

STATE OF NEW YORK

8976--B

IN ASSEMBLY

January 9, 2018

Introduced by M. of A. SIMON -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the civil practice law and rules, the criminal procedure law and the penal law, in relation to establishing extreme risk protection orders as court-issued orders of protection prohibiting a person from purchasing, possessing or attempting to purchase or possess a firearm, rifle or shotgun

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

1 Section 1. The civil practice law and rules is amended by adding a new
2 article 63-A to read as follows:

ARTICLE 63-A

EXTREME RISK PROTECTION ORDERS

Section 6340. Definitions.

6 6341. Application for an extreme risk protection order.

7 6342. Issuance of a temporary extreme risk protection order.

8 6343. Issuance of a final extreme risk protection order.

9 6344. Surrender and removal of firearms, rifles and shotguns
10 pursuant to an extreme risk protection order.

11 6345. Request for renewal of an extreme risk protection order.

12 6346. Expiration of an extreme risk protection order.

13 6347. Effect of findings and determinations in subsequent
14 proceedings.

§ 6340. Definitions. For the purposes of this article:

16 1. "Extreme risk protection order" means a court-issued order of
17 protection prohibiting a person from purchasing, possessing or attempt-
18 ing to purchase or possess a firearm, rifle or shotgun.

19 2. "Petitioner" means: (a) a police officer, as defined in section
20 1.20 of the criminal procedure law, or district attorney with jurisdic-
21 tion in the county or city where the person against whom the order is
22 sought resides; or (b) a family or household member, as defined in

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

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1 subdivision two of section four hundred fifty-nine-a of the social
2 services law, of the person against whom the order is sought.

3 3. "Respondent" means the person against whom an extreme risk
4 protection order is or may be sought under this article.

5 4. "Possess" shall have the same meaning as defined in subdivision
6 eight of section 10.00 of the penal law.

7 § 6341. Application for an extreme risk protection order. In accord-
8 ance with this article, a petitioner may file a sworn application, and
9 accompanying supporting documentation, setting forth the facts and
10 circumstances justifying the issuance of an extreme risk protection
11 order. Such application and supporting documentation shall be filed in
12 the supreme court in the county in which the respondent resides. The
13 chief administrator of the courts shall adopt forms that may be used for
14 purposes of such applications and the court's consideration of such
15 applications. Such application form shall include inquiry as to whether
16 the petitioner knows, or has reason to believe, that the respondent
17 owns, possesses or has access to a firearm, rifle or shotgun and if so,
18 a request that the petitioner list or describe such firearms, rifles and
19 shotguns, and the respective locations thereof, with as much specificity
20 as possible.

21 § 6342. Issuance of a temporary extreme risk protection order. 1.
22 Upon application of a petitioner pursuant to this article, the court may
23 issue a temporary extreme risk protection order, ex parte or otherwise,
24 to prohibit the respondent from purchasing, possessing or attempting to
25 purchase or possess a firearm, rifle or shotgun, upon a finding that
26 there is probable cause to believe the respondent is likely to engage in
27 conduct that would result in serious harm to himself, herself or others,
28 as defined in paragraph one or two of subdivision (a) of section 9.39 of
29 the mental hygiene law. Such application for a temporary order shall be
30 determined in writing on the same day the application is filed.

31 2. In determining whether grounds for a temporary extreme risk
32 protection order exist, the court shall consider any relevant factors
33 including, but not limited to, the following acts of the respondent:

34 (a) a threat or act of violence or use of physical force directed
35 toward self, the petitioner, or another person;

36 (b) a violation or alleged violation of an order of protection;

37 (c) any pending charge or conviction for an offense involving the use
38 of a weapon;

39 (d) the reckless use, display or brandishing of a firearm, rifle or
40 shotgun;

41 (e) any history of a violation of an extreme risk protection order;

42 (f) evidence of recent or ongoing abuse of controlled substances or
43 alcohol; or

44 (g) evidence of recent acquisition of a firearm, rifle, shotgun or
45 other deadly weapon or dangerous instrument, or any ammunition therefor.

46 In considering the factors under this subdivision, the court shall
47 consider the time that has elapsed since the occurrence of such act or
48 acts and the age of the person at the time of the occurrence of such act
49 or acts.

50 For the purposes of this subdivision, "recent" means within the six
51 months prior to the date the petition was filed.

