SPONSOR: Rep. Spiegelman & Sen. Pettyjohn
Reps. Morris, Ramone, D. Short, Yearick; Sens. Hocker, Wilson

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 357
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 6, TITLE 10, TITLE 11, AND TITLE 24 OF THE DELAWARE CODE RELATING TO WEAPONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 222, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 222. General definitions.

When used in this Criminal Code:

(4) "Covert firearm" means any firearm that is constructed in a shape or configuration such that it does not resemble a firearm.

(5) "Dangerous instrument" means all of the following:

a. ~~any~~ Any instrument, ~~article~~ article, or substance which, under the circumstances in which it is used, attempted to be ~~used~~ used, or threatened to be used, is readily capable of causing death or serious physical ~~injury,~~ injury.

b. ~~or any~~ Any disabling chemical ~~spray, as defined in paragraph (8) of this~~ ~~section~~ spray.

c. ~~or any~~ Any electronic control ~~devices including but not limited to~~ device, including a neuromuscular incapacitation device designed to incapacitate a person.

(6)a. "Deadly weapon" includes any of the following:

1. ~~a "firearm", as defined in paragraph (13) of this section,~~ A firearm.

2. ~~a bomb,~~ A bomb.

3. ~~a~~ A knife of any ~~sort (other~~ sort, other than an ordinary pocketknife carried in a closed ~~position),~~ position.

4. ~~switchblade knife,~~ A switchblade knife.

5. ~~billy,~~ A billy.

6. ~~blackjack,~~ A blackjack.

7. ~~bludgeon,~~ A bludgeon.

8. ~~metal knuckles,~~ Metal knuckles.

9. ~~slingshot,~~ A slingshot.

10. ~~razor,~~ A razor.

11. ~~bicycle chain~~ A bicycle chain.

12. ~~or ice pick~~ An ice pick.

13. ~~or any "dangerous instrument", as defined in paragraph (5) of this section,~~ A dangerous instrument, which is used, or attempted to be used, to cause death or serious physical injury.

14. A projectile weapon.

b. For the purpose of this definition, ~~an ordinary pocketknife shall be a~~ "ordinary pocketknife" means a folding knife having a blade not more than 3 inches in length.

(13) "Firearm" ~~includes~~ means all of the following:

a. ~~any~~ A weapon from which a shot, ~~projectile~~ projectile, or other object ~~may be~~ is designed or may readily be converted to be discharged by force of ~~combustion, explosive, gas and/or mechanical means,~~ an explosive, whether operable or inoperable, loaded or unloaded. ~~It does not include a BB gun.~~

b. A firearm frame or receiver.

(14) "Firearm frame or receiver" means the part of the firearm that provides housing for the firearm's internal components, and includes the hammer, bolt or breechblock, action, and firing mechanism.

(20) "Major component of a firearm" means the slide, barrel, cylinder, trigger group, or receiver of a firearm.

(28) "Projectile weapon" means any of the following:

a. A bow.

b. A crossbow.

c. An airbow.

d. A weapon designed to discharge or project an arrow, crossbow bolt, or spear.

e. An airgun that discharges or projects a pellet, slug, or bullet larger than .177 caliber.

~~(36)~~(37) "Undetectable firearm" means a firearm constructed entirely of nonmetal substances, or a firearm that after removal of all of the major components of a firearm, is not detectable by walk-through metal detectors calibrated and operated to detect the security exemplar, or firearm which includes a major component of a firearm, which, if subject to the types of detection devices commonly used at airports for security screening, would not generate

an image that accurately depicts the shape of the component. It does not include a firearm subject to the provisions of 18 U.S.C. § 922(p)(3) through (6).

~~(37)~~(38) "Unfinished firearm frame or receiver" means a firearm frame or receiver that requires further machining or molding in order to be used as part of a functional firearm, and which is designed and intended to be used in the assembly of a functional firearm.

~~(39)~~(40) "Untraceable firearm" means a firearm for which the sale or distribution chain from a licensed retailer to the point of its first retail sale cannot be traced by law-enforcement officials. "Untraceable firearm" does not include any of the following:

a. Firearms manufactured prior to 1968.

b. Muzzle-loading firearms designed to use black powder or its equivalent.

c. Firearms which are designed as replicas of antique firearms originally manufactured prior to 1898.

Section 2. Amend § 471, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 471. Definitions relating to justification.

(a) "Deadly force" means force which the defendant uses with the purpose of causing or which the defendant knows creates a substantial risk of causing death or serious physical injury, including the use of a chokehold as "chokehold" is defined under § 607A of this title. Purposely firing a firearm or projectile weapon in the direction of another person or at a vehicle in which another person is believed to be constitutes deadly force. A threat to cause death or serious bodily harm, by the production of a weapon or otherwise, so long as the defendant's purpose is limited to creating an apprehension that deadly force will be used if necessary, does not constitute deadly force.

Section 3. Amend § 832, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 832. Robbery in the first degree; class B felony.

(b) Notwithstanding any provisions of this section or Code to the contrary, any person convicted of robbery in the first degree shall receive a minimum sentence of:

(1) Three years at Level V; or

(2) Five years at Level V, if the conviction was either of the following:

a. For an offense that was committed pursuant to paragraph (a)(3) of this section and the deadly weapon was a firearm or projectile weapon, and within 7 years of the date of a previous conviction for robbery in the first degree or if the conviction is for an offense that was committed within 7 years of the date of termination of all

periods of incarceration or confinement imposed pursuant to a previous conviction for robbery in the first degree, whichever is the later date.

b. For an offense committed within 2 years of the date of a previous conviction for robbery in the first degree or if the conviction is for an offense that was committed within 2 years of the date of termination of all periods of incarceration or confinement imposed pursuant to a previous conviction for robbery in the first degree, whichever is the later date.

Section 4. Amend § 1442, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1442. Carrying a concealed deadly weapon; class G felony; class D felony.

A person is guilty of carrying a concealed deadly weapon when the person carries concealed a deadly weapon upon or about the person without a license to do so as provided by § 1441 of this title.

Carrying a concealed deadly weapon is a class G felony, unless the deadly weapon is a firearm or a projectile weapon, in which case it is a class D felony.

It shall be a defense that the defendant has been issued an otherwise valid license to carry a concealed deadly weapon pursuant to terms of § 1441 of this title, where:

(1) The license has expired,

(2) The person had applied for renewal of said license within the allotted time frame prior to expiration of the license, and

(3) The offense is alleged to have occurred while the application for renewal of said license was pending before the court.

Section 5. Amend § 1445, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1445. Unlawfully dealing with a dangerous weapon; unclassified misdemeanor; Class E or G felony [Effective until June 30, 2025].

(a) A person is guilty of unlawfully dealing with a dangerous weapon when:

(1) The person, who is not a qualified law-enforcement officer, possesses, sells, or in any manner has control of any of the following:

a. A weapon which by compressed air or by spring discharges or projects a pellet, slug or bullet, except a BB gun, paintball gun, or air gun which does not discharge or project a pellet or slug larger than a .177 caliber shot.

b. A pellet, slug or bullet, intending that it be used in any weapon prohibited by paragraph (a)(1)a. of this section

(2) The person sells, gives or otherwise transfers to a child under 16 years of age a ~~BB or air gun or spear gun or BB shot,~~ BB gun, BB shot, or projectile weapon, unless the person is that child's parent or guardian, or unless the person first receives the permission of said parent or guardian.

(3) Being a parent, the person permits the person's child under 16 years of age to have possession of a BB ~~or air gun or spear gun~~ gun or projectile weapon, unless under the direct supervision of a person 21 years of age or older.

(4) The person sells, gives or otherwise transfers to a person under 21 years of age a firearm or ammunition for a firearm, unless permitted by § 1448 of this title.

(5) The person sells, gives or otherwise transfers a firearm or projectile weapon to any person knowing that said person intends to commit any felony, class A misdemeanor or drug related criminal offense while in possession of ~~said firearm.~~ the firearm or projectile weapon.

(6) Being a parent, the person permits the person's child under 18 years of age to have possession of a firearm unless under the direct supervision of a person 21 years of age or older.

(b) As used in this section, "qualified law-enforcement officer" means as defined in § 1441A of this title.

(c) Unlawfully dealing with a ~~firearm or~~ dangerous weapon is an unclassified misdemeanor, unless the person is convicted under paragraph (a)(4) of this section, in which case it is a class G felony, or unless the person is convicted under paragraph (a)(5) of this section, in which case it is a class E felony.

(d) The Superior Court has exclusive jurisdiction over a violation of paragraphs (a)(3) and (a)(6) of this section.

Section 6. Amend § 1445, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1445. Unlawfully dealing with a dangerous weapon; unclassified misdemeanor; Class E or G felony [Effective June 30, 2025].

(a) A person is guilty of unlawfully dealing with a dangerous weapon when:

(1) The person, who is not a qualified law-enforcement officer, possesses, sells, or in any manner has control of any of the following:

a. A weapon which by compressed air or by spring discharges or projects a pellet, slug or bullet, except a BB gun, paintball gun, or air gun which does not discharge or project a pellet or slug larger than a .177 caliber shot.

b. A pellet, slug or bullet, intending that it be used in any weapon prohibited by paragraph (a)(1)a. of this section

(2) The person sells, gives or otherwise transfers to a child under 16 years of age a ~~BB or air gun or spear gun or BB shot,~~ a BB gun, BB shot, or projectile weapon, unless the person is that child's parent or guardian, or unless the person first receives the permission of said parent or guardian.

(3) Being a parent, the person permits the person's child under 16 years of age to have possession of a BB ~~or air gun or spear gun~~ gun or projectile weapon, unless under the direct supervision of a person 21 years of age or older.

(4) The person sells, gives or otherwise transfers to a person under 21 years of age a firearm or ammunition for a firearm, unless permitted by § 1448 of this title.

(5) The person sells, gives or otherwise transfers a firearm or projectile weapon to any person knowing that said person intends to commit any felony, class A misdemeanor or drug related criminal offense while in possession of ~~said firearm.~~ the firearm or projectile weapon.

(6) [Repealed.]

(b) As used in this section, "qualified law-enforcement officer" means as defined in § 1441A of this title.

(c) Unlawfully dealing with a ~~firearm or~~ dangerous weapon is an unclassified misdemeanor, unless the person is convicted under paragraph (a)(4) of this section, in which case it is a class G felony, or unless the person is convicted under paragraph (a)(5) of this section, in which case it is a class E felony.

(d) The Superior Court has exclusive jurisdiction over a violation of paragraphs (a)(3) and (a)(6) of this section.

Section 7. Amend § 1447A, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1447A. Possession of a firearm or projectile weapon during commission of a felony; class B felony.

(a) A person who is in possession of a firearm or projectile weapon during the commission of a felony is guilty of possession of a firearm or projectile weapon during the commission of a felony. Possession of a firearm or projectile weapon during the commission of a felony is a class B felony.

(b) A person convicted under subsection (a) of this section shall receive a minimum sentence of 3 years at Level V, notwithstanding the provisions of § 4205(b)(2) of this title.

(c) A person convicted under subsection (a) of this section, and who has been at least twice previously convicted of a felony in this State or elsewhere, shall receive a minimum sentence of 5 years at Level V, notwithstanding the provisions of §§ 4205(b)(2) and 4215 of this title.

(d), (e) [Repealed.]

(f) Every person charged under this section over the age of 16 years who, following an evidentiary hearing where the Superior Court finds proof positive or presumption great that the accused used, displayed, or discharged a firearm or projectile weapon during the commission of a Title 11 or a Title 31 violent felony as set forth in § 4201(c) of this title, shall be tried as an adult, notwithstanding any contrary provisions or statutes governing the Family Court or any other state law. The provisions of this section notwithstanding, the Attorney General may elect to proceed in Family Court.

(g) A person may be found guilty of violating this section notwithstanding that the felony for which the person is convicted and during which the person possessed the firearm or projectile weapon is a lesser included felony of the one originally charged.

Section 8. Amend § 1448, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1448. Possession and purchase of deadly weapons by persons prohibited; penalties [Effective until June 30, 2025].

(a) Except as otherwise provided in this section, the following persons are prohibited from purchasing, owning, possessing, or controlling a deadly weapon or ammunition for a firearm within the State:

(1) Any person who has been convicted in this State or other jurisdiction of a felony or a crime of violence involving physical injury to another person, whether or not armed with or while possessing any weapon during the commission of the felony or crime of violence.

(2) Any person who meets any of the following:

a. Has been involuntarily committed for a mental condition under Chapter 50 of Title 16, unless the person can demonstrate that the person is no longer prohibited from possessing a firearm or projectile weapon under § 1448A(*l*) of this title.

b. For a crime of violence, has been found not guilty by reason of insanity or guilty but mentally ill, including any juvenile who has been found not guilty by reason of insanity or guilty but mentally ill, unless such person can demonstrate that such person is no longer prohibited from possessing a firearm or projectile weapon under § 1448A(*l*) of this title.

c. For a crime of violence, has been found mentally incompetent to stand trial, including any juvenile who has been found mentally incompetent to stand trial, unless there has been a subsequent finding that the person has become competent, or unless such person can demonstrate that such person is no longer prohibited from possessing a firearm or projectile weapon under § 1448A(*l*) of this title.

d. Is the subject of an order of relinquishment issued under § 1448C of this title.

(3) Any person who has been convicted for the unlawful use, possession or sale of a narcotic, dangerous drug or central nervous system depressant or stimulant as those terms were defined prior to the effective date of the Uniform Controlled Substances Act in June 1973 or of a narcotic drug or controlled substance as defined in Chapter 47 of Title 16.

