

STATE OF NEW YORK

879--A

2017-2018 Regular Sessions

IN SENATE

January 5, 2017

Introduced by Sens. ORTT, AKSHAR, BONACIC, FUNKE, GALLIVAN, HELMING, MARCHIONE, RITCHIE, SEWARD, TEDISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, the family court act, the domestic relations law, the general business law, the judiciary law, the mental hygiene law, the penal law and the surrogate's court procedure act, in relation to limiting the application of certain provisions of law relating to firearms to the counties of Kings, Queens, Richmond, New York and Bronx; and to repeal section 400.02 of the penal law relating to the statewide license and record database

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

1 Section 1. Subdivision 2-a of section 330.20 of the criminal procedure
2 law, as added by chapter 1 of the laws of 2013, is amended to read as
3 follows:

4 2-a. Firearm, rifle or shotgun surrender order in certain counties.
5 [~~Upon~~] In the counties of Kings, Queens, Richmond, New York and Bronx,
6 upon entry of a verdict of not responsible by reason of mental disease
7 or defect, or upon the acceptance of a plea of not responsible by reason
8 of mental disease or defect, or upon a finding that the defendant is an
9 incapacitated person pursuant to article seven hundred thirty of this
10 chapter, the court shall revoke the defendant's firearm license, if any,
11 inquire of the defendant as to the existence and location of any
12 firearm, rifle or shotgun owned or possessed by such defendant and
13 direct the surrender of such firearm, rifle or shotgun pursuant to
14 subparagraph (f) of paragraph one of subdivision a of section 265.20 and
15 subdivision six of section 400.05 of the penal law.

16 § 2. Section 380.96 of the criminal procedure law, as added by chapter
17 1 of the laws of 2013, is amended to read as follows:

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

LBD04769-02-7

§ 380.96 Obligation of sentencing court in certain counties pursuant to article four hundred of the penal law.

[~~Upon~~] In the counties of Kings, Queens, Richmond, New York and Bronx, upon judgment of conviction of any offense which would require the seizure of firearms, shotguns or rifles from an individual so convicted, and the revocation of any license or registration issued pursuant to article four hundred of the penal law, the judge pronouncing sentence shall demand surrender of any such license or registration and all firearms, shotguns and rifles. The failure to so demand surrender shall not effect the validity of any revocation pursuant to article four hundred of the penal law.

§ 3. Subdivisions 1, 2 and 3 of section 842-a of the family court act, as amended by chapter 1 of the laws of 2013, are amended to read as follows:

1. [~~Suspension~~] Mandatory and permissive suspension of firearms license and ineligibility for such a license upon the issuance of a temporary order of protection. Whenever a temporary order of protection is issued pursuant to section eight hundred twenty-eight of this article, or in the counties of Kings, Queens, Richmond, New York and Bronx, pursuant to article four, five, six, seven or ten of this act:

(a) the court shall suspend any such existing license possessed by the respondent, order the respondent ineligible for such a license, and order the immediate surrender [~~pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law,~~] of any or all firearms owned or possessed where the court receives information that gives the court good cause to believe that: (i) the respondent has a prior conviction of any violent felony offense as defined in section 70.02 of the penal law; (ii) the respondent has previously been found to have willfully failed to obey a prior order of protection and such willful failure involved (A) the infliction of physical injury, as defined in subdivision nine of section 10.00 of the penal law, (B) the use or threatened use of a deadly weapon or dangerous instrument as those terms are defined in subdivisions twelve and thirteen of section 10.00 of the penal law, or (C) behavior constituting any violent felony offense as defined in section 70.02 of the penal law; or (iii) the respondent has a prior conviction for stalking in the first degree as defined in section 120.60 of the penal law, stalking in the second degree as defined in section 120.55 of the penal law, stalking in the third degree as defined in section 120.50 of the penal law or stalking in the fourth degree as defined in section 120.45 of such law; and

(b) the court may and, in the counties of Kings, Queens, Richmond, New York and Bronx, shall where the court finds a substantial risk that the respondent may use or threaten to use a firearm unlawfully against the person or persons for whose protection the temporary order of protection is issued, suspend any such existing license possessed by the respondent, order the respondent ineligible for such a license, and order the immediate surrender [~~pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law,~~] of any or all firearms owned or possessed.

2. [~~Revocation~~] Mandatory and permissive revocation or suspension of firearms license and ineligibility for such a license upon the issuance of an order of protection. Whenever an order of protection is issued pursuant to section eight hundred forty-one of this part, or in the county of Kings, Queens, Richmond, New York or Bronx, pursuant to article four, five, six, seven or ten of this act:

(a) the court shall revoke any such existing license possessed by the respondent, order the respondent ineligible for such a license, and order the immediate surrender ~~[pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law,~~ of any or all firearms owned or possessed where the court finds that the conduct which resulted in the issuance of the order of protection involved (i) the infliction of serious physical injury, as defined in subdivision ~~[nine]~~ ten of section 10.00 of the penal law, (ii) the use or threatened use of a deadly weapon or dangerous instrument as those terms are defined in subdivisions twelve and thirteen of section 10.00 of the penal law, or (iii) behavior constituting any violent felony offense as defined in section 70.02 of the penal law; and

(b) the court may and, in the counties of Kings, Queens, Richmond, New York and Bronx, shall, where the court finds a substantial risk that the respondent may use or threaten to use a firearm unlawfully against the person or persons for whose protection the order of protection is issued, (i) revoke any such existing license possessed by the respondent, order the respondent ineligible for such a license and order the immediate surrender ~~[pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law,~~ of any or all firearms owned or possessed or (ii) suspend or continue to suspend any such existing license possessed by the respondent, order the respondent ineligible for such a license, and order the immediate surrender ~~[pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law,~~ of any or all firearms owned or possessed.