52 3. The application of the petitioner and supporting documentation, if
53 any, shall set forth the factual basis for the request and probable
54 cause for issuance of a temporary order. The court may conduct an exam-
55 ination under oath of the petitioner and any witness the petitioner may
56 produce.

1 4. A temporary extreme risk protection order, if warranted, shall
2 issue in writing, and shall include:

3 (a) a statement of the grounds found for the issuance of the order;

4 (b) the date and time the order expires;

5 (c) the address of the court that issued the order;

6 (d) a statement to the respondent: (i) directing that the respondent
7 may not purchase, possess or attempt to purchase or possess a firearm,
8 rifle or shotgun while the order is in effect and that any firearm,
9 rifle or shotgun possessed by such respondent shall be promptly surren-
10 dered to any authorized law enforcement official in the same manner as
11 set forth in subdivision five of section 530.14 of the criminal proce-
12 dure law;

13 (ii) informing the respondent that the court will hold a hearing no
14 sooner than three nor more than six business days after service of the
15 temporary order, to determine whether a final extreme risk protection
16 order will be issued and the date, time and location of such hearing,
17 provided that the respondent shall be entitled to more than six days
18 upon request in order to prepare for the hearing; and (iii) informing
19 the respondent the he or she may seek the advice of an attorney and that
20 an attorney should be consulted promptly; and

21 (e) a form to be completed and executed by the respondent at the time
22 of service of the temporary extreme risk protection order which elicits
23 a list of all firearms, rifles and shotguns possessed by the respondent
24 and the particular location of each firearm, rifle or shotgun listed.

25 5. If the application for a temporary extreme risk protection order is
26 not granted, the court shall notify the petitioner and, unless the
27 application is voluntarily withdrawn by the petitioner, nonetheless
28 schedule a hearing on the application for a final extreme risk
29 protection order. Such hearing shall be scheduled to be held promptly,
30 but in any event no later than ten business days after the date on which
31 such application is served on the respondent, provided, however, that
32 the respondent may request, and the court may grant, additional time to
33 allow the respondent to prepare for the hearing. A notice of such hear-
34 ing shall be prepared by the court and shall include the date and time
35 of the hearing, the address of the court, and the subject of the hear-
36 ing.

37 6. (a) The court shall, in the manner specified in paragraph (b) of
38 this subdivision, arrange for prompt service of a copy of the temporary
39 extreme risk protection order, if any, the application therefor and, if
40 separately applied for or if a temporary extreme risk protection order
41 was not granted, the application for an extreme risk protection order,
42 any notice of hearing prepared by the court, along with any associated
43 papers including the petition and any supporting documentation,
44 provided, that the court may redact the address and contact information
45 of the petitioner from such application and papers where the court finds
46 that disclosure of such address or other contact information would pose
47 an unreasonable risk to the health or safety of the petitioner.

48 (b) The court shall provide copies of such documents to the appropri-
49 ate law enforcement agency serving the jurisdiction of the respondent's
50 residence with a direction that such documents be promptly served, at no
51 cost to the petitioner, on the respondent; provided, however, that the
52 petitioner may voluntarily arrange for service of copies of such order
53 and associated papers through a third party, such as a licensed process
54 server.

55 7. (a) The court shall notify the division of state police, any other
56 law enforcement agency with jurisdiction, all applicable licensing offi-

1 cers, and the division of criminal justice services of the issuance of a
2 temporary extreme risk protection order and provide a copy of such order
3 no later than the next business day after issuing the order to such
4 persons or agencies. The court also shall promptly notify such persons
5 and agencies and provide a copy of any order amending or revoking such
6 protection order or restoring the respondent's ability to own or possess
7 firearms, rifles or shotguns no later than the next business day after
8 issuing the order to restore such right to the respondent. Any notice or
9 report submitted pursuant to this subdivision shall be in an electronic
10 format, in a manner prescribed by the division of criminal justice
11 services.

12 (b) Upon receiving notice of the issuance of a temporary extreme risk
13 protection order, the division of criminal justice services shall imme-
14 diately report the existence of such order to the federal bureau of
15 investigation to allow the bureau to identify persons prohibited from
16 purchasing firearms, rifles or shotguns. The division shall also imme-
17 diately report to the bureau the expiration of any such protection
18 order, any court order amending or revoking such protection order or
19 restoring the respondent's ability to purchase a firearm, rifle or shot-
20 gun.