(4) Any person who, as a juvenile, has been adjudicated as delinquent for conduct which, if committed by an adult, would constitute a felony, until that person reaches the age of 25.

(5) Any person under the age of 21.

a. This paragraph (a)(5) shall not apply to the purchase, owning, possession, or control of the following deadly weapons:

1. A shotgun as defined in § 1444(c) of this title or ammunition for a shotgun.

2. A muzzle-loading rifle as defined in § 704(f) of Title 7.

3. Deadly ~~weapons~~ weapons, including projectile weapons, other than firearms if the person is 18 years of age or older.

b. This paragraph (a)(5) shall not apply to any of the following persons 18 years of age or older:

1. An active member of the Armed Forces of the United States or the National Guard.

2. A qualified law-enforcement officer as defined in § 1441A of this title.

3. A person who has license to carry a concealed deadly weapon pursuant to § 1441 of this title.

c. This paragraph (a)(5) shall not apply to any person under the age of 21 who does any of the following:

1. Possesses or controls a firearm or a projectile weapon for the purpose of engaging in lawful hunting, instruction, sporting, or recreational activity while under the direct supervision of a person 21 years of age or older.

2. Possesses or controls a firearm for the purpose of engaging in lawful hunting and is in compliance with § 704(g) of Title 7.

3. Possesses or controls a firearm for the purpose of transporting the firearm or projectile weapon to the location of a lawful hunting, instruction, sporting, or recreational activity, for which the person is authorized to possess or control the firearm or projectile weapon under paragraph (a)(5)c.1. of this section.

d. It is not a violation of this paragraph (a)(5) if a person under the age of 21 possesses or uses a firearm or projectile weapon during the use of force upon or towards another person if such use of force is justifiable pursuant to § 464, § 465, § 466, or § 469 of this title.

e. This paragraph (a)(5) does not apply to the possession or control of a firearm by a person 18 years of age or older.

(6) Any person who knows that the person is subject to a Family Court protection from abuse order, but only for so long as the order remains in effect, except that this paragraph shall not apply to a contested order issued solely upon § 1041(1)d., e., or i. of Title 10, or any combination thereof.

(7) Any person who has been convicted in any court of any misdemeanor crime of domestic violence. For purposes of this paragraph, the term "misdemeanor crime of domestic violence" means any misdemeanor offense that:

a. Was committed by a member of the victim's family, as "family" is defined in § 901 of Title 10 (regardless, however, of the state of residence of the parties); by a former spouse of the victim; by a person who cohabited with the victim at the time of or within 3 years prior to the offense; by a person with a child in common with the victim; or by a person with whom the victim had a substantive dating relationship, as defined in § 1041 of Title 10, at the time of or within 3 years prior to the offense,

b. Is an offense as defined under § 601, § 602, § 603, § 611, § 614, § 621, § 625, § 628A, § 763, § 765, § 766, § 767, § 781, § 785 or § 791 of this title, or any similar offense when committed or prosecuted in another jurisdiction.

(8) Any person who, knowing that such person is the defendant or co-defendant in any criminal case in which that person is alleged to have committed any felony under the laws of this State, the United States or any other state or territory of the United States, becomes a fugitive from justice by failing to appear for any scheduled court proceeding pertaining to such felony for which proper notice was provided or attempted. It is no defense to a prosecution under this paragraph that the person did not receive notice of the scheduled court proceeding.

(9) Any person, if the deadly weapon is a semi-automatic or automatic firearm, or a handgun, who, at the same time, possesses a controlled substance in violation of § 4763 of Title 16.

(10) Except for "antique firearms", any validly seized deadly weapons or ammunition from a person prohibited as a result of a felony conviction under Delaware law, federal law or the laws of any other state, or as otherwise prohibited under this subsection (a) of this section may be disposed of by the law enforcement agency holding the weapon or ammunition, pursuant to § 2311 of this title.

a. "Antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily restored to a firing condition.

b. A person prohibited under this section has the burden of proving that the subject firearm is an antique firearm as defined in paragraph (a)(10)a. of this section subject to an exemption under this section and § 2311 of this title.

(11) Any person who is subject to a lethal violence protection order, issued under § 7704 of Title 10, but only for so long as that order remains in effect or is not vacated or otherwise terminated under Chapter 77 of Title 10.

(12) Any person who knows that the person is the subject of an outstanding arrest warrant, or post-arrest charges or an active indictment or information, for any felony under the laws of this State, the United States, or any other state or territory of the United States, or for a misdemeanor crime of domestic violence under paragraph (a)(7) of this section, is prohibited from purchasing a ~~firearm.~~ firearm or projectile weapon.

(b) Any prohibited person as set forth in subsection (a) of this section who knowingly possesses, purchases, owns or controls a deadly weapon or ammunition for a firearm while so prohibited shall be guilty of possession of a deadly weapon or ammunition for a firearm by a person prohibited.

(c) Possession of a deadly weapon by a person prohibited is a class F felony, unless said deadly weapon is a firearm or ammunition for a firearm, and the violation is one of paragraphs (a)(1)-(8) of this section, in which case it is a class D felony, or unless the person is eligible for sentencing pursuant to subsection (e) of this section, in which case it is a class C felony. As used herein, the word "ammunition" shall mean 1 or more rounds of fixed ammunition designed for use in and capable of being fired from a pistol, revolver, shotgun or rifle but shall not mean inert rounds or expended shells, hulls or casings.

(d) Any person who is a prohibited person solely as the result of a conviction for an offense which is not a felony shall not be prohibited from purchasing, owning, possessing or controlling a deadly weapon or ammunition for a firearm if 5 years have elapsed from the date of conviction.

(e) (1) Notwithstanding any provision of this section or Code to the contrary, any person who is a prohibited person as described in this section and who knowingly possesses, purchases, owns or controls a ~~firearm~~ firearm, projectile weapon, or destructive weapon while so prohibited shall receive a minimum sentence of:

a. Three years at Level V, if the person has previously been convicted of a violent felony;

b. Five years at Level V, if the person does so within 10 years of the date of conviction for any violent felony or the date of termination of all periods of incarceration or confinement imposed pursuant to said conviction, whichever is the later date; or

c. Ten years at Level V, if the person has been convicted on 2 or more separate occasions of any violent felony.

(2) Any person who is a prohibited person as described in this section because of a conviction for a violent felony and who, while in possession or control of a firearm or projectile weapon in violation of this section, negligently causes serious physical injury to or the death of another person through the use of ~~such firearm,~~ the firearm or projectile weapon shall be guilty of a class B felony and shall receive a minimum sentence of:

a. Four years at Level V; or

b. Six years at Level V, if the person causes such injury or death within 10 years of the date of conviction for any violent felony or the date of termination of all periods of incarceration or confinement imposed pursuant to said conviction, whichever is the later date; or

c. Ten years at Level V, if the person has been convicted on 2 or more separate occasions of any violent felony.

d. Nothing in this paragraph shall be deemed to be a related or included offense of any other provision of this Code. Nothing in this paragraph shall be deemed to preclude prosecution or sentencing under any other provision of this Code nor shall this paragraph be deemed to repeal any other provision of this Code.

(3) Any sentence imposed pursuant to this subsection shall not be subject to the provisions of § 4215 of this title. For the purposes of this subsection, "violent felony" means any felony so designated by § 4201(c) of this title, or any offense set forth under the laws of the United States, any other state or any territory of the United States which is the same as or equivalent to any of the offenses designated as a violent felony by § 4201(c) of this title.

(4) Any sentence imposed for a violation of this subsection shall not be subject to suspension and no person convicted for a violation of this subsection shall be eligible for good time, parole or probation during the period of the sentence imposed.

(f) (1) Upon conviction, any person who is a prohibited person as described in paragraph (a)(5) of this section and who is 15 years of age or older, but not yet 18 years of age, is declared a child in need of mandated institutional treatment and shall, for a first offense, receive a minimum sentence of 6 months of Level V incarceration or institutional confinement, and shall receive a minimum sentence of 1 year of Level V incarceration or institutional confinement for a second and each subsequent offense, which shall not be subject to suspension. Any sentence imposed pursuant to this subsection shall not be subject to §§ 4205(b) and 4215 of this title.

(2) The penalties prescribed by this subsection and subsection (g) of this section shall be imposed regardless of whether or not the juvenile is determined to be amenable to the rehabilitative process of the Family Court pursuant to § 1010(c) of Title 10 or any successor statute.

(g) In addition to the penalties set forth in subsection (f) of this section, a person who is a prohibited person as described in paragraph (a)(5) of this section and who is 14 years of age or older, but not yet 18 years of age, shall, upon conviction of a first offense, be required to view a film or slide presentation depicting the damage and destruction inflicted upon the human body by a projectile fired from a ~~gun,~~ firearm or projectile weapon, and shall be required to meet with, separately or as part of a group, a victim of a violent crime, or with the family of a deceased victim of a violent crime. The Division of Youth Rehabilitative Service, with the cooperation of the Division of Forensic Science and the Victims' Compensation Assistance Program, shall be responsible for the implementation of this subsection.

Section 9. Amend § 1448, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1448. Possession and purchase of deadly weapons by persons prohibited; penalties [Effective June 30, 2025].

(a) Except as otherwise provided in this section, the following persons are prohibited from purchasing, owning, possessing, or controlling a deadly weapon or ammunition for a firearm within the State:

(1) Any person who has been convicted in this State or other jurisdiction of a felony or a crime of violence involving physical injury to another person, whether or not armed with or while possessing any weapon during the commission of the felony or crime of violence.

(2) Any person who meets any of the following:

a. Has been involuntarily committed for a mental condition under Chapter 50 of Title 16, unless the person can demonstrate that the person is no longer prohibited from possessing a firearm or projectile weapon under § 1448A(*l*) of this title.

b. For a crime of violence, has been found not guilty by reason of insanity or guilty but mentally ill, including any juvenile who has been found not guilty by reason of insanity or guilty but mentally ill, unless such person can demonstrate that such person is no longer prohibited from possessing a firearm or projectile weapon under § 1448A(*l*) of this title.

c. For a crime of violence, has been found mentally incompetent to stand trial, including any juvenile who has been found mentally incompetent to stand trial, unless there has been a subsequent finding that the person has become competent, or unless such person can demonstrate that such person is no longer prohibited from possessing a firearm or projectile weapon under § 1448A(*l*) of this title.

d. Is the subject of an order of relinquishment issued under § 1448C of this title.

(3) Any person who has been convicted for the unlawful use, possession or sale of a narcotic, dangerous drug or central nervous system depressant or stimulant as those terms were defined prior to the effective date of the Uniform

Controlled Substances Act in June 1973 or of a narcotic drug or controlled substance as defined in Chapter 47 of Title 16.

(4) Any person who, as a juvenile, has been adjudicated as delinquent for conduct which, if committed by an adult, would constitute a felony, until that person reaches the age of 25.

(5) Any person under the age of 21.

a. This paragraph (a)(5) shall not apply to the purchase, owning, possession, or control of the following deadly weapons:

1. A shotgun as defined in § 1444(c) of this title or ammunition for a shotgun.

2. A muzzle-loading rifle as defined in § 704(f) of Title 7.

3. Deadly ~~weapons~~ weapons, including projectile weapons, other than firearms if the person is 18 years of age or older.

b. This paragraph (a)(5) shall not apply to any of the following persons 18 years of age or older:

1. An active member of the Armed Forces of the United States or the National Guard.

2. A qualified law-enforcement officer as defined in § 1441A of this title.

3. A person who has license to carry a concealed deadly weapon pursuant to § 1441 of this title.

c. This paragraph (a)(5) shall not apply to any person under the age of 21 who does any of the following:

1. Possesses or controls a firearm or projectile weapon for the purpose of engaging in lawful hunting, instruction, sporting, or recreational activity while under the direct supervision of a person 21 years of age or older.

2. Possesses or controls a firearm for the purpose of engaging in lawful hunting and is in compliance with § 704(g) of Title 7.

3. Possesses or controls a firearm for the purpose of transporting the firearm or projectile weapon to the location of a lawful hunting, instruction, sporting, or recreational activity, for which the person is authorized to possess or control the firearm or projectile weapon under paragraph (a)(5)c.1. of this section.

d. It is not a violation of this paragraph (a)(5) if a person under the age of 21 possesses or uses a firearm or projectile weapon during the use of force upon or towards another person if such use of force is justifiable pursuant to § 464, § 465, § 466, or § 469 of this title.

e. [Repealed.]

(6) Any person who knows that the person is subject to a Family Court protection from abuse order, but only for so long as the order remains in effect, except that this paragraph shall not apply to a contested order issued solely upon § 1041(1)d., e., or i. of Title 10, or any combination thereof.

(7) Any person who has been convicted in any court of any misdemeanor crime of domestic violence. For purposes of this paragraph, the term "misdemeanor crime of domestic violence" means any misdemeanor offense that:

a. Was committed by a member of the victim's family, as "family" is defined in § 901 of Title 10 (regardless, however, of the state of residence of the parties); by a former spouse of the victim; by a person who cohabited with the victim at the time of or within 3 years prior to the offense; by a person with a child in common with the victim; or by a person with whom the victim had a substantive dating relationship, as defined in § 1041 of Title 10, at the time of or within 3 years prior to the offense,

b. Is an offense as defined under § 601, § 602, § 603, § 611, § 614, § 621, § 625, § 628A, § 763, § 765, § 766, § 767, § 781, § 785 or § 791 of this title, or any similar offense when committed or prosecuted in another jurisdiction.