3. ~~[Revocation]~~ Mandatory and permissive revocation or suspension of firearms license and ineligibility for such a license upon a finding of a willful failure to obey an order of protection or, in the county of Kings, Queens, Richmond, New York or Bronx, temporary order of protection. Whenever a respondent has been found, pursuant to section eight hundred forty-six-a of this part to have willfully failed to obey an order of protection or temporary order of protection issued ~~[pursuant to this act or the domestic relations law, or]~~ by this court or by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, in addition to any other remedies available pursuant to section eight hundred forty-six-a of this part:

(a) the court shall revoke any such existing license possessed by the respondent, order the respondent ineligible for such a license, and order the immediate surrender ~~[pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law,~~ of any or all firearms owned or possessed where the willful failure to obey such order involves (i) the infliction of serious physical injury, as defined in subdivision ~~[nine]~~ ten of section 10.00 of the penal law, (ii) the use or threatened use of a deadly weapon or dangerous instrument as those terms are defined in subdivisions twelve and thirteen of section 10.00 of the penal law, or (iii) behavior constituting any violent felony offense as defined in section 70.02 of the penal law; or (iv) behavior constituting stalking in the first degree as defined in section 120.60 of the penal law, stalking in the second degree as defined in section 120.55 of the penal law, stalking in the third degree as defined in section 120.50 of the penal law or stalking in the fourth degree as defined in section 120.45 of such law; and

(b) the court may and, in the counties of Kings, Queens, Richmond, New York and Bronx, shall where the court finds a substantial risk that the respondent may use or threaten to use a firearm unlawfully against the person or persons for whose protection the order of protection was issued, (i) revoke any such existing license possessed by the respondent, order the respondent ineligible for such a license, whether or not the respondent possesses such a license, and order the immediate surrender ~~[pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law,]~~ of any or all firearms owned or possessed or (ii) suspend any such existing license possessed by the respondent, order the respondent ineligible for such a license, and order the immediate surrender of any or all firearms owned or possessed.

§ 4. Section 846-a of the family court act, as amended by chapter 1 of the laws of 2013, is amended to read as follows:

§ 846-a. Powers on failure to obey order. If a respondent is brought before the court for failure to obey any lawful order issued under this article or an order of protection or, in the county of Kings, Queens, Richmond, New York or Bronx, temporary order of protection issued ~~[pursuant to this act or issued]~~ by a court of competent jurisdiction of another state, territorial or tribal jurisdiction and if, after hearing, the court is satisfied by competent proof that the respondent has willfully failed to obey any such order, the court may modify an existing order or, in the county of Kings, Queens, Richmond, New York or Bronx, temporary order of protection to add reasonable conditions of behavior to the existing order, make a new order of protection in accordance with section eight hundred forty-two of this part, may order the forfeiture of bail in a manner consistent with article five hundred forty of the criminal procedure law if bail has been ordered pursuant to this act, may order the respondent to pay the petitioner's reasonable and necessary counsel fees in connection with the violation petition where the court finds that the violation of its order was willful, and may commit the respondent to jail for a term not to exceed six months. Such commitment may be served upon certain specified days or parts of days as the court may direct, and the court may, at any time within the term of such sentence, revoke such suspension and commit the respondent for the remainder of the original sentence, or suspend the remainder of such sentence. If the court determines that the willful failure to obey such order involves violent behavior constituting the crimes of menacing, reckless endangerment, assault or attempted assault and if such a respondent is licensed to carry, possess, repair and dispose of firearms pursuant to section 400.00 of the penal law, the court may also immediately revoke such license and may arrange for the immediate surrender ~~[pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law,]~~ and disposal of any firearm such respondent owns or possesses. If the willful failure to obey such order involves the infliction of serious physical injury as defined in subdivision ~~[nine]~~ ten of section 10.00 of the penal law or the use or threatened use of a deadly weapon or dangerous instrument, as those terms are defined in subdivisions twelve and thirteen of section 10.00 of the penal law, such revocation and immediate surrender ~~[pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law six]~~ and disposal of any firearm owned or possessed by respondent shall be mandatory, pursuant to subdivision eleven of section 400.00 of the penal law.

1 § 5. Section 446-a of the family court act, as added by chapter 1 of
2 the laws of 2013, is amended to read as follows:

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

12 § 6. Section 552 of the family court act, as added by chapter 1 of the
13 laws of 2013, is amended to read as follows:

14 § 552. Firearms; surrender and license suspension, revocation and
15 ineligibility; certain counties. [~~Upon~~] In the counties of Kings,
16 Queens, Richmond, New York and Bronx, upon the issuance of an order of
17 protection or temporary order of protection, or upon a violation of such
18 order, the court shall make a determination regarding the suspension and
19 revocation of a license to carry, possess, repair or dispose of a
20 firearm or firearms, ineligibility for such a license and the surrender
21 of firearms in accordance with section eight hundred forty-two-a of this
22 act.

23 § 7. Section 656-a of the family court act, as added by chapter 1 of
24 the laws of 2013, is amended to read as follows:

25 § 656-a. Firearms; surrender and license suspension, revocation and
26 ineligibility; certain counties. [~~Upon~~] In the counties of Kings,
27 Queens, Richmond, New York and Bronx, upon the issuance of an order of
28 protection or temporary order of protection, or upon a violation of such
29 order, the court shall make a determination regarding the suspension and
30 revocation of a license to carry, possess, repair or dispose of a
31 firearm or firearms, ineligibility for such a license and the surrender
32 of firearms in accordance with section eight hundred forty-two-a of this
33 act.

34 § 8. Section 780-a of the family court act, as added by chapter 1 of
35 the laws of 2013, is amended to read as follows:

36 § 780-a. Firearms; surrender and license suspension, revocation and
37 ineligibility; certain counties. [~~Upon~~] In the counties of Kings,
38 Queens, Richmond, New York and Bronx, upon the issuance of an order of
39 protection or temporary order of protection, or upon a violation of such
40 order, the court shall make a determination regarding the suspension and
41 revocation of a license to carry, possess, repair or dispose of a
42 firearm or firearms, ineligibility for such a license and the surrender
43 of firearms in accordance with section eight hundred forty-two-a of this
44 act.

45 § 9. Section 1056-a of the family court act, as added by chapter 1 of
46 the laws of 2013, is amended to read as follows:

47 § 1056-a. Firearms; surrender and license suspension, revocation and
48 ineligibility; certain counties. [~~Upon~~] In the counties of Kings,
49 Queens, Richmond, New York and Bronx, upon the issuance of an order of
50 protection or temporary order of protection, or upon a violation of such
51 order, the court shall make an order in accordance with section eight
52 hundred forty-two-a of this act.

53 § 10. Paragraph h of subdivision 3 of section 240 of the domestic
54 relations law, as amended by chapter 1 of the laws of 2013, is amended
55 to read as follows:

h. Upon issuance of an order of protection or temporary order of protection or upon a violation of such order, the court may and, in the counties of Kings, Queens, Richmond, New York and Bronx, shall make a determination regarding the suspension and revocation of a license to carry, possess, repair or dispose of a firearm or firearms, ineligibility for such a license and the surrender of firearms in accordance with sections eight hundred forty-two-a and eight hundred forty-six-a of the family court act, as applicable. Upon issuance of an order of protection pursuant to this section or upon a finding of a violation thereof, the court also may direct payment of restitution in an amount not to exceed ten thousand dollars in accordance with subdivision (e) of section eight hundred forty-one of such act; provided, however, that in no case shall an order of restitution be issued where the court determines that the party against whom the order would be issued has already compensated the injured party or where such compensation is incorporated in a final judgment or settlement of the action.

