56 ual who possesses such weapon before the enactment of the chapter of
the

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1 laws of two thousand thirteen which amended this paragraph and may
so
2 lawfully possess it thereafter upon registration, shall only be
subject
3 to punishment pursuant to paragraph (c) of subdivision sixteen-a
of
4 section 400.00 of this chapter; provided, that such a license or
regis-
5 tration shall not preclude a conviction for the offense defined
in
6 subdivision three of section 265.01 of this article or section
265.01-a
7 of this article.
8 7-f. Possession and use of a magazine, belt, feed strip or
similar
9 device, that contains more than seven rounds of ammunition, but
that

10 does not have a capacity of or can readily be restored or converted
11 to accept more than ten rounds of ammunition, at an indoor or
12 outdoor firing range located in or on premises owned or occupied by a
13 duly incorporated organization organized for conservation purposes or
14 to foster proficiency in arms; at an indoor or outdoor firing range for
15 the purpose of firing a rifle or shotgun; at a collegiate, olympic or
16 target shooting competition under the auspices of or approved by the
17 national rifle association; or at an organized match sanctioned by the
18 International Handgun Metallic Silhouette Association.

19 § 46-a. The penal law is amended by adding two new sections 265.36
and

20 265.37 to read as follows:
21 § 265.36 Unlawful possession of a large capacity ammunition
22 feeding device.

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

31 An individual who has a reasonable belief that such device is of
32 such a character that it may lawfully be possessed and who surrenders
33 or lawfully disposes of such device within thirty days of being notified
34 by law enforcement or county licensing officials that such possession
35 is unlawful shall not be guilty of this offense. It shall be a
36 rebuttable

37 presumption that such person knows that such large capacity
38 ammunition feeding device may not be lawfully possessed if he or she has
39 been contacted by law enforcement or county licensing officials and
40 informed that such device may not be lawfully possessed.

41 Unlawful possession of a large capacity ammunition feeding device
is a class A misdemeanor.
§ 265.37 Unlawful possession of certain ammunition feeding devices.

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

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

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

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

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

5 as follows:
6 § 265.45 Safe storage of rifles, shotguns, and firearms.

7 No person who owns or is custodian of a rifle, shotgun or firearm
who

8 resides with an individual who such person knows or has reason to
know

9 is prohibited from possessing a firearm pursuant to 18 U.S.C. §
922 (g)

10 (1), (4), (8) or (9) shall store or otherwise leave such rifle,
shotgun

11 or firearm out of his or her immediate possession or control
without

12 having first securely locked such rifle, shotgun or firearm in an
appro-

13 priate safe storage depository or rendered it incapable of being
fired

14 by use of a gun locking device appropriate to that weapon. For
purposes

15 of this section "safe storage depository" shall mean a safe or
16 other
17 secure container which, when locked, is incapable of being opened
18 with-
19 out the key, combination or other unlocking mechanism and is capable
20 of
21 preventing an unauthorized person from obtaining access to
22 and
23 possession of the weapon contained therein. With respect to a
24 person
25 who is prohibited from possessing a firearm pursuant to 18 USC
26 §
27 922(g) (9), for purposes of this section, this section applies only
28 if
29 such person has been convicted of a crime included in subdivision one
30 of
31 section 370.15 of the criminal procedure law and such gun is
32 possessed
33 within five years from the later of the date of conviction or
34 completion
35 of sentence.

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

27 § 48. Subdivision 1, paragraph (a) of subdivision 3, subdivisions

4, 28 5, 9, 10, 11, 12 and 15 of section 400.00 of the penal law,
subdivision

29 1 as amended by chapter 189 of the laws of 2000, paragraph (a) of
subdi-

30 vision 3 as designated by chapter 778 of the laws of 1985,
subdivision 4

31 as amended by chapter 331 of the laws of 2005, subdivision 5 as
amended

32 by chapter 332 of the laws of 1994, subdivision 9 as amended by
chapter

33 172 of the laws of 1973, subdivision 10 as amended by chapter 447 of
the

34 laws of 1997, subdivision 11 as amended by chapter 210 of the laws
of

35 1999, and subdivision 12 as amended by chapter 449 of the laws of
1993,

36 are amended and two new subdivisions 16-a and 16-b are added to read
as

37 follows:

38 1. Eligibility. No license shall be issued or renewed pursuant to
this

39 section except by the licensing officer, and then only after
investi-

40 gation and finding that all statements in a proper application
for a

41 license are true. No license shall be issued or renewed except for
an

42 applicant (a) twenty-one years of age or older, provided, however,
that

43 where such applicant has been honorably discharged from the
United

44 States army, navy, marine corps, air force or coast guard, or
the

45 national guard of the state of New York, no such age restriction
shall
46 apply; (b) of good moral character; (c) who has not been
convicted
47 anywhere of a felony or a serious offense; (d) who is not a
fugitive
48 from justice; (e) who is not an unlawful user of or addicted to
any
49 controlled substance as defined in section 21 U.S.C. 802; (f) who
being
50 an alien (i) is not illegally or unlawfully in the United States or
(ii)
51 has not been admitted to the United States under a nonimmigrant
visa
52 subject to the exception in 18 U.S.C. 922(y) (2); (g) who has not
been
53 discharged from the Armed Forces under dishonorable conditions; (h)
who,
54 having been a citizen of the United States, has not renounced his or
her
55 citizenship; (i) who has stated whether he or she has ever suffered
any
56 mental illness [~~or been confined to any hospital or institution,~~
~~public~~
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1 ~~or private, for mental illness~~; (j) who has not been
involuntarily
2 committed to a facility under the jurisdiction of an office of
the
3 department of mental hygiene pursuant to article nine or fifteen of
the
4 mental hygiene law, article seven hundred thirty or section 330.20
of
5 the criminal procedure law, section four hundred two or five
hundred
6 eight of the correction law, section 322.2 or 353.4 of the family
court
7 act, or has not been civilly confined in a secure treatment
facility
8 pursuant to article ten of the mental hygiene law; [~~e~~] (k) who has
not
9 had a license revoked or who is not under a suspension or
ineligibility
10 order issued pursuant to the provisions of section 530.14 of the
crimi-
11 nal procedure law or section eight hundred forty-two-a of the
family
12 court act; [~~f~~] (l) in the county of Westchester, who has
successfully
13 completed a firearms safety course and test as evidenced by a
certif-
14 icate of completion issued in his or her name and endorsed and
affirmed
15 under the penalties of perjury by a duly authorized instructor,
except

16 that: (i) persons who are honorably discharged from the United
States
17 army, navy, marine corps or coast guard, or of the national guard of
the
18 state of New York, and produce evidence of official qualification
in
19 firearms during the term of service are not required to have
completed
20 those hours of a firearms safety course pertaining to the safe
use,
21 carrying, possession, maintenance and storage of a firearm; and
(ii)
22 persons who were licensed to possess a pistol or revolver prior to
the
23 effective date of this paragraph are not required to have completed
a
24 firearms safety course and test; [~~and (g)~~] (m) who has not had a
guardi-
25 an appointed for him or her pursuant to any provision of state
law,
26 based on a determination that as a result of marked subnormal
intelli-
27 gence, mental illness, incapacity, condition or disease, he or she
lacks
28 the mental capacity to contract or manage his or her own affairs;
and
29 (n) concerning whom no good cause exists for the denial of the
license.
30 No person shall engage in the business of gunsmith or dealer in
firearms
31 unless licensed pursuant to this section. An applicant to engage in
such
32 business shall also be a citizen of the United States, more than
twe-
33 ty-one years of age and maintain a place of business in the city
or
34 county where the license is issued. For such business, if the
applicant
35 is a firm or partnership, each member thereof shall comply with all
of
36 the requirements set forth in this subdivision and if the applicant
is a
37 corporation, each officer thereof shall so comply.
38 (a) Applications shall be made and renewed, in the case of a
license
39 to carry or possess a pistol or revolver, to the licensing officer
in
40 the city or county, as the case may be, where the applicant resides,
is
41 principally employed or has his or her principal place of business
as
42 merchant or storekeeper; and, in the case of a license as gunsmith
or
43 dealer in firearms, to the licensing officer where such place of
busi-
44 ness is located. Blank applications shall, except in the city of
New

45 York, be approved as to form by the superintendent of state police.
An
46 application shall state the full name, date of birth, residence,
present
47 occupation of each person or individual signing the same, whether or
not
48 he or she is a citizen of the United States, whether or not he or
she
49 complies with each requirement for eligibility specified in
subdivision
50 one of this section and such other facts as may be required to show
the
51 good character, competency and integrity of each person or
individual
52 signing the application. An application shall be signed and verified
by
53 the applicant. Each individual signing an application shall submit
one
54 photograph of himself or herself and a duplicate for each required
copy
55 of the application. Such photographs shall have been taken within
thirty
56 days prior to filing the application. In case of a license as
gunsmith

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1 or dealer in firearms, the photographs submitted shall be two
inches
2 square, and the application shall also state the previous occupation
of
3 each individual signing the same and the location of the place of
such
4 business, or of the bureau, agency, subagency, office or branch
office
5 for which the license is sought, specifying the name of the city,
town
6 or village, indicating the street and number and otherwise giving
such
7 apt description as to point out reasonably the location thereof. In
such
8 case, if the applicant is a firm, partnership or corporation, its
name,
9 date and place of formation, and principal place of business shall
be
10 stated. For such firm or partnership, the application shall be
signed
11 and verified by each individual composing or intending to compose
the
12 same, and for such corporation, by each officer thereof.