21 8. A law enforcement officer serving a temporary extreme risk
22 protection order shall request that the respondent immediately surrender
23 to the officer all firearms, rifles and shotguns in the respondent's
24 possession and the officer shall conduct any search permitted by law for
25 such firearms. The law enforcement officer shall take possession of all
26 firearms, rifles and shotguns that are surrendered, that are in plain
27 sight, or that are discovered pursuant to a lawful search. As part of
28 the order, the court may also direct a police officer to search for
29 firearms, rifles and shotguns in the respondent's possession in a manner
30 consistent with the procedures of article six hundred ninety of the
31 criminal procedure law.

32 9. Upon issuance of a temporary extreme risk protection order, or upon
33 setting a hearing for a final extreme risk protection order where a
34 temporary order is denied or not requested, the court shall direct the
35 law enforcement agency having jurisdiction to conduct a background
36 investigation and report to the court and, subject to any appropriate
37 redactions to protect any person, each party regarding whether the
38 respondent:

39 (a) has any prior criminal conviction for an offense involving domes-
40 tic violence, use of a weapon, or other violence;

41 (b) has any criminal charge or violation currently pending against him
42 or her;

43 (c) is currently on parole or probation;

44 (d) possesses any registered firearms, rifles or shotguns; and

45 (e) has been, or is, subject to any order of protection or has
46 violated or allegedly violated any order of protection.

47 § 6343. Issuance of a final extreme risk protection order. 1. In
48 accordance with this article, no sooner than three business days nor
49 later than six business days after service of a temporary extreme risk
50 protection order and, alternatively, no later than ten business days
51 after service of an application under this article where no temporary
52 extreme risk protection order has been issued, the supreme court shall
53 hold a hearing to determine whether to issue a final extreme risk
54 protection order and, when applicable, whether a firearm, rifle or shot-
55 gun surrendered by, or removed from, the respondent should be returned
56 to the respondent. The respondent shall be entitled to more than six

1 business days if a temporary extreme risk protection order has been
2 issued and the respondent requests a reasonable period of additional
3 time to prepare for the hearing. Where no temporary order has been
4 issued, the respondent may request, and the court may grant, additional
5 time beyond the ten days to allow the respondent to prepare for the
6 hearing.

7 2. At the hearing pursuant to subdivision one of this section, the
8 petitioner shall have the burden of proving, by clear and convincing
9 evidence, that the respondent is likely to engage in conduct that would
10 result in serious harm to himself, herself or others, as defined in
11 paragraph one or two of subdivision (a) of section 9.39 of the mental
12 hygiene law. The court may consider the petition and any evidence
13 submitted by the petitioner, any evidence submitted by the respondent,
14 any testimony presented, and the report of the relevant law enforcement
15 agency submitted pursuant to subdivision nine of section sixty-three
16 hundred forty-two of this article. The court shall also consider the
17 factors set forth in subdivision two of section sixty-three hundred
18 forty-two of this article.

19 3. (a) After the hearing pursuant to subdivision one of this section,
20 the court shall issue a written order granting or denying the extreme
21 risk protection order and setting forth the reasons for such determi-
22 nation. If the extreme risk protection order is granted, the court shall
23 direct service of such order in the manner and in accordance with the
24 protections for the petitioner set forth in subdivision six of section
25 sixty-three hundred forty-two of this article.

26 (b) Upon issuance of an extreme risk protection order: (i) any
27 firearm, rifle or shotgun removed pursuant to a temporary extreme risk
28 protection order or such extreme risk protection order shall be retained
29 by the law enforcement agency having jurisdiction for the duration of
30 the order, unless ownership of the firearm, rifle or shotgun is legally
31 transferred by the respondent to another individual permitted by law to
32 own and possess such firearm, rifle or shotgun; (ii) the supreme court
33 shall temporarily suspend any existing firearm license possessed by the
34 respondent and order the respondent temporarily ineligible for such a
35 license; (iii) the respondent shall be prohibited from purchasing or
36 possessing, or attempting to purchase or possess, a firearm, rifle or
37 shotgun; and (iv) the court shall direct the respondent to surrender any
38 firearm, rifle or shotgun in his or her possession in the same manner as
39 set forth in subdivision five of section 530.14 of the criminal proce-
40 dure law.