§ 11. Subdivision 9 of section 252 of the domestic relations law, as amended by chapter 1 of the laws of 2013, is amended to read as follows:

9. Upon issuance of an order of protection or temporary order of protection or upon a violation of such order, the court may and, in the counties of Kings, Queens, Richmond, New York and Bronx, shall make a determination regarding the suspension and revocation of a license to carry, possess, repair or dispose of a firearm or firearms, ineligibility for such a license and the surrender of firearms in accordance with sections eight hundred forty-two-a and eight hundred forty-six-a of the family court act, as applicable. Upon issuance of an order of protection pursuant to this section or upon a finding of a violation thereof, the court also may direct payment of restitution in an amount not to exceed ten thousand dollars in accordance with subdivision (e) of section eight hundred forty-one of such act; provided, however, that in no case shall an order of restitution be issued where the court determines that the party against whom the order would be issued has already compensated the injured party or where such compensation is incorporated in a final judgment or settlement of the action.

§ 12. The opening paragraph and paragraph (b) of subdivision 1 of section 530.14 of the criminal procedure law, as amended by chapter 1 of the laws of 2013, are amended to read as follows:

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

(b) the court may and, in the counties of Kings, Queens, Richmond, New York and Bronx, shall where the court finds a substantial risk that the defendant may use or threaten to use a firearm unlawfully against the person or persons for whose protection the temporary order of protection is issued, suspend any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender [~~pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law,~~] of any or all firearms owned or possessed.

§ 13. The opening paragraph and paragraph (b) of subdivision 2 of section 530.14 of the criminal procedure law, as amended by chapter 1 of the laws of 2013, are amended to read as follows:

[~~Revocation~~] Mandatory and permissive revocation or suspension of firearms license and ineligibility for such a license upon issuance of

1 an order of protection. Whenever an order of protection is issued pursu-
2 ant to subdivision five of section 530.12 or subdivision four of section
3 530.13 of this article:

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

16 § 14. The opening paragraph and paragraph (b) of subdivision 3 of
17 section 530.14 of the criminal procedure law, as amended by chapter 1 of
18 the laws of 2013, are amended to read as follows:

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

29 (b) the court may and, in the counties of Kings, Queens, Richmond, New
30 York and Bronx, shall where the court finds a substantial risk that the
31 defendant may use or threaten to use a firearm unlawfully against the
32 person or persons for whose protection the order of protection was
33 issued, (i) revoke any such existing license possessed by the defendant,
34 order the defendant ineligible for such a license and order the immedi-
35 ate surrender [~~pursuant to subparagraph (f) of paragraph one of subdivi-~~
36 ~~sion a of section 265.20 and subdivision six of section 400.05 of the~~
37 ~~penal law,~~] of any or all firearms owned or possessed or (ii) suspend
38 any such existing license possessed by the defendant, order the defend-
39 ant ineligible for such a license and order the immediate surrender
40 [~~pursuant to subparagraph (f) of paragraph one of subdivision a of~~
41 ~~section 265.20 and subdivision six of section 400.05 of the penal law,~~]
42 of any or all firearms owned or possessed.

43 § 15. The article heading of article 39-DDD of the general business
44 law, as added by chapter 1 of the laws of 2013, is amended to read as
45 follows:

46 PRIVATE SALE OR DISPOSAL OF FIREARMS, RIFLES AND SHOTGUNS

47 IN CERTAIN COUNTIES

48 § 16. Subdivision 1 of section 898 of the general business law, as
49 added by chapter 1 of the laws of 2013, is amended to read as follows:

50 1. In addition to any other requirements pursuant to state and federal
51 law, all sales, exchanges or disposals of firearms, rifles or shotguns,
52 in the counties of Kings, Queens, Richmond, New York and Bronx, shall be
53 conducted in accordance with this section unless such sale, exchange or
54 disposal is conducted by a licensed importer, licensed manufacturer or
55 licensed dealer, as those terms are defined in 18 USC § 922, when such
56 sale, exchange or disposal is conducted pursuant to that person's feder-

1 al firearms license or such sale, exchange or disposal is between
2 members of an immediate family. For purposes of this section, "immediate
3 family" shall mean spouses, domestic partners, children and step-children.
4

5 § 17. Paragraph (q) of subdivision 2 of section 212 of the judiciary
6 law, as amended by chapter 1 of the laws of 2013, is amended to read as
7 follows:

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

22 § 18. Subdivision (j) of section 7.09 of the mental hygiene law, as
23 amended by chapter 1 of the laws of 2013, is amended to read as follows:

24 (j) (1) The commissioner, in cooperation with other applicable state
25 agencies, shall collect, retain or modify data or records, and shall
26 transmit such data or records: (i) to the division of criminal justice
27 services, or to the criminal justice information services division of
28 the federal bureau of investigation, for the purposes of responding to
29 queries to the national instant criminal background check system regarding
30 attempts to purchase or otherwise take possession of firearms, as
31 defined in 18 USC 921(a)(3), in accordance with applicable federal laws
32 or regulations, or (ii) for persons residing in the county of Kings,
33 Queens, Richmond, New York or Bronx, to the division of criminal justice
34 services, which may re-disclose such data and records only for determining
35 whether a license issued pursuant to section 400.00 of the penal law
36 should be denied, suspended or revoked, under subdivision eleven of such
37 section, or for determining whether a person is no longer permitted
38 under federal or state law to possess a firearm. Such records, which may
39 not be used for any other purpose, shall include only names and other
40 non-clinical identifying information of persons who have been involuntarily
41 committed to a hospital pursuant to article nine of this chapter,
42 ~~[or section four hundred two or subdivision two of section five hundred~~
43 ~~eight of the correction law,~~ or article seven hundred thirty or section
44 330.20 of the criminal procedure law or sections 322.2 or 353.4 of the
45 family court act, or to a secure treatment facility pursuant to article
46 ten of this chapter.