13 4. Investigation. Before a license is issued or renewed, there
shall
14 be an investigation of all statements required in the application by
the
15 duly constituted police authorities of the locality where such
applica-

16 tion is made, including but not limited to such records as may be
acces-
17 sible to the division of state police or division of criminal
justice
18 services pursuant to section 400.02 of this article. For that
purpose,
19 the records of the appropriate office of the department of
mental
20 hygiene concerning previous or present mental illness of the
applicant
21 shall be available for inspection by the investigating officer of
the
22 police authority. In order to ascertain any previous criminal
record,
23 the investigating officer shall take the fingerprints and
physical
24 descriptive data in quadruplicate of each individual by whom the
appli-
25 cation is signed and verified. Two copies of such fingerprints shall
be
26 taken on standard fingerprint cards eight inches square, and one
copy
27 may be taken on a card supplied for that purpose by the federal
bureau
28 of investigation; provided, however, that in the case of a
corporate
29 applicant that has already been issued a dealer in firearms license
and
30 seeks to operate a firearm dealership at a second or
subsequent
31 location, the original fingerprints on file may be used to ascertain
any
32 criminal record in the second or subsequent application unless any
of
33 the corporate officers have changed since the prior application,
in
34 which case the new corporate officer shall comply with
procedures
35 governing an initial application for such license. When completed,
one
36 standard card shall be forwarded to and retained by the division
of
37 criminal justice services in the executive department, at
Albany. A
38 search of the files of such division and written notification of
the
39 results of the search to the investigating officer shall be made
without
40 unnecessary delay. Thereafter, such division shall notify the
licensing
41 officer and the executive department, division of state police,
Albany,
42 of any criminal record of the applicant filed therein subsequent to
the
43 search of its files. A second standard card, or the one supplied by
the

44 federal bureau of investigation, as the case may be, shall be
forwarded
45 to that bureau at Washington with a request that the files of the
bureau
46 be searched and notification of the results of the search be made to
the
47 investigating police authority. [~~The failure or refusal of the
federal
48 bureau of investigation to make the fingerprint check provided for
in
49 this section shall not constitute the sole basis for refusal to
issue a
50 permit pursuant to the provisions of this section.~~] Of the remaining
two
51 fingerprint cards, one shall be filed with the executive
department,
52 division of state police, Albany, within ten days after issuance of
the
53 license, and the other remain on file with the investigating
police
54 authority. No such fingerprints may be inspected by any person
other
55 than a peace officer, who is acting pursuant to his special duties,
or a
56 police officer, except on order of a judge or justice of a court
of
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1 record either upon notice to the licensee or without notice, as
the
2 judge or justice may deem appropriate. Upon completion of the
investi-
3 gation, the police authority shall report the results to the
licensing
4 officer without unnecessary delay.
5 5. Filing of approved applications. (a) The application for
any
6 license, if granted, shall be filed by the licensing officer with
the
7 clerk of the county of issuance, except that in the city of New
York
8 and, in the counties of Nassau and Suffolk, the licensing officer
shall
9 designate the place of filing in the appropriate division, bureau
or
10 unit of the police department thereof, and in the county of Suffolk
the
11 county clerk is hereby authorized to transfer all records or
applica-
12 tions relating to firearms to the licensing authority of that
county.
13 [~~The~~] Except as provided in paragraphs (b) through (f) of this
subdivi-
14 sion, the name and address of any person to whom an application for
any

15 license has been granted shall be a public record. Upon application
by a
16 licensee who has changed his place of residence such records or applica-
17 tions shall be transferred to the appropriate officer at the
licensee's
18 new place of residence. A duplicate copy of such application shall
be
19 filed by the licensing officer in the executive department, division
of
20 state police, Albany, within ten days after issuance of the
license.

21 The superintendent of state police may designate that such
application
22 shall be transmitted to the division of state police electronically.