(8) Any person who, knowing that such person is the defendant or co-defendant in any criminal case in which that person is alleged to have committed any felony under the laws of this State, the United States or any other state or territory of the United States, becomes a fugitive from justice by failing to appear for any scheduled court proceeding pertaining to such felony for which proper notice was provided or attempted. It is no defense to a prosecution under this paragraph that the person did not receive notice of the scheduled court proceeding.

(9) Any person, if the deadly weapon is a semi-automatic or automatic firearm, or a handgun, who, at the same time, possesses a controlled substance in violation of § 4763 of Title 16.

(10) Except for "antique firearms", any validly seized deadly weapons or ammunition from a person prohibited as a result of a felony conviction under Delaware law, federal law or the laws of any other state, or as otherwise prohibited under this subsection (a) of this section may be disposed of by the law enforcement agency holding the weapon or ammunition, pursuant to § 2311 of this title.

a. "Antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily restored to a firing condition.

b. A person prohibited under this section has the burden of proving that the subject firearm is an antique firearm as defined in paragraph (a)(10)a. of this section subject to an exemption under this section and § 2311 of this title.

(11) Any person who is subject to a lethal violence protection order, issued under § 7704 of Title 10, but only for so long as that order remains in effect or is not vacated or otherwise terminated under Chapter 77 of Title 10.

(12) Any person who knows that the person is the subject of an outstanding arrest warrant, or post-arrest charges or an active indictment or information, for any felony under the laws of this State, the United States, or any other state or territory of the United States, or for a misdemeanor crime of domestic violence under paragraph (a)(7) of this section, is prohibited from purchasing a ~~firearm.~~ firearm or projectile weapon.

(b) Any prohibited person as set forth in subsection (a) of this section who knowingly possesses, purchases, owns or controls a deadly weapon or ammunition for a firearm while so prohibited shall be guilty of possession of a deadly weapon or ammunition for a firearm by a person prohibited.

(c) Possession of a deadly weapon by a person prohibited is a class F felony, unless said deadly weapon is a firearm or ammunition for a firearm, and the violation is one of paragraphs (a)(1)-(8) of this section, in which case it is a class D felony, or unless the person is eligible for sentencing pursuant to subsection (e) of this section, in which case it is a class C felony. As used herein, the word "ammunition" shall mean 1 or more rounds of fixed ammunition designed for use in and capable of being fired from a pistol, revolver, shotgun or rifle but shall not mean inert rounds or expended shells, hulls or casings.

(d) Any person who is a prohibited person solely as the result of a conviction for an offense which is not a felony shall not be prohibited from purchasing, owning, possessing or controlling a deadly weapon or ammunition for a firearm if 5 years have elapsed from the date of conviction.

(e) (1) Notwithstanding any provision of this section or Code to the contrary, any person who is a prohibited person as described in this section and who knowingly possesses, purchases, owns or controls a ~~firearm~~ firearm, projectile weapon, or destructive weapon while so prohibited shall receive a minimum sentence of:

a. Three years at Level V, if the person has previously been convicted of a violent felony;

b. Five years at Level V, if the person does so within 10 years of the date of conviction for any violent felony or the date of termination of all periods of incarceration or confinement imposed pursuant to said conviction, whichever is the later date; or

c. Ten years at Level V, if the person has been convicted on 2 or more separate occasions of any violent felony.

(2) Any person who is a prohibited person as described in this section because of a conviction for a violent felony and who, while in possession or control of a firearm or projectile weapon in violation of this section, negligently causes serious physical injury to or the death of another person through the use of ~~such firearm,~~ the firearm or projectile weapon shall be guilty of a class B felony and shall receive a minimum sentence of:

a. Four years at Level V; or

b. Six years at Level V, if the person causes such injury or death within 10 years of the date of conviction for any violent felony or the date of termination of all periods of incarceration or confinement imposed pursuant to said conviction, whichever is the later date; or

c. Ten years at Level V, if the person has been convicted on 2 or more separate occasions of any violent felony.

d. Nothing in this paragraph shall be deemed to be a related or included offense of any other provision of this Code. Nothing in this paragraph shall be deemed to preclude prosecution or sentencing under any other provision of this Code nor shall this paragraph be deemed to repeal any other provision of this Code.

(3) Any sentence imposed pursuant to this subsection shall not be subject to the provisions of § 4215 of this title. For the purposes of this subsection, "violent felony" means any felony so designated by § 4201(c) of this title, or any offense set forth under the laws of the United States, any other state or any territory of the United States which is the same as or equivalent to any of the offenses designated as a violent felony by § 4201(c) of this title.

(4) Any sentence imposed for a violation of this subsection shall not be subject to suspension and no person convicted for a violation of this subsection shall be eligible for good time, parole or probation during the period of the sentence imposed.

(f) (1) Upon conviction, any person who is a prohibited person as described in paragraph (a)(5) of this section and who is 15 years of age or older, but not yet 18 years of age, is declared a child in need of mandated institutional treatment and shall, for a first offense, receive a minimum sentence of 6 months of Level V incarceration or institutional confinement, and shall receive a minimum sentence of 1 year of Level V incarceration or institutional confinement for a second and each subsequent offense, which shall not be subject to suspension. Any sentence imposed pursuant to this subsection shall not be subject to §§ 4205(b) and 4215 of this title.

(2) The penalties prescribed by this subsection and subsection (g) of this section shall be imposed regardless of whether or not the juvenile is determined to be amenable to the rehabilitative process of the Family Court pursuant to § 1010(c) of Title 10 or any successor statute.

(g) In addition to the penalties set forth in subsection (f) of this section, a person who is a prohibited person as described in paragraph (a)(5) of this section and who is 14 years of age or older, but not yet 18 years of age, shall, upon conviction of a first offense, be required to view a film or slide presentation depicting the damage and destruction inflicted upon the human body by a projectile fired from a ~~gun,~~ firearm or projectile weapon, and shall be required to meet with, separately or as part of a group, a victim of a violent crime, or with the family of a deceased victim of a violent crime. The Division of Youth Rehabilitative Service, with the cooperation of the Division of Forensic Science and the Victims' Compensation Assistance Program, shall be responsible for the implementation of this subsection.

Section 10. Amend § 1448A, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1448A. Background checks for sales of firearms.

(a) A licensed importer, licensed manufacturer, or licensed dealer may not sell, transfer, or deliver from inventory any ~~firearm, as defined in § 8571 of this title,~~ firearm to any other person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, without conducting a background check by the State Bureau of Identification, through the Firearm Transaction Approval Program under subchapter VI of Chapter 85 of this title, to determine whether the transfer of a firearm to any person who is not licensed under 18 U.S.C. § 923 would be in violation of federal or state law.

(b) A licensed importer, licensed manufacturer, or licensed dealer may not sell, transfer, or deliver from inventory any ~~firearm, as defined in § 8571 of this title,~~ firearm to any other person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, unless and until being informed that it may "proceed" with the sale, transfer, or delivery from inventory of a firearm by the State Bureau of Identification, through the Firearm Transaction Approval Program under subchapter VI of Chapter 85 of this title, following a request for a background check under subsection (a) of this section or 25 days have elapsed from the date of the request for a background check and a denial has not occurred.

~~(c), (d) [Repealed.]~~

(c) For purposes of this section, "firearm" means as defined in § 8571 of this title.

(d) [Repealed.]

(e) This section does not apply to any of the following:

(1) Any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system manufactured in or before 1898.

(2) Any replica of any firearm described in paragraph (e)(1) of this section if the replica meets 1 of the following:

a. Is not designed or redesigned to use rimfire or conventional centerfire fixed ammunition.

b. Uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

(3) Any shotgun, which is defined as a firearm designed or intended to be fired from the shoulder and designed or made to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(4) The return, by a licensed pawnbroker, of a firearm to the person from whom it was received.

(5) Transactions in which the potential buyer or transferee holds a valid concealed deadly weapons license under §§ 1441, 1441A, and 1441B of this title.

(6) Transactions involving a "law-enforcement officer" as defined by § 222 of this title.

(f) Any licensed dealer, licensed manufacturer, licensed importer, or employee thereof who wilfully and intentionally requests a background check from the State Bureau of Identification, through the Firearm Transaction Approval Program under subchapter VI of Chapter 85 of this title, for any purpose other than compliance with subsection (a) of this section, or § 1441(a)(1) or § 1448B(a) of this title, or wilfully and intentionally disseminates any information from the background check to any person other than the subject of such information or discloses to any person the unique identification number is guilty of a class A misdemeanor. The Superior Court has exclusive jurisdiction for all offenses under this subsection.

(g) Any person who, in connection with the purchase, transfer, or attempted purchase or transfer of a firearm pursuant to subsection (a) of this section or § 1448B(a) of this title, wilfully and intentionally makes any materially false oral or written statement or wilfully and intentionally furnishes or exhibits any false identification intended or likely to deceive the licensee is guilty of a class G felony.

(h) Any licensed dealer, licensed manufacturer, licensed importer or employee thereof who wilfully and intentionally sells or delivers a firearm in violation of this section is guilty of a class A misdemeanor. A second or subsequent offense by an individual is a class G felony. The Superior Court has exclusive jurisdiction for all offenses under this subsection.

(i) The SBI shall provide to the judiciary committees of the Senate and House of Representatives an annual report including the number of inquiries made under this section and § 1448B of this title for the prior calendar year. The report must include the number of inquiries received from licensees, the number of inquiries resulting in a determination that the

potential buyer or transferee was prohibited from receipt or possession of a firearm under § 1448 of this title or federal law, and the estimated costs of administering the Firearm Transaction Approval Program under subchapter VI of Chapter 85 of this title.

(j) Notwithstanding Chapter 89 of this title, Chapter 10 of Title 29, and other laws of this State, the SBI shall release records and data required by this section and by § 1448B of this title. The SBI may not release or disclose criminal records or data except as specified in this section and in § 1448B of this title.

(k) Records, data, information, or reports containing the name, address, date of birth, or other identifying data of either the transferor or transferee or which contain the make, model, caliber, serial number, or other identifying data of any firearm which are required, authorized, or maintained under this section, § 1448B of this title, or by Chapter 9 of Title 24, are not subject to disclosure or release under the Freedom of Information Act, Chapter 100 of Title 29.

(*l*) *Relief from Disabilities Program. —*

A person who is subject to the disabilities of 18 U.S.C. § 922(d)(4) and (g)(4) or of § 1448(a)(2) of this title, except a person subject to an order for relinquishment under § 1448C(d)(1) of this title, because of an adjudication or commitment under the laws of this State may petition for relief from a firearms <u>or projectile weapons</u> prohibition from the Relief from Disabilities Board. The Relief from Disabilities Board shall be comprised of 3 members, with the chairperson appointed by and serving at the pleasure of the Secretary of Safety and Homeland Security, and 2 members appointed by and serving at the pleasure of the Secretary of the Department of Health and Social Services, 1 of whom shall be a licensed psychiatrist.

(1) The Board shall consider the petition for relief in accordance with all of the following:

a. The Board shall give the petitioner the opportunity to present evidence to the Board in a closed and confidential hearing on the record.

b. The Board shall maintain a record of the hearing for purposes of appellate review.

(2) In determining whether to grant relief, the Board shall consider evidence regarding all of the following:

a. The circumstances regarding the firearms <u>or projectile weapons</u> disabilities pursuant to § 1448(a)(2) of this title ~~and~~ <u>or</u> 18 U.S.C. § 922(d)(4) and (g)(4).

b. The petitioner's record, which must include, at a minimum, the petitioner's mental health record, including a certificate of a medical doctor or psychiatrist licensed in this State that the person is no longer suffering from a mental disorder which interferes or handicaps the person from handling deadly weapons.

c. Criminal history records.

d. The petitioner's reputation as evidenced through character witness statements, testimony, or other character evidence.

(3) The Board shall have the authority to require that the petitioner undergo a clinical evaluation and risk assessment, which it may also consider as evidence in determining whether to approve or deny the petition for relief.

(4) After a hearing on the record, the Board shall grant relief if it finds, by a preponderance of the evidence, all of the following apply:

a. The petitioner will not be likely to act in a manner dangerous to public safety.

b. Granting the relief will not be contrary to the public interest.

(5) The Board shall issue its decision in writing explaining the reasons for a denial or grant of relief.

(6) Any person whose petition for relief has been denied by the Relief from Disabilities Board has a right to a de novo judicial review in the Superior Court. The Superior Court shall consider the record of the Board hearing on the petition for relief, the decision of the Board, and, at the Court's discretion, any additional evidence it deems necessary to conduct its review.

(7) On notice that a petition for relief has been granted, the Department of Safety and Homeland Security shall, as soon as practicable, do both of the following:

a. Cause the petitioner's record to be updated, corrected, modified, or removed from any database maintained and made available to NICS and SBI to reflect that the petitioner is no longer subject to a firearms or projectile weapons prohibition as it relates to § 1448(a)(2) of this title ~~and~~ or 18 U.S.C. § 922(d)(4) and (g)(4).

b. Notify the Attorney General of the United States and the Attorney General of this State that the petitioner is no longer subject to a firearms or projectile weapons prohibition under § 1448(a)(2) of this title ~~and~~ or 18 U.S.C. § 922(d)(4) and (g)(4).