47 (2) The commissioner shall establish within the office of mental
48 health an administrative process to permit a person who has been or may
49 be disqualified from possessing such a firearm pursuant to 18 USC
50 922(4)(d) or who has been or may be disqualified from continuing to have
51 a license to carry, possess, repair, or dispose of a firearm under
52 section 400.00 of the penal law because such person, who resides in the
53 county of Kings, Queens, Richmond, New York or Bronx, was involuntarily
54 committed or civilly confined to a facility under the jurisdiction of
55 the commissioner, to petition for relief from that disability where such
56 person's record and reputation are such that such person will not be

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

§ 19. Subdivision (b) of section 9.46 of the mental hygiene law, as added by chapter 1 of the laws of 2013, is amended to read as follows:

(b) Notwithstanding any other law to the contrary, when a mental health professional currently providing treatment services to a person, who resides in the county of Kings, Queens, Richmond, New York or Bronx, determines, in the exercise of reasonable professional judgment, that such person is likely to engage in conduct that would result in serious harm to self or others, he or she shall be required to report, as soon as practicable, to the director of community services, or the director's designee, who shall report to the division of criminal justice services whenever he or she agrees that the person is likely to engage in such conduct. Information transmitted to the division of criminal justice services shall be limited to names and other non-clinical identifying information, which may only be used for determining whether a license issued pursuant to section 400.00 of the penal law should be suspended or revoked, or for determining whether a person is ineligible for a license issued pursuant to section 400.00 of the penal law, or is no longer permitted under state or federal law to possess a firearm.

§ 20. Subdivision 22 of section 265.00 of the penal law, as amended by chapter 1 of the laws of 2013, is amended to read as follows:

22. "Assault weapon" means

(a) (i) except as otherwise provided in paragraph (b) of this subdivision, a semiautomatic rifle that has an ability to accept a detachable magazine and has at least two of the following characteristics:

(A) a folding or telescoping stock;

(B) a pistol grip that protrudes conspicuously beneath the action of the weapon;

(C) a bayonet mount;

(D) a flash suppressor or threaded barrel designed to accommodate a flash suppressor;

(E) a grenade launcher; or

(ii) a semiautomatic shotgun that has at least two of the following characteristics:

(A) a folding or telescoping stock;

(B) a pistol grip that protrudes conspicuously beneath the action of the weapon;

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

(D) an ability to accept a detachable magazine; or

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

(A) an ammunition magazine that attaches to the pistol outside of the pistol grip;

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

(C) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the nontrigger hand without being burned;

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

(E) a semiautomatic version of an automatic rifle, shotgun or firearm; or

(iv) any of the weapons, or functioning frames or receivers of such weapons, or copies or duplicates of such weapons, in any caliber, known as:

(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models);

(B) Action Arms Israeli Military Industries UZI and Galil;

(C) Beretta Ar70 (SC-70);

(D) Colt AR-15;

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

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

(G) Steyr AUG;

(H) INTRATEC TEC-9, TEC-DC9 and TEC-22; and

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

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

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

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

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

(E) a semiautomatic rifle, a semiautomatic shotgun or a semiautomatic pistol or any of the weapons defined in paragraph (d) of this subdivision lawfully possessed prior to September fourteenth, nineteen hundred ninety-four.

(b) (i) in the counties of Kings, Queens, Richmond, New York and Bronx, a semiautomatic rifle that has an ability to accept a detachable magazine and has at least one of the following characteristics:

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

~~(ii)~~ (B) a pistol grip that protrudes conspicuously beneath the action of the weapon;

~~(iii)~~ (C) a thumbhole stock;

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

~~(v)~~ (E) a bayonet mount;

~~(vi)~~ (F) a flash suppressor, muzzle break, muzzle compensator, or threaded barrel designed to accommodate a flash suppressor, muzzle break, or muzzle compensator;

~~(vii)~~ (G) a grenade launcher; or

~~(b)~~ (ii) a semiautomatic shotgun that has at least one of the following characteristics:

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

~~(ii)~~ (B) a thumbhole stock;

1 [~~(iii)~~] (C) a second handgrip or a protruding grip that can be held by
2 the non-trigger hand;
3 [~~(iv)~~] (D) a fixed magazine capacity in excess of seven rounds;
4 [~~(v)~~] (E) an ability to accept a detachable magazine; or
5 [~~(e)~~] (iii) a semiautomatic pistol that has an ability to accept a
6 detachable magazine and has at least one of the following character-
7 istics:
8 [~~(i)~~] (A) a folding or telescoping stock;
9 [~~(ii)~~] (B) a thumbhole stock;
10 [~~(iii)~~] (C) a second handgrip or a protruding grip that can be held by
11 the non-trigger hand;
12 [~~(iv)~~] (D) capacity to accept an ammunition magazine that attaches to
13 the pistol outside of the pistol grip;
14 [~~(v)~~] (E) a threaded barrel capable of accepting a barrel extender,
15 flash suppressor, forward handgrip, or silencer;
16 [~~(vi)~~] (F) a shroud that is attached to, or partially or completely
17 encircles, the barrel and that permits the shooter to hold the firearm
18 with the non-trigger hand without being burned;
19 [~~(vii)~~] (G) a manufactured weight of fifty ounces or more when the
20 pistol is unloaded; or
21 [~~(viii)~~] (H) a semiautomatic version of an automatic rifle, shotgun or
22 firearm;
23 [~~(d)~~] (iv) a revolving cylinder shotgun;
24 [~~(e)~~] (v) a semiautomatic rifle, a semiautomatic shotgun or a semiau-
25 tomatic pistol or weapon defined in subparagraph (v) of paragraph (e) of
26 subdivision twenty-two of section 265.00 of this chapter as added by
27 chapter one hundred eighty-nine of the laws of two thousand and other-
28 wise lawfully possessed pursuant to such chapter of the laws of two
29 thousand prior to September fourteenth, nineteen hundred ninety-four;
30 [~~(f)~~] (vi) a semiautomatic rifle, a semiautomatic shotgun or a semiau-
31 tomatic pistol or weapon defined in paragraph (a), (b) or (c) of this
32 subdivision, possessed prior to the date of enactment of the chapter of
33 the laws of two thousand thirteen which added this paragraph;
34 [~~(g)~~] (vii) provided, however, that such term does not include:
35 [~~(i)~~] (A) any rifle, shotgun or pistol that [~~(A)~~] (I) is manually
36 operated by bolt, pump, lever or slide action; [~~(B)~~] (II) has been
37 rendered permanently inoperable; or [~~(C)~~] (III) is an antique firearm as
38 defined in 18 U.S.C. 921(a)(16);
39 [~~(ii)~~] (B) a semiautomatic rifle that cannot accept a detachable maga-
40 zine that holds more than five rounds of ammunition;
41 [~~(iii)~~] (C) a semiautomatic shotgun that cannot hold more than five
42 rounds of ammunition in a fixed or detachable magazine; or
43 [~~(iv)~~] (D) a rifle, shotgun or pistol, or a replica or a duplicate
44 thereof, specified in Appendix A to 18 U.S.C. 922 as such weapon was
45 manufactured on October first, nineteen hundred ninety-three. The mere
46 fact that a weapon is not listed in Appendix A shall not be construed to
47 mean that such weapon is an assault weapon;
48 [~~(v)~~] (E) any weapon validly registered pursuant to subdivision
49 sixteen-a of section 400.00 of this chapter. Such weapons shall be
50 subject to the provisions of [~~paragraph (h)~~] subparagraph (viii) of this
51 [~~subdivision~~] paragraph;
52 [~~(vi)~~] (F) any firearm, rifle, or shotgun that was manufactured at
53 least fifty years prior to the current date, but not including replicas
54 thereof that is validly registered pursuant to subdivision sixteen-a of
55 section 400.00 of this chapter;