In
23 the event the superintendent of the division of state police
determines
24 that it lacks any of the records required to be filed with the
division,
25 it may request that such records be provided to it by the
appropriate
26 clerk, department or authority and such clerk, department or
authority

27 shall provide the division with such records. In the event such
clerk,
28 department or authority lacks such records, the division may request
the
29 license holder provide information sufficient to constitute such
record
30 and such license holder shall provide the division with such
informa-

31 tion. Such information shall be limited to the license holder's
name,
32 date of birth, gender, race, residential address, social security
number
33 and firearms possessed by said license holder. Nothing in this

subdivi-
34 sion shall be construed to change the expiration date or term of
such
35 licenses if otherwise provided for in law. Records assembled

or
36 collected for purposes of inclusion in the database established by
this
37 section shall be released pursuant to a court order. Records
assembled

38 or collected for purposes of inclusion in the database created
pursuant
39 to section 400.02 of this chapter shall not be subject to
disclosure
40 pursuant to article six of the public officers law.

41 (b) Each application for a license pursuant to paragraph (a) of
this
42 subdivision shall include, on a separate written form prepared by
the
43 division of state police within thirty days of the effective date of
the

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

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1 Further, such forms shall provide each applicant an opportunity to
spec-
2 ify the grounds on which he or she believes his or her
application
3 information should not be publicly disclosed. These grounds, which
shall
4 be identified on the application with a box beside each for checking,
as
5 applicable, by the applicant, shall be as follows:
6 (i) the applicant's life or safety may be endangered by
disclosure
7 because:
8 (A) the applicant is an active or retired police officer, peace
offi-
9 cer, probation officer, parole officer, or corrections officer;
10 (B) the applicant is a protected person under a currently valid
order
11 of protection;
12 (C) the applicant is or was a witness in a criminal proceeding
involv-
13 ing a criminal charge;
14 (D) the applicant is participating or previously participated as
a
15 juror in a criminal proceeding, or is or was a member of a grand
jury;
16 or
17 (E) the applicant is a spouse, domestic partner or household member
of

18 a person identified in this subparagraph or subparagraph (ii) of
this
19 paragraph, specifying which subparagraph or subparagraphs and
clauses
20 apply.
21 (ii) the applicant has reason to believe his or her life or safety
may
22 be endangered by disclosure due to reasons stated by the applicant.
23 (iii) the applicant has reason to believe he or she may be subject
to
24 unwarranted harassment upon disclosure of such information.
25 (c) Each form provided for recertification pursuant to paragraph
(b)
26 of subdivision ten of this section shall include an opportunity for
the
27 applicant to request an exception from the information provided on
such
28 form becoming public record pursuant to paragraph (a) of this
subdivi-
29 sion. Such forms shall notify applicants that, upon discovery that
an
30 applicant knowingly provided false information, such applicant may
be
31 subject to penalties pursuant to section 175.30 of this chapter,
and
32 further, that his or her request for an exception shall be null
and
33 void, provided that written notice containing such determination
is
34 provided to the applicant. Further, such forms shall provide
each
35 applicant an opportunity to either decline to request the grant
or
36 continuation of an exception, or specify the grounds on which he or
she
37 believes his or her information should not be publicly disclosed.
These
38 grounds, which shall be identified in the application with a box
beside
39 each for checking, as applicable, by the applicant, shall be the same
as
40 provided in paragraph (b) of this subdivision.
of
41 (d) Information submitted on the forms described in paragraph (b)
the
42 this subdivision shall be excepted from disclosure and maintained by
the
43 entity retaining such information separate and apart from all
other
44 records.
45 (e) (i) Upon receiving a request for exception from disclosure,
the
46 licensing officer shall grant such exception, unless the request
is
47 determined to be null and void, pursuant to paragraph (b) or (c) of
this
48 subdivision.

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

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

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

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

15 (g) If a request for an exception is determined to be null and
void
16 pursuant to paragraph (b) or (c) of this subdivision, an applicant
may
17 request review of such determination pursuant to article seventy-
eight
18 of the civil practice laws and rules. Such proceeding must
commence
19 within thirty days after service of the written notice containing
the
20 adverse determination. Notice of the right to commence such a
petition,
21 and the time period therefor, shall be included in the notice of
the

22 determination. Disclosure following such a petition shall not be
made
23 prior to the disposition of such review.

24 9. License: amendment. Elsewhere than in the city of New
York, a
25 person licensed to carry or possess a pistol or revolver may apply
at
26 any time to his or her licensing officer for amendment of his or
her
27 license to include one or more such weapons or to cancel weapons
held
28 under license. If granted, a record of the amendment describing
the
29 weapons involved shall be filed by the licensing officer in the
execu-
30 tive department, division of state police, Albany. The superintendent
of
31 state police may authorize that such amendment be completed and
trans-
32 mitted to the state police in electronic form. Notification of
any
33 change of residence shall be made in writing by any licensee within
ten
34 days after such change occurs, and a record of such change shall
be
35 inscribed by such licensee on the reverse side of his or her
license.