41 (c) An extreme risk protection order issued in accordance with this
42 section shall extend, as specified by the court, for a period of up to
43 one year from the date of the issuance of such order; provided, however,
44 that if such order was immediately preceded by the issuance of a tempo-
45 rary extreme risk protection order, then the duration of the extreme
46 risk protection order shall be measured from the date of issuance of
47 such temporary extreme risk protection order.

48 (d) A law enforcement officer serving a final extreme risk protection
49 order shall request that the respondent immediately surrender to the
50 officer all firearms, rifles and shotguns in the respondent's possession
51 and the officer shall conduct any search permitted by law for such
52 firearms. The law enforcement officer shall take possession of all
53 firearms, rifles and shotguns that are surrendered, that are in plain
54 sight, or that are discovered pursuant to a lawful search. As part of
55 the order, the court may also direct a police officer to search for
56 firearms, rifles and shotguns in a respondent's possession consistent

1 with the procedures of article six hundred ninety of the criminal proce-
2 dure law.

3 4. (a) The court shall notify the division of state police, any other
4 law enforcement agency with jurisdiction, all applicable licensing offi-
5 cers, and the division of criminal justice services of the issuance of a
6 final extreme risk protection order and provide a copy of such order to
7 such persons and agencies no later than the next business day after
8 issuing the order. The court also shall promptly notify such persons and
9 agencies and provide a copy of any order amending or revoking such
10 protection order or restoring the respondent's ability to own or possess
11 firearms, rifles or shotguns no later than the next business day after
12 issuing the order to restore such right to the respondent. Any notice or
13 report submitted pursuant to this subdivision shall be in an electronic
14 format, in a manner prescribed by the division of criminal justice
15 services.

16 (b) Upon receiving notice of the issuance of a final extreme risk
17 protection order, the division of criminal justice services shall imme-
18 diately report the existence of such order to the federal bureau of
19 investigation to allow the bureau to identify persons prohibited from
20 purchasing firearms, rifles or shotguns. The division shall also imme-
21 diately report to the bureau the expiration of such protection order and
22 any court order amending or revoking such protection order or restoring
23 the respondent's ability to purchase a firearm, rifle or shotgun.

24 5. (a) If, in accordance with a temporary extreme risk protection
25 order, a firearm, rifle or shotgun has been surrendered by or removed
26 from the respondent, and the supreme court subsequently finds that the
27 petitioner has not met the required standard of proof, the court's find-
28 ing shall include a written order, issued to all parties, directing that
29 any firearm, rifle or shotgun surrendered or removed pursuant to such
30 temporary order shall be returned to the respondent, upon a written
31 finding that there is no legal impediment to the respondent's possession
32 of such firearm, rifle or shotgun.

33 (b) If any other person demonstrates that he or she is the lawful
34 owner of any firearm, rifle or shotgun surrendered or removed pursuant
35 to a protection order issued in accordance with this article, and
36 provided that the court has made a written finding that there is no
37 legal impediment to the person's possession of a surrendered or removed
38 firearm, rifle or shotgun, the court shall direct that such firearm,
39 rifle or shotgun be returned to such lawful owner and inform such person
40 of the obligation to safely store such firearm, rifle, or shotgun in
41 accordance with section 265.45 of the penal law.

42 6. The respondent shall be notified on the record and in writing by
43 the court that he or she may submit one written request, at any time
44 during the effective period of an extreme risk protection order, for a
45 hearing setting aside any portion of such order. The request shall be
46 submitted in substantially the same form and manner as prescribed by the
47 chief administrator of the courts. Upon such request, the court shall
48 promptly hold a hearing, in accordance with this article, after provid-
49 ing reasonable notice to the petitioner. The respondent shall bear the
50 burden to prove, by clear and convincing evidence, any change of circum-
51 stances that may justify a change to the order.