1 ~~[(h)]~~ (viii) Any weapon defined in ~~[paragraph (e) or (f)]~~ subparagraph
2 (v) or (vi) of this ~~[subdivision]~~ paragraph and any large capacity ammu-
3 nition feeding device that was legally possessed by an individual prior
4 to the enactment of ~~[the]~~ chapter one of the laws of two thousand thir-
5 teen which added this paragraph, may only be sold to, exchanged with or
6 disposed of to a purchaser authorized to possess such weapons or to an
7 individual or entity outside of the state provided that any such trans-
8 fer to an individual or entity outside of the state must be reported to
9 the entity wherein the weapon is registered within seventy-two hours of
10 such transfer. An individual who transfers any such weapon or large
11 capacity ammunition device to an individual inside New York state or
12 without complying with the provisions of this paragraph shall be guilty
13 of a class A misdemeanor unless such large capacity ammunition feeding
14 device, the possession of which is made illegal by ~~[the]~~ chapter one of
15 the laws of two thousand thirteen which added this ~~[paragraph]~~ subpara-
16 graph, is transferred within one year of the effective date of ~~[the]~~
17 chapter one of the laws of two thousand thirteen which added this ~~[para-~~
18 ~~graph]~~ subparagraph.

19 § 21. Subdivision 23 of section 265.00 of the penal law, as amended by
20 chapter 1 of the laws of 2013, is amended to read as follows:

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

47 § 22. Subdivision 24 of section 265.00 of the penal law, as added by
48 chapter 1 of the laws of 2013, is amended to read as follows:

49 24. "Seller of ammunition" means any person, firm, partnership, corpo-
50 ration or company who engages in the business of purchasing, selling or
51 keeping ammunition in the county of Kings, Queens, Richmond, New York or
52 Bronx.

53 § 23. The opening paragraph of section 265.01-b of the penal law, as
54 added by chapter 1 of the laws of 2013, is amended to read as follows:

55 A person is guilty of criminal possession of a firearm when he or she,
56 being a resident of the county of Kings, Queens, Richmond, New York or

1 Bronx: (1) possesses any firearm or; (2) lawfully possesses a firearm
2 prior to the effective date of [~~the~~] chapter one of the laws of two
3 thousand thirteen which added this section subject to the registration
4 requirements of subdivision sixteen-a of section 400.00 of this chapter
5 and knowingly fails to register such firearm pursuant to such subdivi-
6 sion.

7 § 24. Paragraphs 3 and 7-f of subdivision a of section 265.20 of the
8 penal law, paragraph 3 as amended and paragraph 7-f as added by chapter
9 1 of the laws of 2013, are amended to read as follows:

10 3. Possession of a pistol or revolver by a person to whom a license
11 therefor has been issued as provided under section 400.00 or 400.01 of
12 this chapter or possession, in the county of Kings, Queens, Richmond,
13 New York or Bronx, of a weapon as defined in subparagraph (v) or (vi) of
14 paragraph [~~(e) or (f)~~] (b) of subdivision twenty-two of section 265.00
15 of this article which is registered pursuant to paragraph (a) of subdivi-
16 sion sixteen-a of section 400.00 of this chapter or is included on an
17 amended license issued pursuant to section 400.00 of this chapter. In
18 the event such license is revoked, other than because such licensee is
19 no longer permitted to possess a firearm, rifle or shotgun under federal
20 or state law, information sufficient to satisfy the requirements of
21 subdivision sixteen-a of section 400.00 of this chapter, shall be trans-
22 mitted by the licensing officer to the division of state police, in a
23 form as determined by the superintendent of state police. Such trans-
24 mission shall constitute a valid registration under such section.
25 Further provided, notwithstanding any other section of this title, a
26 failure to register such weapon by an individual, in the county of
27 Kings, Queens, Richmond, New York or Bronx, who possesses such weapon
28 before the enactment of [~~the~~] chapter one of the laws of two thousand
29 thirteen which amended this paragraph and may so lawfully possess it
30 thereafter upon registration, shall only be subject to punishment pursu-
31 ant to paragraph (c) of subdivision sixteen-a of section 400.00 of this
32 chapter; provided, that such a license or registration shall not
33 preclude a conviction for the offense defined in subdivision three of
34 section 265.01 of this article or section 265.01-a of this article.

35 7-f. Possession and use of a magazine, belt, feed strip or similar
36 device, in the county of Kings, Queens, Richmond, New York or Bronx,
37 that contains more than seven rounds of ammunition, but that does not
38 have a capacity of or can readily be restored or converted to accept
39 more than ten rounds of ammunition, at an indoor or outdoor firing range
40 located in or on premises owned or occupied by a duly incorporated
41 organization organized for conservation purposes or to foster proficien-
42 cy in arms; at an indoor or outdoor firing range for the purpose of
43 firing a rifle or shotgun; at a collegiate, olympic or target shooting
44 competition under the auspices of or approved by the national rifle
45 association; or at an organized match sanctioned by the International
46 Handgun Metallic Silhouette Association.