36 Elsewhere than in the city of New York, and in the counties of
Nassau
37 and Suffolk, such notification shall be made to the executive
depart-
38 ment, division of state police, Albany, and in the city of New York
to
39 the police commissioner of that city, and in the county of Nassau to
the
40 police commissioner of that county, and in the county of Suffolk to
the
41 licensing officer of that county, who shall, within ten days after
such
42 notification shall be received by him or her, give notice in writing
of
43 such change to the executive department, division of state police,
at
44 Albany.

45 10. License: expiration, certification and renewal. (a) Any
license
46 for gunsmith or dealer in firearms and, in the city of New York,
any
47 license to carry or possess a pistol or revolver, issued at any
time
48 pursuant to this section or prior to the first day of July,
nineteen
49 hundred sixty-three and not limited to expire on an earlier date
fixed
50 in the license, shall expire not more than three years after the date
of

51 issuance. In the counties of Nassau, Suffolk and Westchester,
any
52 license to carry or possess a pistol or revolver, issued at any
time
53 pursuant to this section or prior to the first day of July,
nineteen
54 hundred sixty-three and not limited to expire on an earlier date
fixed
55 in the license, shall expire not more than five years after the date
of
56 issuance; however, in the county of Westchester, any such license
shall

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

22 hundred thousand inhabitants, photographs and fingerprints shall
be
23 submitted on original applications and upon renewal thereafter only
at
24 six year intervals. Upon satisfactory proof that a currently
valid
25 original license has been despoiled, lost or otherwise removed from
the
26 possession of the licensee and upon application containing an
additional
27 photograph of the licensee, the licensing officer shall issue a
dupli-
28 cate license.

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

47 11. License: revocation and suspension. (a) The conviction of a
licen-
48 see anywhere of a felony or serious offense or a licensee at any
time
49 becoming ineligible to obtain a license under this section shall
operate
50 as a revocation of the license. A license may be revoked or suspended
as

51 provided for in section 530.14 of the criminal procedure law or
section
52 eight hundred forty-two-a of the family court act. Except for a
license
53 issued pursuant to section 400.01 of this article, a license may
be
54 revoked and cancelled at any time in the city of New York, and in
the
55 counties of Nassau and Suffolk, by the licensing officer, and
elsewhere
56 than in the city of New York by any judge or justice of a court
of
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1 record; a license issued pursuant to section 400.01 of this article
may
2 be revoked and cancelled at any time by the licensing officer or
any
3 judge or justice of a court of record. The official revoking a
license
4 shall give written notice thereof without unnecessary delay to the
exec-
5 utive department, division of state police, Albany, and shall also
noti-
6 fy immediately the duly constituted police authorities of the
locality.

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

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

22 pursuant to his or her special duties is authorized to remove any
and
23 all such weapons.

24 12. Records required of gunsmiths and dealers in firearms. Any
person
25 licensed as gunsmith or dealer in firearms shall keep a record
book
26 approved as to form, except in the city of New York, by the
superinten-
27 dent of state police. In the record book shall be entered at the time
of
28 every transaction involving a firearm the date, name, age,
occupation
29 and residence of any person from whom a firearm is received or to
whom a
30 firearm is delivered, and the calibre, make, model, manufacturer's
name
31 and serial number, or if none, any other distinguishing number or
iden-
32 tification mark on such firearm. Before delivering a firearm to
any
33 person, the licensee shall require him to produce either a license
valid
34 under this section to carry or possess the same, or proof of
lawful
35 authority as an exempt person pursuant to section 265.20. In
addition,
36 before delivering a firearm to a peace officer, the licensee shall
veri-
37 fy that person's status as a peace officer with the division of
state
38 police. After completing the foregoing, the licensee shall remove
and
39 retain the attached coupon and enter in the record book the date of
such
40 license, number, if any, and name of the licensing officer, in the
case
41 of the holder of a license to carry or possess, or the shield or
other
42 number, if any, assignment and department, unit or agency, in the
case
43 of an exempt person. The original transaction report shall be
forwarded
44 to the division of state police within ten days of delivering a
firearm
45 to any person, and a duplicate copy shall be kept by the licensee.

The
46 superintendent of state police may designate that such record shall
be
47 completed and transmitted in electronic form. A dealer may be
granted a
48 waiver from transmitting such records in electronic form if the
super-
49 intendent determines that such dealer is incapable of such
transmission
50 due to technological limitations that are not reasonably within
the

51 control of the dealer, or other exceptional circumstances
52 demonstrated
53 by the dealer, pursuant to a process established in regulation, and
54 at
55 the discretion of the superintendent. Records assembled or collected
56 for
57 purposes of inclusion in the database created pursuant to section
58 400.02
59 of this article shall not be subject to disclosure pursuant to
60 article
61 six of the public officers law. The record book shall be maintained
on
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1 the premises mentioned and described in the license and shall be open
at
2 all reasonable hours for inspection by any peace officer, acting
pursu-
3 ant to his special duties, or police officer. In the event of
cancell-
4 tion or revocation of the license for gunsmith or dealer in firearms,
or
5 discontinuance of business by a licensee, such record book shall
be
6 immediately surrendered to the licensing officer in the city of
New
7 York, and in the counties of Nassau and Suffolk, and elsewhere in
the
8 state to the executive department, division of state police.