52 § 6344. Surrender and removal of firearms, rifles and shotguns pursu-
53 ant to an extreme risk protection order. 1. When a law enforcement offi-
54 cer takes any firearm, rifle or shotgun pursuant to a temporary extreme
55 risk protection order or a final extreme risk protection order, the
56 officer shall give to the person from whom such firearm, rifle or shot-

1 gun is taken a receipt or voucher for the property taken, describing the
2 property in detail. In the absence of a person, the officer shall leave
3 the receipt or voucher in the place where the property was found, mail a
4 copy of the receipt or voucher, retaining proof of mailing, to the last
5 known address of the respondent and, if different, the owner of the
6 firearm, rifle or shotgun, and file a copy of such receipt or voucher
7 with the court. All firearms, rifles and shotguns in the possession of a
8 law enforcement official pursuant to this article shall be subject to
9 the provisions of applicable law, including but not limited to subdivi-
10 sion six of section 400.05 of the penal law; provided, however, that any
11 such firearm, rifle or shotgun shall be retained and not disposed of by
12 the law enforcement agency for at least two years unless legally trans-
13 ferred by the respondent to an individual permitted by law to own and
14 possess such firearm, rifle or shotgun.

15 2. If the location to be searched during the execution of a temporary
16 extreme risk protection order or extreme risk protection order is joint-
17 ly occupied by two or more parties, and a firearm, rifle or shotgun
18 located during the execution of such order is owned by a person other
19 than the respondent, the court shall, upon a written finding that there
20 is no legal impediment to the respondent's possession of such firearm,
21 rifle or shotgun, order the return of such firearm, rifle or shotgun to
22 such lawful owner and inform such person of their obligation to safely
23 store their firearm, rifle, or shotgun in accordance with section 265.45
24 of the penal law.

25 § 6345. Request for renewal of an extreme risk protection order. 1.
26 If a petitioner believes a person subject to an extreme risk protection
27 order continues to be likely to engage in conduct that would result in
28 serious harm to himself, herself, or others, as defined in paragraph one
29 or two of subdivision (a) of section 9.39 of the mental hygiene law,
30 such petitioner may, at any time within sixty days prior to the expira-
31 tion of such existing extreme risk protection order, initiate a request
32 for a renewal of such order, setting forth the facts and circumstances
33 necessitating the request. The chief administrator of the courts shall
34 adopt forms that may be used for purposes of such applications and the
35 court's consideration of such applications. The court may issue a tempo-
36 rary extreme risk protection order in accordance with section sixty-
37 three hundred forty-two of this article, during the period that a
38 request for renewal of an extreme risk protection order is under consid-
39 eration pursuant to this section.

40 2. A hearing held pursuant to this section shall be conducted in the
41 supreme court, in accordance with section sixty-three hundred forty-
42 three of this article, to determine if a request for renewal of the
43 order shall be granted. The respondent shall be served with written
44 notice of an application for renewal a reasonable time before the hear-
45 ing, and shall be afforded an opportunity to fully participate in the
46 hearing. The court shall direct service of such application and the
47 accompanying papers in the manner and in accordance with the protections
48 for the petitioner set forth in subdivision six of section sixty-three
49 hundred forty-two of this article.

50 § 6346. Expiration of an extreme risk protection order. 1. A
51 protection order issued pursuant to this article, and all records of any
52 proceedings conducted pursuant to this article, shall be sealed upon
53 expiration of such order and the clerk of the court wherein such
54 proceedings were conducted shall immediately notify the commissioner of
55 the division of criminal justice services, the heads of all appropriate
56 police departments, applicable licensing officers, and all other appro-

1 priate law enforcement agencies that the order has expired and that the
2 record of such protection order shall be sealed and not be made avail-
3 able to any person or public or private entity, except that such records
4 shall be made available to:

5 (a) the respondent or the respondent's designated agent;

6 (b) courts in the unified court system;

7 (c) police forces and departments having responsibility for enforce-
8 ment of the general criminal laws of the state;

9 (d) any state or local officer or agency with responsibility for the
10 issuance of licenses to possess a firearm, rifle or shotgun, when the
11 respondent has made application for such a license; and

12 (e) any prospective employer of a police officer or peace officer as
13 those terms are defined in subdivisions thirty-three and thirty-four of
14 section 1.20 of the criminal procedure law, in relation to an applica-
15 tion for employment as a police officer or peace officer; provided,
16 however, that every person who is an applicant for the position of
17 police officer or peace officer shall be furnished with a copy of all
18 records obtained under this subparagraph and afforded an opportunity to
19 make an explanation thereto.