47 § 25. The opening paragraph of section 265.36 of the penal law, as
48 added by chapter 1 of the laws of 2013, is amended to read as follows:

49 It shall be unlawful for a person, in the county of Kings, Queens,
50 Richmond, New York or Bronx, to knowingly possess a large capacity ammu-
51 nition feeding device manufactured before September thirteenth, nineteen
52 hundred ninety-four, and if such person lawfully possessed such large
53 capacity feeding device before the effective date of [~~the~~] chapter one
54 of the laws of two thousand thirteen which added this section, that has
55 a capacity of, or that can be readily restored or converted to accept,
56 more than ten rounds of ammunition.

1 § 26. The opening paragraph of section 265.37 of the penal law, as
2 amended by section 2 of part FF of chapter 57 of the laws of 2013, is
3 amended to read as follows:

4 It shall be unlawful for a person to knowingly possess, in the county
5 of Kings, Queens, Richmond, New York or Bronx, an ammunition feeding
6 device where such device contains more than seven rounds of ammunition.

7 § 27. The opening paragraph of section 265.45 of the penal law, as
8 amended by section 3 of part FF of chapter 57 of the laws of 2013, is
9 amended to read as follows:

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

33 § 28. Subdivision 1 of section 400.00 of the penal law, as amended by
34 chapter 1 of the laws of 2013, is amended to read as follows:

35 1. Eligibility. No license shall be issued or renewed pursuant to this
36 section except by the licensing officer, and then only after investi-
37 gation and finding that all statements in a proper application for a
38 license are true. No license shall be issued or renewed except for an
39 applicant (a) twenty-one years of age or older, provided, however, that
40 where such applicant has been honorably discharged from the United
41 States army, navy, marine corps, air force or coast guard, or the
42 national guard of the state of New York, no such age restriction shall
43 apply; (b) of good moral character; (c) who has not been convicted
44 anywhere of a felony or a serious offense; (d) who is not a fugitive
45 from justice; (e) who is not an unlawful user of or addicted to any
46 controlled substance as defined in section 21 U.S.C. 802; (f) who being
47 an alien (i) is not illegally or unlawfully in the United States or (ii)
48 has not been admitted to the United States under a nonimmigrant visa
49 subject to the exception in 18 U.S.C. 922(y)(2); (g) who has not been
50 discharged from the Armed Forces under dishonorable conditions; (h) who,
51 having been a citizen of the United States, has not renounced his or her
52 citizenship; (i) who has stated whether he or she has ever suffered any
53 mental illness; (j) who, being a resident of the county of Kings,
54 Queens, Richmond, New York or Bronx, has not been involuntarily commit-
55 ted to a facility under the jurisdiction of an office of the department
56 of mental hygiene pursuant to article nine or fifteen of the mental

1 hygiene law, article seven hundred thirty or section 330.20 of the crim-
2 inal procedure law, section four hundred two or five hundred eight of
3 the correction law, section 322.2 or 353.4 of the family court act, or
4 has not been civilly confined in a secure treatment facility pursuant to
5 article ten of the mental hygiene law; (k) who has not had a license
6 revoked or who is not under a suspension or ineligibility order issued
7 pursuant to the provisions of section 530.14 of the criminal procedure
8 law or section eight hundred forty-two-a of the family court act; (l) in
9 the county of Westchester, who has successfully completed a firearms
10 safety course and test as evidenced by a certificate of completion
11 issued in his or her name and endorsed and affirmed under the penalties
12 of perjury by a duly authorized instructor, except that: (i) persons who
13 are honorably discharged from the United States army, navy, marine corps
14 or coast guard, or of the national guard of the state of New York, and
15 produce evidence of official qualification in firearms during the term
16 of service are not required to have completed those hours of a firearms
17 safety course pertaining to the safe use, carrying, possession, mainte-
18 nance and storage of a firearm; and (ii) persons who were licensed to
19 possess a pistol or revolver prior to the effective date of this para-
20 graph are not required to have completed a firearms safety course and
21 test; (m) who, being a resident of the county of Kings, Queens, Rich-
22 mond, New York or Bronx, has not had a guardian appointed for him or her
23 pursuant to any provision of state law, based on a determination that as
24 a result of marked subnormal intelligence, mental illness, incapacity,
25 condition or disease, he or she lacks the mental capacity to contract or
26 manage his or her own affairs; and (n) concerning whom no good cause
27 exists for the denial of the license. No person shall engage in the
28 business of gunsmith or dealer in firearms unless licensed pursuant to
29 this section. An applicant to engage in such business shall also be a
30 citizen of the United States, more than twenty-one years of age and
31 maintain a place of business in the city or county where the license is
32 issued. For such business, if the applicant is a firm or partnership,
33 each member thereof shall comply with all of the requirements set forth
34 in this subdivision and if the applicant is a corporation, each officer
35 thereof shall so comply.

36 § 29. Subdivisions 4, 5, 10, 11 and 12 of section 400.00 of the penal
37 law, as amended by chapter 1 of the laws of 2013, are amended to read as
38 follows:

39 4. Investigation. Before a license is issued or renewed, there shall
40 be an investigation of all statements required in the application by the
41 duly constituted police authorities of the locality where such applica-
42 tion is made[, ~~including but not limited to such records as may be~~
43 ~~accessible to the division of state police or division of criminal~~
44 ~~justice services pursuant to section 400.02 of this article~~]. For that
45 purpose, the records of the appropriate office of the department of
46 mental hygiene concerning previous or present mental illness of the
47 applicant shall be available for inspection by the investigating officer
48 of the police authority. In order to ascertain any previous criminal
49 record, the investigating officer shall take the fingerprints and phys-
50 ical descriptive data in quadruplicate of each individual by whom the
51 application is signed and verified. Two copies of such fingerprints
52 shall be taken on standard fingerprint cards eight inches square, and
53 one copy may be taken on a card supplied for that purpose by the federal
54 bureau of investigation; provided, however, that in the case of a corpo-
55 rate applicant that has already been issued a dealer in firearms license
56 and seeks to operate a firearm dealership at a second or subsequent

1 location, the original fingerprints on file may be used to ascertain any
2 criminal record in the second or subsequent application unless any of
3 the corporate officers have changed since the prior application, in
4 which case the new corporate officer shall comply with procedures
5 governing an initial application for such license. When completed, one
6 standard card shall be forwarded to and retained by the division of
7 criminal justice services in the executive department, at Albany. A
8 search of the files of such division and written notification of the
9 results of the search to the investigating officer shall be made without
10 unnecessary delay. Thereafter, such division shall notify the licensing
11 officer and the executive department, division of state police, Albany,
12 of any criminal record of the applicant filed therein subsequent to the
13 search of its files. A second standard card, or the one supplied by the
14 federal bureau of investigation, as the case may be, shall be forwarded
15 to that bureau at Washington with a request that the files of the bureau
16 be searched and notification of the results of the search be made to the
17 investigating police authority. Of the remaining two fingerprint cards,
18 one shall be filed with the executive department, division of state
19 police, Albany, within ten days after issuance of the license, and the
20 other remain on file with the investigating police authority. No such
21 fingerprints may be inspected by any person other than a peace officer,
22 who is acting pursuant to his special duties, or a police officer,
23 except on order of a judge or justice of a court of record either upon
24 notice to the licensee or without notice, as the judge or justice may
25 deem appropriate. Upon completion of the investigation, the police
26 authority shall report the results to the licensing officer without
27 unnecessary delay.