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

11 16-a. Registration. (a) An owner of a weapon defined in paragraph
12 (e)
13 or (f) of subdivision twenty-two of section 265.00 of this
14 chapter,
15 possessed before the date of the effective date of the chapter of
16 the
17 laws of two thousand thirteen which added this paragraph, must make
18 an
19 application to register such weapon with the superintendent of
20 state
21 police, in the manner provided by the superintendent, or by amending
22 a
23 license issued pursuant to this section within one year of the
24 effective
25 date of this subdivision except any weapon defined under
26 subparagraph
27 (vi) of paragraph (g) of subdivision twenty-two of section 265.00
28 of
29 this chapter transferred into the state may be registered at any
30 time,
31 provided such weapons are registered within thirty days of their
32 trans-
33 fer into the state. Registration information shall include the
34 regis-

23 trant's name, date of birth, gender, race, residential address,
social
24 security number and a description of each weapon being
registered. A
25 registration of any weapon defined under subparagraph (vi) of
paragraph
26 (g) of subdivision twenty-two of section 265.00 or a feeding device
as
27 defined under subdivision twenty-three of section 265.00 of this
chapter
28 shall be transferable, provided that the seller notifies the
state
29 police within seventy-two hours of the transfer and the buyer
provides
30 the state police with information sufficient to constitute a
registra-
31 tion under this section. Such registration shall not be valid if
such
32 registrant is prohibited or becomes prohibited from possessing a
firearm
33 pursuant to state or federal law. The superintendent shall
determine
34 whether such registrant is prohibited from possessing a firearm
under
35 state or federal law. Such check shall be limited to determining
wheth-
36 er the factors in 18 USC 922 (g) apply or whether a registrant has
been
37 convicted of a serious offense as defined in subdivision sixteen-b
of
38 section 265.00 of this chapter, so as to prohibit such registrant
from
39 possessing a firearm, and whether a report has been issued pursuant
to
40 section 9.46 of the mental hygiene law. All registrants shall
recertify
41 to the division of state police every five years thereafter. Failure
to
42 recertify shall result in a revocation of such registration.
43 (b) The superintendent of state police shall create and maintain
an
44 internet website to educate the public as to which semiautomatic
rifle,
45 semiautomatic shotgun or semiautomatic pistol or weapon that are
illegal
46 as a result of the enactment of the chapter of the laws of two
thousand
47 thirteen which added this paragraph, as well as such assault
weapons
48 which are illegal pursuant to article two hundred sixty-five of
this
49 chapter. Such website shall contain information to assist the public
in
50 recognizing the relevant features proscribed by such article two
hundred
51 sixty-five, as well as which make and model of weapons that
require

52 registration.
53 (c) A person who knowingly fails to apply to register such weapon,
as
54 required by this section, within one year of the effective date of
the
55 chapter of the laws of two thousand thirteen which added this
paragraph
56 shall be guilty of a class A misdemeanor and such person who
unknowingly
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1 fails to validly register such weapon within such one year period
shall
2 be given a warning by an appropriate law enforcement authority
about
3 such failure and given thirty days in which to apply to register
such
4 weapon or to surrender it. A failure to apply or surrender such
weapon
5 within such thirty-day period shall result in such weapon being
removed
6 by an appropriate law enforcement authority and declared a nuisance.
7 16-b. The cost of the software, programming and interface required
to
8 transmit any record that must be electronically transmitted by the
deal-
9 er or licensing officer to the division of state police pursuant to
this
10 chapter shall be borne by the state.

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

13 § 400.02 Statewide license and record database.
14 There shall be a statewide license and record database which shall
be
15 created and maintained by the division of state police the cost of
which
16 shall not be borne by any municipality. Records assembled or
collected
17 for purposes of inclusion in such database shall not be subject
to
18 disclosure pursuant to article six of the public officers law.
Records
19 containing granted license applications shall be periodically checked
by
20 the division of criminal justice services against criminal
conviction,
21 mental health, and all other records as are necessary to determine
their
22 continued accuracy as well as whether an individual is no longer
a
23 valid license holder. The division of criminal justice services
shall
24 also check pending applications made pursuant to this article
against

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

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

40 as follows:
41 § 400.03 Sellers of ammunition.
42 1. A seller of ammunition as defined in subdivision twenty-four
of
43 section 265.00 of this chapter shall register with the superintendent
of
44 state police in a manner provided by the superintendent. Any dealer
in
45 firearms that is validly licensed pursuant to section 400.00 of
this
46 article shall not be required to complete such registration.