20 2. Upon expiration of a protection order issued pursuant to this arti-
21 cle and upon written application of the respondent who is the subject of
22 such order, with notice and opportunity to be heard to the petitioner
23 and every licensing officer responsible for issuance of a firearm
24 license to the subject of the order pursuant to article four hundred of
25 the penal law, and upon a written finding that there is no legal imped-
26 iment to the respondent's possession of a surrendered firearm, rifle or
27 shotgun, the court shall order the return of a firearm, rifle or shotgun
28 not otherwise disposed of in accordance with subdivision one of section
29 sixty-three hundred forty-four of this article. When issuing such order
30 in connection with any firearm subject to a license requirement under
31 article four hundred of the penal law, if the licensing officer informs
32 the court that he or she will seek to revoke the license, the order
33 shall be stayed by the court until the conclusion of any license revoca-
34 tion proceeding.

35 § 6347. Effect of findings and determinations in subsequent
36 proceedings. Notwithstanding any contrary claim based on common law or
37 a provision of any other law, no finding or determination made pursuant
38 to this article shall be interpreted as binding, or having collateral
39 estoppel or similar effect, in any other action or proceeding, or with
40 respect to any other determination or finding, in any court, forum or
41 administrative proceeding.

42 § 2. Paragraph (b) of subdivision 5 of section 530.14 of the criminal
43 procedure law, as added by chapter 644 of the laws of 1996, is amended
44 to read as follows:

45 (b) The prompt surrender of one or more firearms pursuant to a court
46 order issued pursuant to this section shall be considered a voluntary
47 surrender for purposes of subparagraph (f) of paragraph one of subdivi-
48 sion a of section 265.20 of the penal law. The disposition of any such
49 firearms shall be in accordance with the provisions of subdivision six
50 of section 400.05 of the penal law; provided, however, that upon termi-
51 nation of any suspension order issued pursuant to this section or
52 section eight hundred forty-two-a of the family court act, upon written
53 application of the subject of the order, with notice and opportunity to
54 be heard to the district attorney, the county attorney, the protected
55 party, and every licensing officer responsible for issuance of a
56 firearms license to the subject of the order pursuant to article four

1 hundred of the penal law, and upon a written finding that there is no
2 legal impediment to the subject's possession of a surrendered firearm,
3 rifle or shotgun, any court of record exercising criminal jurisdiction
4 may order the return of a firearm, rifle or shotgun not otherwise
5 disposed of in accordance with subdivision six of section 400.05 of the
6 penal law. When issuing such order in connection with any firearm
7 subject to a license requirement under article four hundred of the penal
8 law, if the licensing officer informs the court that he or she will seek
9 to revoke the license, the order shall be stayed by the court until the
10 conclusion of any license revocation proceeding.

11 § 3. Section 265.45 of the penal law, as amended by section 3 of part
12 FF of chapter 57 of the laws of 2013, is amended to read as follows:
13 § 265.45 Safe storage of rifles, shotguns, and firearms.

14 No person who owns or is custodian of a rifle, shotgun or firearm who
15 resides with an individual who such person knows or has reason to know
16 is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(g)
17 (1), (4), (8) or (9), or pursuant to a temporary or final extreme risk
18 protection order issued under article sixty-three-A of the civil prac-
19 tice law and rules, shall store or otherwise leave such rifle, shotgun
20 or firearm out of his or her immediate possession or control without
21 having first securely locked such rifle, shotgun or firearm in an appro-
22 priate safe storage depository or rendered it incapable of being fired
23 by use of a gun locking device appropriate to that weapon. For purposes
24 of this section "safe storage depository" shall mean a safe or other
25 secure container which, when locked, is incapable of being opened with-
26 out the key, combination or other unlocking mechanism and is capable of
27 preventing an unauthorized person from obtaining access to and
28 possession of the weapon contained therein. With respect to a person who
29 is prohibited from possessing a firearm pursuant to 18 USC § 922(g)(9),
30 for purposes of this section, this section applies only if such person
31 has been convicted of a crime included in subdivision one of section
32 370.15 of the criminal procedure law and such gun is possessed within
33 five years from the later of the date of conviction or completion of
34 sentence. Nothing in this section shall be deemed to affect, impair or
35 supersede any special or local act relating to the safe storage of
36 rifles, shotguns or firearms which impose additional requirements on the
37 owner or custodian of such weapons.

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

39 § 4. This act shall take effect on the two hundred tenth day after it
40 shall have become a law.