28 5. Filing of approved applications. (a) The application for any
29 license, if granted, shall be filed by the licensing officer with the
30 clerk of the county of issuance, except that in the city of New York
31 and, in the counties of Nassau and Suffolk, the licensing officer shall
32 designate the place of filing in the appropriate division, bureau or
33 unit of the police department thereof, and in the county of Suffolk the
34 county clerk is hereby authorized to transfer all records or applica-
35 tions relating to firearms to the licensing authority of that county.
36 Except as provided in paragraphs (b) through (f) of this subdivision,
37 the name and address of any person to whom an application for any
38 license has been granted shall be a public record. Upon application by a
39 licensee who has changed his place of residence such records or applica-
40 tions shall be transferred to the appropriate officer at the licensee's
41 new place of residence. A duplicate copy of such application shall be
42 filed by the licensing officer in the executive department, division of
43 state police, Albany, within ten days after issuance of the license. The
44 superintendent of state police may designate that such application shall
45 be transmitted to the division of state police electronically. In the
46 event the superintendent of the division of state police determines that
47 it lacks any of the records required to be filed with the division, it
48 may request that such records be provided to it by the appropriate
49 clerk, department or authority and such clerk, department or authority
50 shall provide the division with such records. In the event such clerk,
51 department or authority lacks such records, the division may request the
52 license holder provide information sufficient to constitute such record
53 and such license holder shall provide the division with such informa-
54 tion. Such information shall be limited to the license holder's name,
55 date of birth, gender, race, residential address, social security number
56 and firearms possessed by said license holder. Nothing in this subdivi-

1 sion shall be construed to change the expiration date or term of such
2 licenses if otherwise provided for in law. [~~Records assembled or~~
3 ~~collected for purposes of inclusion in the database established by this~~
4 ~~section shall be released pursuant to a court order. Records assembled~~
5 ~~or collected for purposes of inclusion in the database created pursuant~~
6 ~~to section 400.02 of this chapter shall not be subject to disclosure~~
7 ~~pursuant to article six of the public officers law.~~]

8 (b) Each application for a license pursuant to paragraph (a) of this
9 subdivision shall include, on a separate written form prepared by the
10 division of state police within thirty days of the effective date of
11 ~~the~~ chapter one of the laws of two thousand thirteen, which amended
12 this section, and provided to the applicant at the same time and in the
13 same manner as the application for a license, an opportunity for the
14 applicant to request an exception from his or her application informa-
15 tion becoming public record pursuant to paragraph (a) of this subdivi-
16 sion. Such forms, which shall also be made available to individuals who
17 had applied for or been granted a license prior to the effective date of
18 ~~the~~ chapter one of the laws of two thousand thirteen which amended
19 this section, shall notify applicants that, upon discovery that an
20 applicant knowingly provided false information, such applicant may be
21 subject to penalties pursuant to section 175.30 of this chapter, and
22 further, that his or her request for an exception shall be null and
23 void, provided that written notice containing such determination is
24 provided to the applicant. Further, such forms shall provide each appli-
25 cant an opportunity to specify the grounds on which he or she believes
26 his or her application information should not be publicly disclosed.
27 These grounds, which shall be identified on the application with a box
28 beside each for checking, as applicable, by the applicant, shall be as
29 follows:

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

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

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

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

38 (D) the applicant is participating or previously participated as a
39 juror in a criminal proceeding, or is or was a member of a grand jury;
40 or

41 (E) the applicant is a spouse, domestic partner or household member of
42 a person identified in this subparagraph or subparagraph (ii) of this
43 paragraph, specifying which subparagraph or subparagraphs and clauses
44 apply.

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

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

49 (c) Each form provided for recertification pursuant to paragraph (b)
50 of subdivision ten of this section shall include an opportunity for the
51 applicant to request an exception from the information provided on such
52 form becoming public record pursuant to paragraph (a) of this subdivi-
53 sion. Such forms shall notify applicants that, upon discovery that an
54 applicant knowingly provided false information, such applicant may be
55 subject to penalties pursuant to section 175.30 of this chapter, and
56 further, that his or her request for an exception shall be null and

1 void, provided that written notice containing such determination is
2 provided to the applicant. Further, such forms shall provide each appli-
3 cant an opportunity to either decline to request the grant or continua-
4 tion of an exception, or specify the grounds on which he or she believes
5 his or her information should not be publicly disclosed. These grounds,
6 which shall be identified in the application with a box beside each for
7 checking, as applicable, by the applicant, shall be the same as provided
8 in paragraph (b) of this subdivision.

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

13 (e) (i) Upon receiving a request for exception from disclosure, the
14 licensing officer shall grant such exception, unless the request is
15 determined to be null and void, pursuant to paragraph (b) or (c) of this
16 subdivision.

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

19 (iii) If an exception is sought and granted pursuant to paragraph (b)
20 of this subdivision, the application information shall not be public
21 record, unless the request is determined to be null and void. If an
22 exception is sought and granted pursuant to paragraph (c) of this subdivi-
23 sion, the information concerning such recertification application
24 shall not be public record, unless the request is determined to be null
25 and void.

26 (f) The information of licensees or applicants for a license shall not
27 be disclosed to the public during the first one hundred twenty days
28 following the effective date of ~~the~~ chapter one of the laws of two
29 thousand thirteen, which amended this section. After such period, the
30 information of those who had applied for or been granted a license prior
31 to the preparation of the form for requesting an exception, pursuant to
32 paragraph (b) of this subdivision, may be released only if such individ-
33 uals did not file a request for such an exception during the first sixty
34 days following such preparation; provided, however, that no information
35 contained in an application for licensure or recertification shall be
36 disclosed by an entity that has not completed processing any such
37 requests received during such sixty days.