47 2. Any seller of ammunition or dealer in firearms shall keep a
record
48 book approved as to form by the superintendent of state police. In
the
49 record book shall be entered at the time of every transaction
involving
50 ammunition the date, name, age, occupation and residence of any
person
51 from whom ammunition is received or to whom ammunition is delivered,
and
52 the amount, calibre, manufacturer's name and serial number, or if
none,
53 any other distinguishing number or identification mark on such
ammuni-
54 tion. The record book shall be maintained on the premises mentioned
and

55 described in the license and shall be open at all reasonable hours
for
56 inspection by any peace officer, acting pursuant to his or her
special

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

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

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

22 (b) the system provides the licensee or seller with a unique
identifi-
23 cation number; and
24 (c) the transferor has verified the identity of the transferee

by
25 examining a valid state identification document of the transferee
issued
26 by the department of motor vehicles or if the transferee is not a
resi-
27 dent of the state of New York, a valid identification document issued
by

28 the transferee's state or country of residence containing a
photograph
29 of the transferee.
30 4. If the database determines that the purchaser of ammunition
is
31 eligible to possess ammunition pursuant to state and federal laws,
the
32 system shall:
33 (a) assign a unique identification number to the transfer; and
34 (b) provide the licensee or seller with the number.
35 5. If the statewide license and record database notifies the
licensee
36 or seller that the information available to the database does not
demon-
37 strate that the receipt of ammunition by such other person would
violate
38 18 U.S.C. 922(g) or state law, and the licensee transfers ammunition
to
39 such other person, the licensee shall indicate to the database that
such
40 transaction has been completed at which point a record of such
trans-
41 action shall be created which shall be accessible by the division
of
42 state police and maintained for no longer than one year from point
of
43 purchase, which shall not be incorporated into the database
established
44 pursuant to section 400.02 of this article or the registry
established
45 pursuant to subdivision sixteen-a of section 400.00 of this article.
The
46 division of state police may share such information with a local
law
47 enforcement agency. Evidence of the purchase of ammunition is
not
48 sufficient to establish probable cause to believe that the purchaser
has
49 committed a crime absent other information tending to prove the
commis-
50 sion of a crime. Records assembled or accessed pursuant to this
section
51 shall not be subject to disclosure pursuant to article six of the
public
52 officers law. This requirement of this section shall not apply (i) if
a
53 background check cannot be completed because the system is not
opera-
54 tional as determined by the superintendent of state police, or where
it
55 cannot be accessed by the practitioner due to a temporary
technological
56 or electrical failure, as set forth in regulation, or (ii) a dealer
or

1 seller has been granted a waiver from conducting such background
2 check
3 if the superintendent of state police determines that such dealer
4 is
5 incapable of such check due to technological limitations that are
6 not
7 reasonably within the control of the dealer, or other
8 exceptional
9 circumstances demonstrated by the dealer, pursuant to a process
10 estab-
11 lished in regulation, and at the discretion of such superintendent.
12 6. If the superintendent of state police certifies that
13 background
14 checks of ammunition purchasers may be conducted through the
15 national
16 instant criminal background check system, use of that system by a
17 dealer
18 or seller shall be sufficient to satisfy subdivisions four and five
19 of
20 this section and such checks shall be conducted through such
21 system,
22 provided that a record of such transaction shall be forwarded to
23 the
24 state police in a form determined by the superintendent.
25 7. No commercial transfer of ammunition shall take place unless
26 a
27 licensed dealer in firearms or registered seller of ammunition acts
28 as
29 an intermediary between the transferor and the ultimate transferee
30 of
31 the ammunition for the purposes of contacting the statewide license
32 and
33 record database pursuant to this section. Such transfer between
34 the
35 dealer or seller, and transferee must occur in person.
36 8. A seller of ammunition who fails to register pursuant to
37 this
38 section and sells ammunition, for a first offense, shall be guilty of
39 a
40 violation and subject to the fine of one thousand dollars and
41 for a
42 second offense, shall be guilty of a class A misdemeanor.
43 A seller of ammunition that fails to keep any record required
44 pursuant
45 to this section, for a first offense shall be guilty of a violation
46 and
47 subject to a fine of five hundred dollars, and for a second
48 offense
49 shall be guilty of a class B misdemeanor, and the registration of
50 such
51 seller shall be revoked.
52 § 51. Section 400.10 of the penal law, as added by chapter 531 of
53 the
54 laws of 1984, and subdivision 1 as amended and subdivision 3 as added
55 by
56 chapter 189 of the laws of 2000, is amended to read as follows:
57 § 400.10 Report of theft or loss of a firearm, rifle or shotgun.