(m) The SBI shall adopt regulations, consistent with federal law, relating to compliance with NICS, including issues relating to the transmission of data, the transfer of existing data in the existing state criminal background check database, and the relief from disabilities process under subsection (*l*) of this section. In preparing such regulations, the SBI shall consult with the Department of Health and Social Services, the courts, the Department of Children, Youth and Their Families, the Department of State, and such other entities as may be necessary or advisable. Regulations adopted under this section must include provisions to ensure the identity, confidentiality, and security of all records and data provided under this section.

Section 11. Amend § 1448C, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1448C. Civil procedures to relinquish ~~firearms~~ a firearm, projectile weapon, or ammunition.

(a) For the purposes of this section:

(1) "Ammunition" means as defined in § 1448(c) of this title.

(2) "Dangerous to others" means that by reason of mental condition there is a substantial likelihood that the person will inflict serious bodily harm upon another person within the reasonably foreseeable future. This determination must take into account a person's history, recent behavior, and any recent act or threat.

(3) "Dangerous to others or self" means as "dangerous to others" and "dangerous to self" are defined in this subsection.

(4) "Dangerous to self" means that by reason of mental condition there is a substantial likelihood that the person will sustain serious bodily harm to oneself within the reasonably foreseeable future. This determination must take into account a person's history, recent behavior, and any recent act or threat.

(5) "Law-enforcement agency" means an agency established by this State, or by any county or municipality within this State, to enforce criminal laws or investigate suspected criminal activity.

(b) If, after October 30, 2018, a law-enforcement agency receives a written report about an individual under § 5402 or § 5403 of Title 16, the law-enforcement agency shall determine if there is probable cause that the individual is dangerous to others or self and in possession of ~~firearms~~ a firearm, projectile weapon, or ammunition.

(1) a. If the law-enforcement agency determines that there is probable cause that the individual is dangerous to others or self and in possession of ~~firearms~~ a firearm, projectile weapon, or ammunition, the law-enforcement agency shall do both of the following:

1. Immediately seek an order from the Justice of the Peace Court that the individual relinquish ~~any firearms~~ a firearm, projectile weapon, or ammunition owned, possessed, or controlled by the individual.

2. Immediately refer the report under § 5402 or § 5403 of Title 16 and its investigative findings to the Department of Justice.

b. In making the probable cause determination under paragraph (b)(1)a. of this section, a law-enforcement agency must determine if the individual is subject to involuntary commitment under § 5009, § 5011, or § 5013 of Title 16. If the individual is subject of involuntary commitment, the law-enforcement agency may not seek an order under this paragraph (b)(1).

(2) The Department of Justice may, upon review of the report and the law-enforcement agency's investigative findings, petition the Superior Court for an order that the individual relinquish ~~any firearms~~ a firearm, projectile weapon, or ammunition owned, possessed, or controlled by the individual. The Department of Justice must file 1 of the

following with the Superior Court within 30 days after the entry of the Justice of the Peace Court's order under paragraph (d)(1) of this section:

a. A petition under this paragraph (b)(2).

b. A petition requesting additional time to file a petition under this paragraph (b)(2) for good cause shown.

1. If the Superior Court denies the Department of Justice's request for additional time to file a petition under this paragraph (b)(2)b., the Department of Justice has either the remainder of the 30 days provided by this paragraph (b)(2) or 7 days from the date of the Superior Court's denial, whichever is longer, to file a petition with Superior Court under this paragraph (b)(2).

2. If the Superior Court approves the Department of Justice's request for additional time to file a petition under this paragraph (b)(2)b., the Court may not grant the Department more than 15 days to file the petition from the date of the Court's approval.

(3) If the Department of Justice does not file a petition with Superior Court under paragraph (b)(2) of this section within the timeframes under paragraph (b)(2) of this section, the Justice of the Peace Court's order is void and a law-enforcement agency holding the ~~firearms~~ firearm, projectile weapon, or ammunition of the individual subject to the order must return the ~~firearms~~ firearm, projectile weapon, or ammunition to the individual.

(c) (1) The following procedures govern a proceeding under paragraph (b)(1)a. of this section:

a. The Justice of the Peace Court shall immediately hear a request for an order under paragraph (b)(1)a. of this section.

b. The law enforcement agency has the burden of demonstrating that proof by a preponderance of the evidence exists to believe that the individual subject to a report under § 5402 or § 5403 of Title 16 is dangerous to others or self and in possession of ~~firearms~~ a firearm, projectile weapon, or ammunition.

c. The individual does not have the right to be heard or to notice that the law-enforcement agency has sought an order under paragraph (b)(1)a. of this section.

(2) The following procedures govern a proceeding under paragraph (b)(2) of this section:

a. The individual has the right to be heard.

b. If a hearing is requested, it must be held within 15 days of the Department of Justice's filing of the petition under paragraph (b)(2) of this section, unless extended by the Court for good cause shown.

c. If a hearing is held, the individual has the right to notice of the hearing, to present evidence, and to cross examine adverse witnesses.

d. If a hearing is held, the hearing must be closed to the public and testimony and evidence must be kept confidential, unless the individual requests the hearing be public.

e. If a hearing is held, the hearing must be on the record to allow for appellate review.

f. The Department of Justice has the burden of proving by clear and convincing evidence that the individual is dangerous to others or self.

(3) a. The Justice of the Peace Court may adopt additional rules governing proceedings under paragraph (b)(1)a. of this section.

b. The Superior Court may adopt additional rules governing proceedings under paragraph (b)(2) of this section.

(d) (1) If the Justice of the Peace Court finds, by a preponderance of the evidence, that an individual is dangerous to others or self, the Court shall order the individual to relinquish ~~any firearms~~ a firearm, projectile weapon, or ammunition owned, possessed, or controlled by the individual. The Court may do any of the following through its order:

a. Require the individual to relinquish to a law-enforcement agency receiving the Court's order ~~any firearms~~ a firearm, projectile weapon, or ammunition owned, possessed, or controlled by the individual.

b. Prohibit the individual from residing with another individual who owns, possesses, or controls ~~firearms~~ a firearm, projectile weapon, or ammunition. Nothing in this section may be construed to impair or limit the rights, under the Second Amendment to the United States Constitution or article I, § 20 of the Delaware Constitution, of an individual who is not the subject of the Court's order of relinquishment.

c. Direct a law-enforcement agency having jurisdiction where the individual resides or ~~the firearms or ammunition are~~ a firearm, projectile weapon, or ammunition is located to immediately search for and seize ~~any firearms~~ a firearm, projectile weapon, or ammunition owned, possessed, or controlled by the individual.

(2) If the Superior Court finds by clear and convincing evidence that an individual is dangerous to others or self, the Court shall order the individual to relinquish ~~any firearms~~ a firearm, projectile weapon, or ammunition owned, possessed, or controlled by the individual. The Court may do any of the following through its order:

a. Require the individual to relinquish to a law-enforcement agency receiving the Court's order ~~any firearms~~ a firearm, projectile weapon, or ammunition owned, possessed, or controlled by the individual.

b. Allow the individual to voluntarily relinquish to a law-enforcement agency receiving the Court's order ~~any firearms~~ a firearm, projectile weapon, or ammunition owned, possessed, or controlled by the individual.

c. Allow the individual to relinquish ~~firearms~~ a firearm, projectile weapon, or ammunition owned, possessed, or controlled by the individual to a designee of the individual. A designee of the individual must not

reside with the individual and must not be a person prohibited under § 1448 of this title. The Court must find that the designee of the individual will keep ~~firearms~~ the firearm, projectile weapon, or ammunition owned, possessed, or controlled by the individual out of the possession of the individual.

d. Prohibit the individual from residing with another individual who owns, possesses, or controls ~~firearms~~ a firearm, projectile weapon, or ammunition. Nothing in this section may be construed to impair or limit the rights, under the Second Amendment to the United States Constitution or article I, § 20 of the Delaware Constitution, of an individual who is not the subject of the Court's order of relinquishment.

e. Direct a law-enforcement agency having jurisdiction where the individual resides or ~~the firearms or ammunition are~~ a firearm, projectile weapon, or ammunition is located to immediately search for and seize ~~firearms~~ a firearm, projectile weapon, or ammunition of the individual if the Department of Justice shows that the individual has ownership, possession, or control of a ~~firearm~~ firearm, projectile weapon, or ammunition.

(e) (1) An individual subject to the Superior Court's order of relinquishment may petition the Relief from Disabilities Board for an order to return ~~firearms~~ a firearm, projectile weapon, or ammunition under § 1448A(*l*) of this title.

(2) If the basis for relinquishment under this section is removed by the Relief from Disabilities Board established by § 1448A(*l*) of this title, ~~any firearms~~ a firearm, projectile weapon, or ammunition taken from the individual must be restored in a timely manner without the additional requirement of petitioning under § 1448A(*l*) of this title.

(f) Any party in interest aggrieved by a decision of the Superior Court's order of relinquishment under this section may appeal the decision to the Supreme Court.

(g) (1) The State Police and the Department of Justice shall work with county and municipal law-enforcement agencies and the Department of Health and Social Services, and its Division of Substance Abuse and Mental Health, to develop appropriate internal policies and regulations to ensure that personnel who act under this section are trained on appropriate mental health risk assessment procedures and to look for histories of violence.

(2) The Supreme Court, Superior Court, Justice of the Peace Court, Department of Justice, State Police, State Bureau of Identification, Delaware Criminal Justice Information System Board of Managers, and the Department of Health and Social Services may promulgate rules and regulations to carry out the purposes of this section, § 1448(a)(2) of this title, and §§ 5402 and 5403 of Title 16.

Section 12. Amend § 1454, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1454. Giving a firearm or projectile weapon to person prohibited; class F felony.

A person is guilty of giving a firearm or projectile weapon to certain persons prohibited when the person sells, transfers, gives, lends or otherwise furnishes a firearm or projectile weapon to a person knowing that said person is a person prohibited as is defined in § 1448 of this title.

Giving a firearm or projectile weapon to certain persons prohibited is a class F felony.

Section 13. Amend § 1455, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1455. Engaging in a ~~firearms~~ firearm or projectile weapon transaction on behalf of another; class E felony; class C felony.

(a) A person is guilty of engaging in a ~~firearms~~ firearm or projectile weapon transaction on behalf of another when the person purchases or obtains a firearm or projectile weapon on behalf of a person not qualified to legally purchase, own or possess a firearm or projectile weapon in this State or for the purpose of selling, giving or otherwise transferring a firearm or projectile weapon to a person not legally qualified to purchase, own or possess a firearm or projectile weapon in this State.

(b) Engaging in a ~~firearms~~ firearm or projectile weapon transaction on behalf of another is a class E felony for the first offense, and a class C felony for each subsequent like offense.

(c) (1) A federal firearms licensee who suspects a person engaged in a ~~firearms~~ firearm or projectile weapon transaction may be violating this section may alert SBI through the same hotline established under § 8572 of this title for background checks.

Section 14. Amend § 1456, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1456. Unsafe storage of a ~~firearm;~~ firearm or projectile weapon; class A or B misdemeanor.

(a) (1) A person is guilty of unsafe storage of a firearm or projectile weapon when the person intentionally or recklessly stores or leaves a loaded firearm or projectile weapon within the reach or easy access of an unauthorized person, the unauthorized person obtains the ~~firearm,~~ firearm or projectile weapon, and all of the following do apply:

a. The firearm or projectile weapon was not stored in a locked box or container. This paragraph(a)(1)a. does not apply to a projectile weapon that was stored in a way to render the projectile weapon not readily operable.

b. The firearm or projectile weapon was not disabled with a tamper-resistant trigger lock which was properly engaged so as to render the firearm or projectile weapon inoperable by a person other than the owner or other lawfully-authorized user. This paragraph (a)(1)b. does not apply to a projectile weapon that cannot be fitted with a trigger lock.

c. The firearm or projectile weapon was not stored in a location that a reasonable person would have believed to be secure from access by an unauthorized person.

d. The unauthorized person did not obtain the firearm or projectile weapon as the result of an unlawful entry by any person.

(2) For the purposes of this section:

a. "Not readily operable" means that the projectile weapon is disassembled, broken down, or stored in a manner to prevent its immediate use.

b. "Stores or leaves" does not mean when the firearm or projectile weapon is carried by or under the control of the owner or other lawfully-authorized user.

~~b.~~ c. "Unauthorized person" means a child or person prohibited by state or federal law from owning or possessing a ~~firearm.~~ firearm or projectile weapon.

(b) [Repealed.]

(c) (1) Unsafe storage of a firearm or projectile weapon is a class B misdemeanor if paragraphs (c)(2)a., b., or c. of this section do not apply.

(2) Unsafe storage of a firearm or projectile weapon is a class A misdemeanor if the unauthorized person does any of the following:

a. Commits or attempts to commit a crime with the ~~firearm.~~ firearm or projectile weapon.

b. Uses the firearm or projectile weapon to inflict serious physical injury or death upon any person, including the unauthorized person.

c. Transfers or attempts to transfer the firearm or projectile weapon to another unauthorized person.

(d) The Superior Court has jurisdiction over an offense under this section.

(e) It is not an offense under this section if the firearm was manufactured in or before the year 1899 or is a replica of such firearm if the replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition.

Section 15. Amend § 1457, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1457. Possession of a weapon in a Safe Recreation Zone; class D, E, or F felony; class A or B misdemeanor.

(a) Any person who commits any of the offenses described in subsection (b) of this section, or any juvenile who possesses a firearm or projectile weapon and does so while in or on a "Safe Recreation Zone" shall be guilty of the crime of possession of a weapon in a Safe Recreation Zone.

(b) The underlying offenses in Title 11 shall be:

(1) *Section 1442.* — Carrying a concealed deadly weapon; class G felony; class D felony.

(2) *Section 1444.* — Possessing a destructive weapon; class E felony.

(3) *Section 1446.* — Unlawfully dealing with a switchblade knife; unclassified misdemeanor.

(4) *Section 1448.* — Possession and purchase of deadly weapons by persons prohibited; class F felony.

(5) *Section 1452.* — Unlawfully dealing with knuckles-combination knife; class B misdemeanor.

(6) *Section 1453.* — Unlawfully dealing with martial arts throwing star; class B misdemeanor.

(7) *Section 1466.* — Manufacture, sale, transport, transfer, purchase, receipt, and possession of assault weapons; class E or F felony.

(c) For the purpose of this section:

(1) "Constable" means an individual who licensed under Chapter 56 of Title 24.

(2) "Firearm" means as defined in § 222 of this title and includes a destructive weapon as defined in § 1444(a) and (c) of this title and includes BB guns.

(3) "Police officer" means as defined in § 8401 of this title.

(4) "Safe Recreation Zone" means any building or structure owned, operated, leased or rented by any county or municipality, or by the State, or by any board, agency, commission, department, corporation or other entity thereof, or by any private organization, which is utilized as a recreation center, athletic field or sports stadium.

(d) Nothing in this section shall be construed to preclude or otherwise limit a prosecution of or conviction for a violation of this chapter or any other provision of law. A person may be convicted both of the crime of possession of a weapon in a Safe Recreation Zone and of the underlying offense as defined elsewhere by the laws of the State.

(e) It shall not be a defense to a prosecution for a violation of this section that the person was unaware that the prohibited conduct took place on or in a Safe Recreation Zone.

(f), (g) [Repealed.]

(h) This section does not apply to any of the following:

(1) A police officer.

(2) A constable employed by a recreation zone who is acting in that capacity within a Safe Recreation Zone.

(i) [Repealed.]

(j) The penalty for possession of a weapon in a Safe Recreation Zone shall be:

(1) If the underlying offense is a class B misdemeanor, the crime shall be a class A misdemeanor;

(2) If the underlying offense is an unclassified misdemeanor, the crime shall be a class B misdemeanor;

(3) If the underlying offense is a class E, F, or G felony, the crime shall be one grade higher than the underlying offense.

(4) If the underlying offense is a class D felony, the crime shall also be a class D felony.

(5), (6) [Repealed.]

Section 16. Amend § 1457A, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1457A. Possession of a firearm or projectile weapon in a Safe School Zone; class E felony.

(a) As used in this section:

(1) "Constable" means as licensed under Chapter 56 of Title 24.

(2) "Firearm" means as defined in § 222 of this title and includes a destructive weapon as defined in § 1444(a) and (c) of this title and includes BB guns.

(3) "Police officer" means as defined in § 8401 of this title.

(4) "Qualified retired law-enforcement officer" means as defined in § 1441B of this title.

(5) "Safe School Zone" means all of the following:

a. Any building, structure, athletic field, sports ~~stadium~~ stadium, or real property owned, operated, ~~leased~~ leased, or rented by any public or private school including any ~~kindergarten~~ kindergarten, elementary, secondary, or vocational-technical school.

b. Any motor vehicle owned, operated, leased, or rented by any public or private school including any kindergarten, elementary, secondary, or vocational-technical school.

(b) Any person who knowingly possesses a firearm or projectile weapon while in ~~or on~~ a Safe School Zone shall be guilty of the crime of possession of a firearm or projectile weapon in a Safe School Zone.

(c) Subsection (b) of this section ~~shall~~ does not apply to any of the following:

(1) A police officer.

(2) A constable employed by a school or school district who is acting in an official capacity ~~within~~ in a Safe School Zone.

(3) An active-duty member of the United States Armed Forces or Delaware National Guard who is acting in an official capacity ~~within~~ in a Safe School Zone.

(4) A holder of a valid license to carry concealed deadly weapons under § 1441 of this title, but only if the firearm or projectile weapon is in a motor vehicle.

(5) ~~Employees~~ An employee of the Department of Services for Children, Youth, and Their Families who ~~are~~ is acting in an official capacity in a Safe School Zone and who is authorized by the Secretary of the Department to carry a firearm or projectile weapon while acting in the employee's official capacity.

(6) ~~Probation~~ A probation and parole ~~officers~~ officer who is acting ~~within the officer's~~ in an official capacity in a Safe School Zone.

(7) A qualified retired law-enforcement officer who is employed or contracted by a school or school district to assist with security or investigations and who is acting in an official capacity ~~within~~ in a Safe School Zone.

(d) Subsection (b) of this section does not apply ~~to the possession of a firearm~~ in any of the following circumstances:

(1) On private property not part of school grounds.

(2) A firearm in a locked container or locked firearms rack that is in or on a motor vehicle.

(3) When engaged in any of the following:

a. ~~lawful hunting,~~ Lawful hunting.

b. ~~firearm instruction,~~ Firearm or projectile weapon instruction.

c. ~~or firearm~~ Firearm or projectile weapon-related sports on public lands, other than those belonging to a public or private ~~school.~~ school.

d. Projectile weapon-related sports on lands belonging to a public or private school authorized by the public or private school.

(e) A person who violates this section is guilty of a class E felony.

(f) ~~In the event that~~ If an elementary or secondary school student possesses a firearm or projectile weapon in a Safe School ~~Zone,~~ other than under paragraph (d)(3)d. of this section, in addition to any other penalties contained in this section, the student shall be expelled by the local school board or charter school board of directors for a period of not less than 180 days unless otherwise provided for in federal or state law. The local school board or charter school board of directors may, on a case-by-case basis, modify the terms of the expulsion to less than 180 days.

Section 17. Amend § 1457B, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1457B. Possession of a firearm or projectile weapon at a polling place; class A misdemeanor.

(a) As used in this section:

(1) a. "Election day" means a day on which in-person voting is offered at a polling place, and includes early voting under Chapter 54 of Title 15, for any of the following elections:

1. Primary, general, or special election.

2. School election conducted by the Department of Elections pursuant to Title 14 or Title 15.

3. Municipal election conducted in accordance with the municipality's charter, ordinance, or code.

b. "Election day" includes 2 hours before the polls open until 2 hours after the polls close.

(2) ~~"Firearm" means as defined in § 222 of this title.~~ [Repealed.]

(3) a. "Polling place" means 1 of the following locations in the State:

1. Designated by the Department of Elections for in-person voting under §§ 4512 and 5402 of Title 15.

2. Designated in accordance with a municipality's charter, ordinance, or code for in-person voting on an election day.

3. Designated by the Department of Elections for the tabulation and counting of votes.

4. Department of Elections office locations where sealed absentee ballot envelopes may be returned under the provisions of § 5507 of Title 15.

b. "Polling place" shall not mean an area outside of the actual polling place, such as parking areas or adjoining structures that are not part of the polling place.

(b) Except as otherwise provided under subsection (c) of this section, a person who knowingly possesses a firearm or projectile weapon at a polling place on election day is guilty of possession of a firearm or projectile weapon at a polling place.

(c) Subsection (b) of this section does not apply if at the time of an alleged violation the person is any of the following:

(1) Legally in possession of a firearm or projectile weapon within a private residence located at a polling place.

(2) Engaged in lawful hunting, firearm or projectile weapon instruction, or firearm or projectile weapon-related sports on public lands that are designated for such activity, other than those being used as a polling place on election day.

(3) Employed as any of the following:

a. A ~~"law-enforcement officer," as defined in § 222 of this title.~~ law-enforcement officer.

b. A "commissioned security guard," as defined under § 1302 of Title 24, who is acting in an official capacity at a polling place on election day.

c. A constable, as licensed under Chapter 56 of Title 24, who is acting in an official capacity at a polling place on election day.

d. An active-duty member of the United States Armed Forces or Delaware National Guard, who is acting in an official capacity at a polling place on election day.

(d) It is an affirmative defense that a person was legally in possession of a firearm or projectile weapon and was only traveling through the polling place to reach private property located therein or to leave private property therein to reach a location outside the polling place. This defense is not available to any person who committed any of the following acts or conspired to commit any of the following acts:

(1) Intimidation of voters

(2) Interference with the election.

(3) Traveling through the polling place with a firearm or projectile weapon for any purpose other than reaching a permitted destination.

(e) It is not a defense if the person was unaware that the person possessed a firearm or projectile weapon at a polling place on election day.

(f) Possession of a firearm or projectile weapon at a polling place is a class A misdemeanor.

(g) The Superior Court has exclusive jurisdiction over offenses under this section.

(h) The Department of Elections shall post signs at the entrance of each polling place on election day to notify the public that firearms and projectile weapons are not permitted at the polling place.

Section 18. Amend § 1458, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1458. Removing a ~~firearm~~ weapon from the possession of a law-enforcement officer; class C felony.

(a) A person shall not knowingly or recklessly remove or attempt to remove a ~~firearm,~~ firearm or projectile weapon, disabling chemical spray, baton or other deadly weapon from the possession of another person or deprive the other person of its use if:

(1) The person has knowledge or reason to know that the other person is employed as:

a. A law-enforcement officer including, but not limited to, all those defined as "police officer" in § 1911(a) of this title, who is authorized by law to make arrests;

b. A sheriff, deputy sheriff, constable, judicial assistant, court bailiff or other court security officer or court bailiff;

c. An employee of the Department of Correction, the Division of Parole and Probation or the Department of Youth Rehabilitative Services;

d. A special investigator or state detective with the Delaware Department of Justice, Office of the Attorney General; or

e. An armored car guard licensed pursuant to § 1317 or § 1320 of Title 24; and

(2) The other person is lawfully acting within the course and scope of that other person's employment.

(b) A person who violates this section is guilty of a class C felony.

Section 19. Amend § 1460, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1460. Possession of firearm or projectile weapon while under the influence.

(a) A person is guilty of possession of a firearm or projectile weapon while under the influence of alcohol or drugs when the person possesses a firearm or projectile weapon in a public place while under the influence of alcohol or drugs. It shall be an affirmative defense to prosecution under this section that, the firearm or projectile weapon was not readily operable, or that the person was not in possession of ammunition for the ~~firearm.~~ firearm or projectile weapon. The Superior Court shall have original and exclusive jurisdiction over a violation of this section.

(b) For purposes of this section, the following definitions shall apply:

(1) "Not readily operable" means that the firearm or projectile weapon is disassembled, broken down, or stored in a manner to prevent its immediate use.

(2) "Possess," "possession" or "possesses" means that the person has the item under ~~his or her~~ the person's dominion and authority, and that said item is at the relevant time physically available and accessible to the person.

(3) "Public place" means a place to which the public or a substantial group of persons has access and includes highways, transportation facilities, schools, places of amusement, parks, playgrounds, restaurants, bars, taverns, and hallways, lobbies and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence.

(4) "Under the influence of alcohol or drugs" means:

a. Having an amount of alcohol in a sample of the person's blood equivalent to .08 or more grams of alcohol per hundred milliliters of blood, or an amount of alcohol in a sample of breath equivalent to .08 or more grams per 210 liters of breath. A person shall be guilty, without regard to the person's alcohol concentration at the time of possession of a firearm or projectile weapon in violation thereof, if such person's alcohol concentration is .08 or more within 4 hours after the person was found to be in possession of a ~~firearm,~~ firearm or projectile

weapon, and that alcohol concentration is the result of an amount of alcohol present in, or consumed by such person when that person was in possession of a ~~firearm;~~ firearm or projectile weapon; or

b. Being manifestly under the influence of alcohol or any illicit or recreational drug, as defined in § 4177(c) of Title 21, or any other drug not administered or prescribed to be taken by a physician, to the degree that the person may be in danger or endanger other persons or property, or annoy persons in the vicinity, provided that no person shall be "under the influence of alcohol or drugs" for purposes of this section when the person has not used or consumed an illicit or recreational drug prior to or during an alleged violation, but has only used or consumed such drug after the person has allegedly violated this section and only such use or consumption after such alleged violation caused the person's blood to contain an amount of alcohol or drug or an amount of a substance or compound that is the result of the use or consumption of the drug within 4 hours after the time of the alleged violation thereof.

(c) A law-enforcement officer who has probable cause to believe that a person has violated this section may, with or without the consent of the person, take reasonable steps to conduct chemical testing to determine the person's alcohol concentration or the presence of illicit or recreational drugs. A person's refusal to submit to chemical testing shall be admissible in any trial arising from a violation of this section.

(d) (1) Except as provided in paragraph (d)(2) of this section, possession of a firearm or projectile weapon while under the influence is a class A misdemeanor.

(2) Possession of a firearm or projectile weapon while under the influence is a class G felony if the conviction is for an offense that was committed after a previous conviction for possession of a firearm or projectile weapon while under the influence.

Section 20. Amend § 1461, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1461. Report of loss, theft of ~~firearm.~~ firearm or projectile weapon.

(a) Any owner of a ~~firearm, defined in § 222 of this title,~~ firearm or projectile weapon shall report the loss or theft of the firearm or projectile weapon within 7 days after the discovery of the loss or theft to either:

(1) The law-enforcement agency having jurisdiction over the location where the loss or theft of the firearm or projectile weapon occurred; or

(2) Any State Police troop.

(b) Whoever is convicted of a violation of this section shall:

(1) For the first offense, be guilty of a violation and be subject to a civil penalty of not less than $75 nor more than $100.