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

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

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

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

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

6 § 460.22 Aggravated enterprise corruption.
7 A person is guilty of aggravated enterprise corruption when he or
she

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

23 Aggravated enterprise corruption is a class A-I felony.
24 § 53. The surrogate's court procedure act is amended by adding a
new

25 section 2509 to read as follows:
26 § 2509. Firearms inventory
27 Whenever, by regulation, rule or statute, a fiduciary or attorney
28 of
29 record must file a list of assets constituting a decedent's estate,
30 such
31 list must include a particularized description of every firearm,
32 shotgun
33 and rifle, as such terms are defined in section 265.00 of the penal
34 law,
35 that are part of such estate. Such list must be filed with the
36 surro-
37 gate's court in the county in which the estate proceeding, if any,
38 is
39 pending and a copy must be filed with the division of criminal
40 justice
41 services.

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

45 § 18. This act shall take effect immediately, provided that
section
46 fifteen of this act shall take effect April 1, 2000, provided,
further,
47 that subdivision (e) of section 9.60 of the mental hygiene law as
added
48 by section six of this act shall be effective 90 days after this
act
49 shall become law; and that this act shall expire and be deemed
repealed

50 June 30, [~~2015~~] 2017.

51 § 55. The education law is amended by adding a new section 2801-b
to

52 read as follows:
53 § 2801-b. New York state school safety improvement teams. The
54 gover-

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

59 § 56. Subdivision 6-c of section 3602 of the education law, as
60 amended

61 by section 1 of part A-2 of chapter 62 of the laws of 2003, is
62 amended

63 to read as follows:

64 6-c. a. Building aid for metal detectors, and safety devices for
65 elec-
66 trically operated partitions, room dividers and doors. In addition
67 to
68 the apportionments payable to a school district pursuant to
69 subdivision

70 six of this section, the commissioner is hereby authorized to
71 apportion

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74 1 to any school district additional building aid pursuant to this
75 subdivi-
76 2 sion for its approved expenditures in the base year for the purchase
77 of
78 3 stationary metal detectors, security cameras, safety devices for
79 elec-
80 4 trically operated partitions and room dividers required pursuant
81 to
82 5 section four hundred nine-f of this chapter, or other security
83 devices
84 6 approved by the commissioner that increase the safety of students
85 and
86 7 school personnel, provided, however, that funds apportioned to
87 school
88 8 districts pursuant to this section shall not supplant funds for
89 existing
90 9 district expenditures or for existing contractual obligations of
91 the
92 10 district for stationary metal detectors, security cameras, partition
93 and
94 11 room divider safety devices, or security devices. Portable or hand
95 held

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

41 district's school safety plan. The commissioner shall annually
42 prescribe
43 a special cost allowance for metal detectors, and security cameras,
44 and
45 the approved expenditures shall not exceed such cost allowance.

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

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

52 a. Sections one, two, three, four, five, six, seven, eight, nine,
ten,
53 eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen,
eigh-
54 teen, nineteen, twenty, twenty-one, twenty-two, twenty-three,
twenty-
55 four, twenty-five, twenty-six, twenty-six-a, twenty-seven, twenty-
eight,
56 twenty-nine, thirty, thirty-one, thirty-two, thirty-three, thirty-
four,
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1 thirty-five, thirty-six, thirty-nine, forty, forty-one, forty-
one-a,
2 forty-one-b, forty-two, forty-three, forty-five, forty-six, forty-
six-a,
3 forty-seven, fifty-one, fifty-two, fifty-three, fifty-four, fifty-
five,
4 and fifty-six of this act shall take effect on the sixtieth day after
it

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

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

14 year after this act shall have become a law;
15 d. The amendments to subdivision 16-a of section 400.00 of the
penal
16 law made by section forty-eight of this act shall take effect on
the
17 ninetieth day after this act shall have become a law;
18 e. The amendments to sections 400.02 and 400.03 of the penal law
made
19 by sections forty-nine and fifty of this act shall take effect one
year
20 after it shall have become a law; and
21 f. The amendments to subdivision (b) of section 9.47 and sections
9.48
22 and 9.60 of the mental hygiene law made by sections twenty-one,
twenty-
23 two and twenty-three of this act shall not affect the expiration
and
24 repeal of such paragraph and sections and shall be deemed repealed
ther-
25 ewith.