(2) For a second offense committed at any time after the sentencing or adjudication of a first offense, be guilty of a violation and be subject to a civil penalty of not less than $100 nor more than $250.

(3) For a third or subsequent offense committed at any time after the sentencing or adjudication of a second offense, be guilty of a class G felony.

Section 21. Amend Chapter 17, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1703. Definitions

For purposes of this part:

(1) "Firearm" means as defined in § 222 of this title.

(2) "Projectile weapon" means as defined in § 222 of this title.

Section 22. Amend § 2105, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2105. Release pursuant to a conditions of release bond or conditions of release bond not guaranteed by financial terms.

(b) In determining whether the defendant is likely to appear as required and that there will be no substantial risk to the safety of the community the court shall, on the basis of available information, take into consideration the nature and circumstances of the crime charged, whether a firearm or projectile weapon was used or possessed, the possibility of statutory mandatory imprisonment, whether the crime was committed against a victim with intent to hinder prosecution, the family ties of the defendant, the defendant's employment, financial resources, character and mental condition, the length of residence in the community, record of convictions, habitual offender eligibility, custody status at time of offense, history of amenability to lesser sanctions, history of breach of release, record of appearances at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.

Section 23. Amend § 2107, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2107. Determining the amount of bail [Effective until fulfillment of the contingency in 83 Del. Laws, c. 72, § 3].

(c) Notwithstanding any provision of this title to the contrary, for a defendant charged with committing:

(29) Possession of a firearm or projectile weapon during commission of a felony, in violation of § 1447A of this title.

(30) Possession of a firearm or projectile weapon by persons prohibited, in violation of § 1448(a)(1), (a)(4), (a)(6), or (a)(7) of this title.

the presumption is that the court will set conditions of release bond guaranteed by financial terms in an amount within or above the guidelines published by the Delaware Sentencing Accountability Commission (SENTAC) for that offense and secured by cash only.

(f) In any case where a court sets bail for an offense listed in subsection (c) of this section, the court shall require the defendant to relinquish any firearms ~~in their~~ or projectile weapons in the defendant's possession.

Section 24. Amend § 2107, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2107. Determining the amount of bail [Effective upon fulfillment of the contingency in 83 Del. Laws, c. 72, § 3].

(c) Notwithstanding any provision of this title to the contrary, for a defendant charged with committing a violent felony involving a firearm or projectile weapon or with committing a violent felony while on probation or pretrial release, the presumption is that a conditions of release bond guaranteed by financial terms secured by cash only will be set.

Section 25. Amend § 3901, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3901. Fixing term of imprisonment; credits.

(d) The court shall direct whether the sentence of confinement of any criminal defendant by any court of this State shall be made to run concurrently or consecutively with any other sentence of confinement imposed on such criminal defendant. Notwithstanding the foregoing, no sentence of confinement of any criminal defendant by any court of this State shall be made to run concurrently with any other sentence of confinement imposed on such criminal defendant for any conviction of the following crimes:

Title 11, Section	Crime
1447A	Possession of a firearm or projectile weapon during the commission of a felony if the firearm or projectile weapon was used, displayed, or discharged during the commission of a Title 11 or Title 31 violent felony as set forth in § 4201(c) of this title.

Section 26. Amend § 4331, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4331. Presentence investigation; victim impact statement.

(i) In any case involving a felony conviction for which a presentence investigation is being conducted, the person conducting the investigation shall (1) provide the convicted felon with a copy of § 1448 of this title and (2) attempt to

determine if the convicted felon is in possession of ~~any firearms~~ a firearm or projectile weapon in violation of § 1448 of this title. This attempt shall include reasonable efforts to contact other persons in the convicted felon's household and the victim, and shall also include a check of the Superior Court's list of persons holding concealed weapons permits. If the person conducting the investigation believes that the convicted felon is in possession of ~~any firearms~~ a firearm or projectile weapon in violation of § 1448 of this title, the Attorney General shall be notified for appropriate enforcement action.

Section 27. Amend § 6533, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6533. Outside employment; work release.

(d) Notwithstanding any other provision of this section or title to the contrary, no person shall be permitted work release under this section, until such person is within 6 months from the date of such person's release from custody, as determined by the Department, if the person is:

(3) Has previously been convicted of 2 or more of the following crimes set forth in this title under sections:

1447A Possession of a firearm or projectile weapon during the commission of a felony;

Section 28. Amend § 6703, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6703. "Violent crime" defined.

For purposes of this chapter, the words "violent crime" shall mean: abuse of an adult who is impaired; abuse of a patient in a nursing facility; abuse of a patient causing injury; abuse of a patient causing death; adulteration causing death; adulteration causing injury; aggravated intimidation; arson in the first degree; arson in the second degree; assault in the first degree; assault in the second degree; assault in the third degree; assault in the first degree on K-9 dog causing, injury or death to the dog; assault on a K-9 dog with risk of injury to the dog; assault in a detention facility which causes injury; assault in a detention facility; assault on a sports official; bestiality; home invasion; burglary in the first degree; carjacking; carrying a concealed deadly weapon (firearm or projectile weapon offense); continuous sexual abuse of child; criminally negligent homicide; dealing with child pornography, second offense; possession of a destructive weapon; reckless endangering; escape after conviction; escape in the second degree; extortion; possession of an explosive device; unlawful imprisonment; incest; kidnapping in the first degree; kidnapping in the second degree; manslaughter; manufacture or use or possession of explosives or an incendiary device; murder in the first degree, murder in the second degree; organized crime and racketeering; possession of a deadly weapon during the commission of a felony; possession of a destructive weapon; possession of a firearm or projectile weapon during the commission of a felony; promoting prison contraband (weapon); promoting prostitution in the first degree; racketeering; reckless endangering first degree; reckless endangering in the

second degree; riot; robbery in the first degree; robbery in the second degree; continued sexual abuse of child; unlawful sexual contact in the first degree; unlawful sexual contact in the second degree; unlawful sexual contact in the third degree; sexual exploitation of a child; sexual extortion; rape in the first degree; rape in the second degree; rape in the third degree; rape in the fourth degree; unlawful sexual intercourse in the first degree; unlawful sexual intercourse in the second degree; unlawful sexual intercourse in the third degree; unlawful sexual penetration in the first degree; unlawful sexual penetration in the second degree; unlawful sexual penetration in the third degree; stalking; terroristic threatening; unlawful firearm transactions (second or subsequent offense); unlawful imprisonment in the first degree; unlawful transportation of a firearm to commit a felony; vehicular assault in the first degree; vehicular assault in the second degree; vehicular homicide in the first degree; vehicular homicide in the second degree; wearing body armor during felony.

Section 29. Amend § 1204C, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1204C. Prohibitions on online marketing or advertising to a child.

(f) The marketing or advertising prohibitions described in this section shall apply to the following products or services:

(4) Firearm as defined in § 222 of Title 11, or ammunition for a firearm.

(17) A projectile weapon, as defined in § 222 of Title 11.

Section 30. Amend § 1041, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1041. Definitions.

The following terms shall have the following meanings:

(1) “Abuse” means conduct which constitutes any of the following:

a. Intentionally or recklessly causing or attempting to cause physical injury or a sexual offense, as defined in § 761 of Title 11.

b. Intentionally or recklessly placing or attempting to place another person in reasonable apprehension of physical injury or sexual offense to such person or another.

c. Intentionally or recklessly damaging, destroying, or taking the tangible property of another person, including:

1. Legal documents that are the property of another person.

2. Inflicting physical injury on any companion animal or service animal.

d. Engaging in a course of alarming or distressing conduct in a manner which is likely to cause fear or emotional distress or to provoke a violent or disorderly response, including conduct that is directed towards any companion animal or service animal.

e. Trespassing on or in property of another person, or on or in property from which the trespasser has been excluded by court order.

f. Child abuse, as defined in Chapter 9 of Title 16.

g. Unlawful imprisonment, kidnapping, interference with custody, and coercion, as defined in Title 11.

h. Intentionally causing or attempting to cause an adult to be financially dependent by doing either or both of the following:

1. Maintaining overwhelming control over the individual's financial resources, including withholding access to money or credit cards or forbidding attendance at school or employment without reasonable justification, and against the individual's will.

2. Stealing or defrauding of money or assets, exploiting the victim's resources for personal gain, or withholding physical resources such as food, clothing, necessary medications, or shelter.

i. Any other conduct which a reasonable person under the circumstances would find threatening or harmful.

j. 1. Any of the following acts when used as a method of coercion, control, punishment, or intimidation of a person who has a close bond of affection to the "companion animal" as defined in paragraph (1)j.2. of this section:

A. Inflicting or attempting to inflict physical injury on the companion animal.

B. Engaging in conduct which is likely to cause the person to fear that the companion animal will be physically injured.

C. Engaging in cruelty to the companion animal under § 1325 of Title 11.

2. "Companion animal" means an animal kept primarily for companionship instead of as any of the following:

A. A working animal.

B. A service animal as defined in § 4502 of Title 6.

C. An animal kept primarily as a source of income, including livestock as defined in § 7700 of Title 3.

(2) “Domestic violence” means abuse perpetrated by 1 member against another member of the following protected classes:

a. Family, as that term is defined in § 901(12) of this title, regardless, however, of state of residence of the parties, or whether parental rights have been terminated; or

b. Former spouses; persons cohabitating together who are holding themselves out as a couple, with or without a child in common; persons living separate and apart with a child in common; or persons in a current or former substantive dating relationship. For purposes of this paragraph, neither a casual acquaintanceship nor ordinary fraternization between 2 individuals in business or social contexts shall be deemed to constitute a substantive dating relationship. Factors to consider for a substantive dating relationship may include the length of the relationship, or the type of relationship, or the frequency of interaction between the parties.

(3) “Firearm” means as defined in § 222 of Title 11.

~~(3)~~(4) “Petitioner” means:

a. A person who is a member of a protected class and files a petition alleging domestic violence against such person or against such person’s minor child or an adult who is impaired;

b. The Division of Child Protective Services acting in the interest of a minor child and files a petition alleging domestic violence; or

c. The Division of Adult Protective Services acting in the interest of an adult who is impaired and files a petition alleging domestic violence.

~~(4)~~(5) “Protective order” means an order issued by the court to a respondent restraining said respondent from committing domestic violence against the petitioner, or a person in whose interest a petition is brought, and may include such measures as are necessary in order to prevent domestic violence.

(6) “Projectile weapon” means as defined in § 222 of Title 11.

~~(5)~~(7) “Respondent” means the person alleged in the petition to have committed the domestic violence.

Section 31. Amend § 1045, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1045. Relief available; duration of orders, modification, and termination.

(a) After consideration of a petition for a protective order, the Court may grant relief in the form of any of the following:

(1) Restrain the respondent from committing acts of domestic violence, as defined in § 1041 of this title.

(2) Restrain the respondent from contacting or attempting to contact the petitioner.

(3) Grant exclusive possession of the residence or household to the petitioner or other resident, regardless of in whose name the residence is titled or leased. Such relief shall not affect title to any real property.

(4) Order that the petitioner be given temporary possession of specified personal property solely or jointly owned by respondent or petitioner, including but not limited to, motor vehicles, checkbooks, keys and other personal effects.

(5) Grant temporary custody of the children of the parties to the petitioner or to another family member. Either party may request visitation at any time during the proceeding. The Court may provide for visitation by separate interim visitation order pursuant to Title 13, which order shall be binding upon and enforceable against both parties. Such interim visitation order may include third-party supervision of any visitation, if necessary, in accordance with Chapters 7 and 19 of Title 13.

(6) Order the respondent to pay support for the petitioner and/or for the parties' children, in accordance with Chapter 5 of Title 13, including temporary housing costs.

(7) Order the respondent to pay to the petitioner or any other family member monetary compensation for losses suffered as a direct result of domestic violence committed by the respondent, including medical, dental and counseling expenses, loss of earnings or other support, cost of repair or replacement of real or personal property damaged or taken, moving or other travel expenses and litigation costs, including attorney's fees.

(8) Order the respondent to temporarily relinquish to a police officer or a federally-licensed firearms dealer located in Delaware the respondent's firearms or projectile weapons and to refrain from purchasing or receiving additional firearms or projectile weapons for the duration of the order. The Court shall inform the respondent that the respondent is prohibited from receiving, transporting, or possessing firearms or projectile weapons for so long as the protective order is in effect.

(9) Prohibit the respondent from transferring, encumbering, concealing or in any way disposing of specified property owned or leased by parties.

(10) Order the respondent, petitioner and other protected class members, individually and/or as a group, to participate in treatment or counseling programs.

(11) Issue an order directing any law-enforcement agency to forthwith search for and seize firearms or projectile weapons of the respondent upon a showing by the petitioner that the respondent has possession of a firearm or projectile weapon, and

a. Petitioner can describe, with sufficient particularity, both the type and location of the firearm ~~or firearms;~~ or projectile weapon; and

b. Respondent has used or threatened to use a firearm or projectile weapon against the petitioner, or the petitioner expresses a fear that the respondent may use a firearm or projectile weapon against them.

(12) Grant the petitioner the exclusive care, custody, or control of any companion animal owned, possessed, leased, kept, or held by the petitioner, the respondent, or a minor child residing in the residence or household of the petitioner or respondent and order the respondent to stay away from the companion animal and forbid the respondent from taking, transferring, encumbering, concealing, harming, or otherwise disposing of the companion animal. Any subsequent property division order entered by the Court in any proceeding brought under Title 13 supersedes any relevant provisions regarding companion animals which are included in a protection from abuse order, without the need to modify that protective order.

(13) Order the respondent to return specified legal documents, such as passport, immigration papers, or Social Security card.

(14) Grant any other reasonable relief necessary or appropriate to prevent or reduce the likelihood of future domestic violence.

(b) Relief granted under this section shall be effective for a fixed period of time not to exceed 1 year, except that relief granted under paragraphs (a)(1) and (a)(2) of this section may be entered for a fixed period of time not to exceed 2 years, unless a longer period of time is ordered pursuant to subsection (c) or (f) of this section.

(c) An order issued under this part may be extended, or terms of the order modified, upon motion of either party. Hearings on such motions shall be scheduled within 30 days after proof of service on the respondent is filed. Such motions may be heard on an emergency basis if filed in accordance with § 1043 of this title. Orders may be extended only after the Court finds by a preponderance of the evidence that domestic violence has occurred since the entry of the order, a violation of the order has occurred, if the respondent consents to the extension of the order or for good cause shown.

(d) Only the Court shall modify an order issued under this part and the reconciliation of the parties shall have no effect on the validity of any of the provisions of such an order. The protective order may be modified or rescinded during the term of the order upon motion, after notice to all parties affected and a hearing.

(e) Any subsequent support, custody or visitation order entered by the Court in any proceeding brought pursuant to Title 13 shall supersede any relevant provisions regarding those issues which are included in a protection from abuse order, without the need to modify such protective order.

(f) Notwithstanding any provision of this section to the contrary, upon a finding that aggravating circumstances exist, the Court may grant no contact relief pursuant to paragraphs (a)(1) and (a)(2) of this section for as long as reasonably necessary to prevent further acts of abuse or domestic violence, up to and including the entry of a permanent order of the

Court. An order entered pursuant to this subsection may only be modified or amended upon motion of a party for good cause shown. For purposes of this subsection, aggravating circumstances shall mean physical injury or serious physical injury to the petitioner caused by the respondent; the use of a deadly weapon or dangerous instrument against the petitioner by the respondent; a history of repeated violations of prior protective orders by the respondent; prior convictions for crimes against the petitioner by the respondent; the exposure of any member of the petitioner's family or household to physical injury or serious physical injury by the respondent; or any other acts of abuse which the Court believes constitute an immediate and ongoing danger to the petitioner or any member of the petitioner's family or household.

(g) A protective order requiring a person to relinquish ~~firearms~~ a firearm or projectile weapon in accordance with paragraph (a)(8) of this section shall:

(1) State on its face that ~~firearms~~ a firearm or projectile weapon shall be relinquished immediately to a police officer if requested by the police officer upon personal service of the protective order. If no request is made by a police officer, the relinquishment shall occur within 24 hours of personal service of the order at any staffed police station or a federally-licensed firearms dealer located in Delaware, unless the person is incarcerated at the time personal service is received, in which case the 24-hour relinquishment period shall commence at the time of release from incarceration.

(2) State on its face that the respondent is prohibited from purchasing, possessing, or controlling ~~firearms~~ a firearm, a projectile weapon, any other deadly weapons, or ammunition for a firearm under Delaware law.

(3) Require the respondent to file, within 48 hours of personal service or, if the Court will not be open within 48 hours from the time of personal service, within the first 3 hours the Court is thereafter open, 1 of the following documents:

a. A certification, under penalty of prosecution for false written statement under § 1233 of Title 11, that the respondent did not own, possess, or control ~~any firearms~~ a firearm or projectile weapon at the time of the order and currently does not own, possess, or control ~~any firearms.~~ a firearm or projectile weapon.

b. A copy of a proof of transfer showing, for each firearm or projectile weapon owned, possessed, or controlled by the respondent at the time of the order, that the firearm or projectile weapon was relinquished to a police officer or a federally-licensed firearms dealer located in Delaware.

c. A certification, under penalty of prosecution for false written statement under § 1233 of Title 11, for each firearm or projectile weapon owned, possessed, or controlled by the respondent at the time of the order, that the respondent is unable to obtain access to the firearm or projectile weapon, specifying the location of the firearm or projectile weapon and the reason why the respondent is unable to obtain access.

(h) The Court shall provide to the petitioner a copy of the documents the respondent files with the Court pursuant to paragraph (g)(3) of this section within 48 hours of filing or, if the Court will not be open within 48 hours of the filing, within the first 3 hours the Court is thereafter open.

(i) A police officer or a federally-licensed firearms dealer located in Delaware taking possession of firearms or projectile weapons relinquished by a respondent pursuant to a protective order under subsection (a) of this section shall issue a proof of transfer to the respondent and to the Court issuing the order of protection. The proof of transfer shall list the name of the respondent; date of the transfer; and make, model, and serial number of each firearm or projectile weapon relinquished. For purposes of this section, the term "police officer" shall be defined as in § 1911 of Title 11. The law-enforcement agency or the federally-licensed firearms dealer located in Delaware shall dispose of the firearm or projectile weapon or return the firearm or projectile weapon to the respondent only subsequent to the expiration or termination of the protective order in accordance with § 2311 of Title 11.

(j) The forms for protective orders shall allow the petitioner to describe, under penalty of prosecution for false written statement under § 1233 of Title 11, the number, types, and locations of ~~any firearms~~ a firearm or projectile weapon presently known by the petitioner to be owned, possessed, or controlled by the respondent.

(k) No records, data, information, or reports containing the name, address, other identifying data of either the respondent, petitioner, or recipient of the relinquished ~~firearms~~ firearm or projectile weapon or which contain the make, model, caliber, serial number, or other identifying data of ~~any firearm~~ a firearm or projectile weapon which are required, authorized, or maintained pursuant to this section, shall be subject to disclosure or release pursuant to the Freedom of Information Act, Chapter 100 of Title 29.

Section 32. Amend § 7102, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7102. Purpose; construction.

(c) Any action brought on the basis of a criminal nuisance defined at § 7103(5)b. of this title is intended to abate the criminal nuisance existing on those properties where illegal firearms or projectile weapons exist and those who use illegal firearms or projectile weapons congregate. It is not intended to interfere with the right to lawful possession or use of firearms or projectile weapons by law abiding citizens.

Section 33. Amend § 7103, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7103. Definitions.

As used in this chapter, unless the context indicates differently:

(1) “Adverse impact” means the presence of 1 or more of the following conditions:

a. Diminished real property value related to nuisances associated with drug activity, illegal ~~firearms,~~ firearms or projectile weapons, criminal gangs, violent felonies, prostitution, and other public nuisances in or near the property;

b. Increased fear of residents to walk through or in public areas, including sidewalks, streets, and parks, due to the presence of nuisances associated with drug activity, illegal ~~firearms,~~ firearms or projectile weapons, criminal gangs, violent felonies, prostitution, and other public nuisances;

c. Increased volume of vehicular and pedestrian traffic to and from the property that is related to nuisances associated with drug activity, illegal ~~firearms,~~ firearms or projectile weapons, criminal gangs, violent felonies, prostitution, and other public nuisances;

d. An increase in the number of police calls to the property that are related to nuisances associated with drug activity, illegal ~~firearms,~~ firearms or projectile weapons, criminal gangs, violent felonies, prostitution, and other public nuisances;

f. The presence, use, or display or discharge of illegal ~~firearms~~ firearms or projectile weapons at or near the property;

h. Arrests of persons on or near the property for criminal conduct relating to nuisances associated with drug activity, illegal ~~firearms,~~ firearms or projectile weapons, criminal gangs, violent felonies, prostitution, and other public nuisances;

i. Search warrants served or executed at the property relating to nuisances associated with drug activity, illegal ~~firearms,~~ firearms or projectile weapons, criminal gangs, violent felonies, prostitution, and other public nuisances;

j. A substantial number of complaints made to law-enforcement and other government officials regarding nuisances associated with drug activity, illegal ~~firearms,~~ firearms or projectile weapons, criminal gangs, violent felonies, prostitution, and other public nuisances;

k. Increased number of housing or health code violations relating to nuisances associated with drug activity, illegal ~~firearms,~~ firearms or projectile weapons, criminal gangs, violent felonies, prostitution, and other public nuisances;

(5) “Criminal nuisance” means any real property at which:

b. The illegal use, manufacture, causing to be manufactured, importation, possession, possession for sale, sale, furnishing, storing or delivery of ~~ammunition or firearms~~ ammunition, firearms, or projectile weapons has

occurred, or any act or acts which constitute any felony set forth in subpart E of subchapter VII of Chapter 5 of Title 11 or an unlawful attempt or conspiracy to commit such an act; or

(6) "Firearm" shall have the same meaning as that term is used in § 222 of Title 11. "Ammunition" shall have the same meaning as that term is used in § 1448(c) of Title 11.

(12) "Projectile weapon" means as defined in § 222 of Title 11.

Section 34. Amend § 7202, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7202. Definitions.

As used in this chapter:

(1) "Firearm" means as defined in § 222 of Title 11.

(7) "Projectile weapon" means as defined in § 222 of Title 11.

Section 35. Amend § 7204, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7204. Emergency proceedings.

(d) The ex parte temporary order shall restrain the respondent from contacting, or attempting to contact the petitioner, including by non-physical contact, either directly, or indirectly through a third party. The Court may also do any of the following through its order:

(3) Order the respondent to temporarily relinquish to a police officer, or a federally-licensed firearms dealer located in Delaware, the respondent's firearms or projectile weapons and to refrain from purchasing or receiving additional firearms or projectile weapons for the duration of the order. Nothing in this section may be construed to impair the rights, under U.S. Const. amend. 2 or § 20 of Article I of the Delaware Constitution, of an individual who is not subject to the Court's order.

(4) Direct a law-enforcement agency having jurisdiction where the respondent resides, or ~~the firearms or ammunition are~~ a firearm, projectile weapon, or ammunition is located, to immediately search for and seize ~~any firearms or ammunition~~ a firearm, projectile weapon, or ammunition owned, possessed, or controlled by the respondent.

Section 36. Amend § 7205, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7205. Nonemergency proceedings.

(c) If the Court finds by a preponderance of the evidence that the petitioner has been the victim of non-consensual sexual conduct or non-consensual penetration perpetrated by the respondent, and that facts support petitioner's reasonable fear of future harm, the Court shall issue a sexual violence protective order restraining the respondent from contacting or attempting to contact the petitioner, including by non-physical contact, either directly or indirectly through a third party. The Court may also do any of the following through its order:

(3) Order the respondent to relinquish to a police officer, or a federally-licensed firearms dealer located in Delaware, the respondent's firearms or projectile weapons and to refrain from purchasing or receiving additional firearms or projectile weapons for the duration of the order. Nothing in this section may be construed to impair the rights, under U.S. Const. amend. 2 or § 20 of Article I of the Delaware Constitution, of an individual who is not subject to the Court's order.

(4) Direct a law-enforcement agency having jurisdiction where the respondent resides, or ~~the firearms or ammunition are~~ a firearm, projectile weapon, or ammunition is located, to immediately search for and seize ~~any firearms or ammunition~~ a firearm, projectile weapon, or ammunition owned, possessed, or controlled by the respondent.

Section 37. Amend § 7207, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7207. Return and disposal of ~~firearms.~~ a firearm, projectile weapon, or ammunition.

If an order issued under this chapter is vacated under § 7205 of this title, terminated under § 7206 of this title, or expired and is not renewed, the law-enforcement agency shall return to the respondent ~~any firearms or ammunition~~ a firearm, projectile weapon, or ammunition taken from the respondent under this chapter unless the respondent is otherwise prohibited under § 1448 of Title 11.

Section 38. Amend § 7208, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7208. Limitation on liability.

(a) Nothing in this chapter precludes a law-enforcement officer from removing ~~firearms~~ a firearm, projectile weapon, or ammunition under other authority or the filing of criminal charges when probable cause exists.

(b) A law-enforcement agency is immune from civil or criminal liability for any damage or deterioration of ~~firearms~~ a firearm, projectile weapon, or ammunition stored or transported under this chapter. This subsection does not apply if the damage or deterioration occurred as a result of recklessness, gross negligence, or intentional misconduct by the law-enforcement agency or federally-licensed firearms dealer.

Section 39. Amend § 7701, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7701. Definitions.

As used in this section:

(1) "Firearm" means as defined in § 222 of Title 11.

(2) "Law-enforcement officer" means as defined in § 222 of Title 11.

(3) "Lethal violence protective order" means an order issued by the Justice of the Peace Court or Superior Court prohibiting and enjoining a person from controlling, owning, purchasing, possessing, having access to, or receiving a firearm or projectile weapon.

(4) "Petitioner" means either of the following:

a. A family member of the respondent as defined in § 901 of this title or a member of the class defined in § 1041(2)b. of this title.

b. A law-enforcement officer who files a petition alleging that the respondent poses a danger of causing physical injury to self or others by controlling, owning, purchasing, possessing, having access to or receiving a firearm or projectile weapon.

(5) "Physical injury" means as defined in § 222 of Title 11.

(6) "Projectile weapon" means as defined in § 222 of Title 11.

~~(6)~~(7) "Respondent" means the individual who is alleged to pose a danger of causing physical injury to self or others by controlling, owning, purchasing, possessing, having access to or receiving a firearm or projectile weapon.

Section 40. Amend § 7703, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7703. Emergency hearings.

(a) A law-enforcement officer may request an emergency lethal violence protective order by filing an affidavit or verified petition in Justice of the Peace Court that does both of the following:

(1) Alleges that respondent poses an immediate and present danger of causing physical injury to self or others by controlling, purchasing, owning, possessing, controlling, purchasing, having access to, or receiving a firearm or projectile weapon.

(2) Identifies the location of ~~any firearms~~ a firearm or projectile weapon it is believed that the respondent currently owns, possesses, has access to, or controls.

(b) The following procedures govern an emergency proceeding:

(1) The Justice of the Peace Court shall hear a request for an order under this section within 24 hours of the filing of the affidavit or verified petition.

(2) The law-enforcement officer has the burden of demonstrating by a preponderance of the evidence that a respondent poses an immediate and present danger of causing physical injury to self or others by owning, possessing, controlling, purchasing, having access to, or receiving a firearm or projectile weapon.

(3) The respondent does not have the right to be heard or to notice that the law-enforcement officer has sought an order under this section.

(c) The Justice of the Peace Court may adopt additional rules governing proceedings under this section.

(d) If the Justice of the Peace Court finds by a preponderance of the evidence that the respondent poses an immediate and present danger of causing physical injury to self or others by owning, possessing, controlling, purchasing, having access to, or receiving a firearm or projectile weapon, the Court shall issue an emergency lethal violence protective order requiring the respondent to relinquish to a law-enforcement agency receiving the Court's order ~~any firearms~~ a firearm, projectile weapon, or ammunition owned, possess, or controlled by the respondent. The Court may also do any of the following through its order:

(1) Prohibit the respondent from residing with another individual who owns, possesses, or controls ~~firearms~~ a firearm, projectile weapon, or ammunition. Nothing in this section may be construed to impair the rights, under the Second Amendment to the United States Constitution or Article I, § 20 of the Delaware Constitution, of an individual who is not subject to the Court's order.

(2) Direct a law-enforcement agency having jurisdiction where the respondent resides or ~~the firearms or ammunition are~~ a firearm, projectile weapon, or ammunition is located to immediately search for and seize ~~any firearms~~ a firearm, projectile weapon, or ammunition owned, possessed, or controlled by the respondent.

(e) The Justice of the Peace Court shall direct that an emergency lethal violence protective order issued under this section be served immediately upon the respondent by personal service, any form of mail, or in any manner directed by the Court, including publication, if other methods of service have failed or deemed to have been inadequate. The Court shall give a certified copy of the order to the law-enforcement officer after the hearing and before the petitioner leaves the courthouse.

(f) If the Justice of the Peace Court issues an emergency lethal violence protective order under this section, the Superior Court must hold a full hearing in compliance with § 7704 of this title within 15 days. The Justice of the Peace Court or the Superior Court may extend an emergency order as needed to effectuate service of the order or where necessary to ensure the protection of the respondent or others, but the duration of the order may not exceed 45 days.

Section 41. Amend § 7704, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7704. Nonemergency hearings.

(a) A petitioner may request a lethal violence protective order by filing an affidavit or verified petition in the Superior Court that does both of the following:

(1) Alleges that the respondent poses a danger of causing physical injury to self or others by controlling, owning, purchasing, possessing, having access to, or receiving a ~~firearm.~~ firearm or projectile weapon.

(2) Identifies the location of ~~any firearms~~ a firearm or projectile weapon it is believed that the respondent currently owns, possesses, has access to, or controls.

(b) The following procedures govern a nonemergency proceeding:

(1) The respondent has the right to be heard.

(2) If a hearing is requested, it must be held within 15 days of the filing of an affidavit or verified petition under subsection (a) of this section, unless extended by the Court for good cause shown.

(3) If a hearing is held, the respondent has the right to notice of the hearing, to present evidence, and to cross-examine adverse witnesses.

(4) The petitioner has the burden of proving by clear and convincing evidence that the respondent poses a danger of causing physical injury to self or others by controlling, owning, purchasing, possessing, having access to, or receiving a ~~firearm.~~ firearm or projectile weapon.

(c) The Superior Court may adopt additional rules governing proceedings under this section.

(d) If the Superior Court finds by a clear and convincing evidence that the respondent poses an immediate and present danger of causing physical injury to self or others by owning, possessing, controlling, purchasing, having access to, or receiving a firearm or projectile weapon, the Court shall issue a lethal violence protective order requiring the respondent to relinquish to a law-enforcement agency receiving the Court's order ~~any firearms~~ a firearm, projectile weapon, or ammunition owned, possess, or controlled by the respondent. The Court may also do any of the following through its order:

(1) Allow the respondent to voluntarily relinquish to a law-enforcement agency receiving the Court's order ~~any firearms~~ a firearm, projectile weapon, or ammunition owned, possessed, or controlled by the respondent.

(2) Allow the respondent to relinquish ~~firearms~~ a firearm, projectile weapon, or ammunition owned, possessed, or controlled by the respondent to a designee of the respondent. A designee of the respondent must not reside with the respondent and must not be a person prohibited under § 1448 of Title 11. The designee must affirm to

the Court and the Court must find that the designee of the respondent will keep ~~firearms~~ a firearm, projectile weapon, or ammunition owned, possessed, or controlled by the respondent out of the possession of the respondent.

(3) Prohibit the respondent from residing with another individual who owns, possesses, or controls ~~firearms~~ a firearm, projectile weapon, or ammunition. Nothing in this section may be construed to impair the rights, under the Second Amendment to the United States Constitution or Article I, § 20 of the Delaware Constitution, of an individual who is not subject to the Court's order.

(4) Direct a law-enforcement agency having jurisdiction where the respondent resides or ~~the firearms or ammunition are~~ a firearm, projectile weapon, or ammunition is located to immediately search for and seize ~~any firearms~~ a firearm, projectile weapon, or ammunition owned, possessed, or controlled by the respondent.

(5) Prohibit the respondent from residing with another individual who owns, possesses, or controls ~~firearms~~ a firearm, projectile weapon, or ammunition. Nothing in this section may be construed to impair or limit the rights, under the Second Amendment to the United States Constitution or Article I, § 20 of the Delaware Constitution, of an individual who is not subject to the Court's order.

(6) Direct a law-enforcement agency having jurisdiction where the respondent resides or ~~the firearms or ammunition are~~ a firearm, projectile weapon, or ammunition is located to immediately search for and seize ~~any firearms~~ a firearm, projectile weapon, or ammunition owned, possessed, or controlled by the respondent,

(e) If the Superior Court finds that there is not clear and convincing evidence to support the issuance of a lethal violence protective order, the Court shall not issue a lethal violence protective order, and shall vacate any emergency lethal violence protective order then in effect.

(f) If the Superior Court issues a lethal violence protective order under this section, the Court shall inform the respondent that the respondent is entitled to 1 hearing to request a termination of the order under § 7705 of this title, and shall provide the respondent with a form to request such a hearing.

(g) If a respondent is not present for a hearing under this section, the Superior Court shall direct that a lethal violence protective order issued be served immediately upon the respondent by personal service, any form of mail, or in any manner directed by the Court, including publication if other methods of service have failed or deemed to have failed or deemed to have been inadequate.

(h) The Superior Court shall give a certified copy of the order to the petitioner and respondent after the hearing and before the petitioner and respondent leave the courthouse.

(i) Any party in interest aggrieved by a decision of the Superior Court under this section may appeal the decision to the Supreme Court.

(j) Relief granted under this section shall be for a fixed period of time not to exceed 1 year.

Section 42. Amend § 7705, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7705. Termination and renewal.

(a) A respondent subject to a lethal violence protective order issued under § 7704 of this title, or renewed under subsection (b) of this section, may submit 1 written request at any time during the effective period of the order for a hearing to terminate the order.

(1) The Superior Court must provide notice to all parties and a hearing before the Court may terminate the order.

(2) The respondent must prove by clear and convincing evidence that the respondent does not pose a danger of causing physical injury to self or others by controlling, owning, purchasing, possessing, having access to, or receiving a ~~firearm.~~ firearm or projectile weapon.

(3) If the Superior Court finds after a hearing that the respondent has met the burden imposed by paragraph (a)(2) of this section, the Court shall terminate the order.

(b) A petitioner may request a renewal of a lethal violence protective order at any time within 3 months before the expiration of a lethal violence protective order issued under § 7704 of this title or this subsection.

(1) The Superior Court must provide notice to all parties and a hearing before the Court may renew an order issued under § 7704 of this title or this subsection.

(2) The petitioner must prove by clear and convincing evidence that the respondent continues to pose a danger of causing physical injury to self or others in the near future by controlling, owning, purchasing, possessing, having access to, or receiving a ~~firearm.~~ firearm or projectile weapon.

(3) If the Superior Court finds after a hearing that the respondent has met the burden imposed by paragraph (b)(2) of this section, the Court shall renew the lethal violence protective order.

(4) The Superior Court is to set the duration of the renewed lethal violence protective order, up to 1 year. The order remains in effect unless terminated under subsection (a) of this section, renewed under this subsection, or expired and not renewed.

Section 43. Amend § 7706, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7706. Return and disposal of ~~firearms~~ a firearm, projectile weapon, or ammunition.

If an order issued under this chapter is vacated under § 7704 (e) of this title, terminated under § 7705(a) of this title, or expired and is not renewed, the law-enforcement agency shall return to the respondent ~~any firearms~~ a firearm, projectile weapon, or ammunition taken from the respondent under this chapter unless otherwise prohibited under § 1448 of Title 11.

Section 44. Amend § 7707, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7707. Limitation on liability.

(a) Nothing in this chapter precludes a petitioner or law-enforcement officer from removing ~~firearms~~ a firearm, projectile weapon, or ammunition under other authority or filing criminal charges when probable cause exists.

(b) A law-enforcement officer, who in good faith does not seek a lethal violence protective order under this chapter, is immune from civil liability.

(c) A law-enforcement agency is immune from civil or criminal liability for any damage or deterioration of ~~firearms~~ a firearm, projectile weapon, or ammunition stored or transported under this section. This subsection does not apply if the damage or deterioration occurred as a result of recklessness, gross negligence, or intentional misconduct by the law-enforcement agency or federally-licensed firearms dealer.

Section 45. Amend § 1302, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1302. Definitions.

As used in this chapter, unless the context requires a different definition:

(12) "Firearm" ~~shall hold the meaning~~ means as defined in § 222 of Title 11.

(21) "Projectile weapon" means as defined in § 222 of Title 11.

Section 46. Amend § 1321, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1321. ~~Firearms.~~ Firearms or projectile weapons.

(b) It shall be unlawful for anyone licensed, under this chapter, to carry any type of weapon unless the Board has approved the use of such weapon and, if approved, the person has been trained in the use of such weapon, by a board-approved instructor.

(1) Private investigative, private security and armored car agencies shall be held responsible for monitoring all firearm or projectile weapon certification or recertification for their employees for compliance with promulgated rules and regulations.

(2) Private investigative, private security and armored car agencies must provide the Professional Licensing Section with documentation that employees are compliant with firearm or projectile weapon certification and recertification requirements of the Board.

(3) The Board may revoke the ability to carry a weapon if a registration holder or agency fails to comply with promulgated rules and regulations.

(c) It shall be unlawful for an individual, employed as a security guard, to carry a firearm or projectile weapon during the course of performing their duties as a security guard, if they have not been issued a commissioned security guard license.

(d) It shall be unlawful for any person to hire or employ an individual or for any individual to accept employment, in the capacity of a security guard, to carry a firearm or projectile weapon in the course and scope of employment duties unless the security guard has been issued a commissioned security guard license.

(e) It shall be unlawful for a commissioned security guard to carry a firearm or projectile weapon unless:

(1) The security guard is engaged in the performance of duties as a security officer or is engaged in traveling directly to or from a place of assignment;

(2) The security guard is wearing a distinctive uniform indicating that the person is a security guard;

(3) Such uniform has a distinctive patch that indicates the company by whom the person is employed;

(4) The firearm or projectile weapon is in plain view; and

(5) The firearm or projectile weapon is the type of weapon that the commissioned security guard qualified with pursuant to this chapter.

Section 47. Amend § 1329, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1329. Disciplinary proceedings; appeal.

(a) Grounds. —

Subject to the provisions of this chapter, the Director pursuant to the authority of the Board may impose any of the following sanctions (subsection (b) of this section) singly or in combination when it finds a licensee or identification card holder is guilty of any offense described herein:

(3) Failure to comply with firearms or projectile weapons requirements pursuant to § 1321 of this title; or

(10) Failure to abide by the Board's firearms or projectile weapons certification and recertification training requirements; or

(11) Using a firearms or projectile weapons instructor that has not been approved by the Board; or

Section 48. Amend § 5602, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5602. Definitions.

As used in this chapter:

(4) "Firearm" means as defined in § 222 of Title 11.

(6) "Projectile weapon" means as defined in § 222 of Title 11.

Section 49. Amend § 5604, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5604. Duties and responsibilities of the Board.

The Board has the authority to:

(7) Promulgate rules and regulations for commissioned constables to carry and use, while on duty, batons, night sticks, chemical spray, conducted electrical weapons, canines, ~~and firearms.~~ firearms, and projectile weapons.

(8) Establish standards and requirements for firearms training and training in the use of force, including the use of deadly force, for constables applying to the Board to carry firearms or projectile weapons while on duty. Constables who fail to meet the standards for carrying a firearm or projectile weapon or fail to successfully complete firearms or projectile weapons training are prohibited from carrying a firearm or projectile weapon while on duty.

Section 50. This Act takes effect on February 1, 2025.