38 (g) If a request for an exception is determined to be null and void
39 pursuant to paragraph (b) or (c) of this subdivision, an applicant may
40 request review of such determination pursuant to article seventy-eight
41 of the civil practice ~~laws~~ law and rules. Such proceeding must
42 commence within thirty days after service of the written notice contain-
43 ing the adverse determination. Notice of the right to commence such a
44 petition, and the time period therefor, shall be included in the notice
45 of the determination. Disclosure following such a petition shall not be
46 made prior to the disposition of such review.

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

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

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

50 11. License: revocation and suspension. (a) The conviction of a licen-
51 see anywhere of a felony or serious offense ~~[or a licensee at any time~~
52 ~~becoming ineligible to obtain a license under this section]~~ shall oper-
53 ate as a revocation of the license. A license may be revoked or
54 suspended as provided for in section 530.14 of the criminal procedure
55 law or section eight hundred forty-two-a of the family court act. Except
56 for a license issued pursuant to section 400.01 of this article, a

1 license may be revoked and cancelled at any time in the city of New
2 York, and in the counties of Nassau and Suffolk, by the licensing offi-
3 cer, and elsewhere than in the city of New York by any judge or justice
4 of a court of record; a license issued pursuant to section 400.01 of
5 this article may be revoked and cancelled at any time by the licensing
6 officer or any judge or justice of a court of record. The official
7 revoking a license shall give written notice thereof without unnecessary
8 delay to the executive department, division of state police, Albany, and
9 shall also notify immediately the duly constituted police authorities of
10 the locality.

11 (b) Whenever the director of community services in the counties of
12 Kings, Queens, Richmond, New York and Bronx, or his or her designee
13 makes a report pursuant to section 9.46 of the mental hygiene law, the
14 division of criminal justice services shall convey such information,
15 whenever it determines that the person named in the report possesses a
16 license issued pursuant to this section, to the appropriate licensing
17 official, who shall issue an order suspending or revoking such license.

18 (c) In any instance in which a person's license is suspended or
19 revoked under paragraph (a) or (b) of this subdivision, such person
20 shall surrender such license to the appropriate licensing official and
21 any and all firearms, rifles, or shotguns owned or possessed by such
22 person shall be surrendered to an appropriate law enforcement agency as
23 provided in subparagraph (f) of paragraph one of subdivision a of
24 section 265.20 of this chapter. In the event such license, firearm,
25 shotgun, or rifle is not surrendered, such items shall be removed and
26 declared a nuisance and any police officer or peace officer acting
27 pursuant to his or her special duties is authorized to remove any and
28 all such weapons.

29 12. Records required of gunsmiths and dealers in firearms. Any person
30 licensed as gunsmith or dealer in firearms shall keep a record book
31 approved as to form, except in the city of New York, by the superinten-
32 dent of state police. In the record book shall be entered at the time of
33 every transaction involving a firearm the date, name, age, occupation
34 and residence of any person from whom a firearm is received or to whom a
35 firearm is delivered, and the calibre, make, model, manufacturer's name
36 and serial number, or if none, any other distinguishing number or iden-
37 tification mark on such firearm. Before delivering a firearm to any
38 person, the licensee shall require him to produce either a license valid
39 under this section to carry or possess the same, or proof of lawful
40 authority as an exempt person pursuant to section 265.20. In addition,
41 before delivering a firearm to a peace officer, the licensee shall veri-
42 fy that person's status as a peace officer with the division of state
43 police. After completing the foregoing, the licensee shall remove and
44 retain the attached coupon and enter in the record book the date of such
45 license, number, if any, and name of the licensing officer, in the case
46 of the holder of a license to carry or possess, or the shield or other
47 number, if any, assignment and department, unit or agency, in the case
48 of an exempt person. The original transaction report shall be forwarded
49 to the division of state police within ten days of delivering a firearm
50 to any person, and a duplicate copy shall be kept by the licensee. The
51 superintendent of state police may designate that such record shall be
52 completed and transmitted in electronic form. A dealer may be granted a
53 waiver from transmitting such records in electronic form if the super-
54 intendent determines that such dealer is incapable of such transmission
55 due to technological limitations that are not reasonably within the
56 control of the dealer, or other exceptional circumstances demonstrated

1 by the dealer, pursuant to a process established in regulation, and at
2 the discretion of the superintendent. [~~Records assembled or collected~~
3 ~~for purposes of inclusion in the database created pursuant to section~~
4 ~~400.02 of this article shall not be subject to disclosure pursuant to~~
5 ~~article six of the public officers law.~~] The record book shall be main-
6 tained on the premises mentioned and described in the license and shall
7 be open at all reasonable hours for inspection by any peace officer,
8 acting pursuant to his special duties, or police officer. In the event
9 of cancellation or revocation of the license for gunsmith or dealer in
10 firearms, or discontinuance of business by a licensee, such record book
11 shall be immediately surrendered to the licensing officer in the city of
12 New York, and in the counties of Nassau and Suffolk, and elsewhere in
13 the state to the executive department, division of state police.

14 § 30. Subdivision 16-a of section 400.00 of the penal law, as added by
15 chapter 1 of the laws of 2013, paragraph (a-1) as added by chapter 98 of
16 the laws of 2013, is amended to read as follows:

17 16-a. Registration. (a) An owner of a weapon defined in paragraph (e)
18 or (f) of subdivision twenty-two of section 265.00 of this chapter, who
19 resides in the county of Kings, Queens, Richmond, New York or Bronx,
20 possessed before the date of the effective date of [~~the~~] chapter one of
21 the laws of two thousand thirteen which added this paragraph, must make
22 an application to register such weapon with the superintendent of state
23 police, in the manner provided by the superintendent, or by amending a
24 license issued pursuant to this section within one year of the effective
25 date of this subdivision except any weapon defined under subparagraph
26 (vi) of paragraph (g) of subdivision twenty-two of section 265.00 of
27 this chapter transferred into the state may be registered at any time,
28 provided such weapons are registered within thirty days of their trans-
29 fer into the state. Registration information shall include the regis-
30 trant's name, date of birth, gender, race, residential address, social
31 security number and a description of each weapon being registered. A
32 registration in the county of Kings, Queens, Richmond, New York or
33 Bronx, of any weapon defined under subparagraph (vi) of paragraph (g) of
34 subdivision twenty-two of section 265.00 or a feeding device as defined
35 under subdivision twenty-three of section 265.00 of this chapter shall
36 be transferable, provided that the seller notifies the division of state
37 police within seventy-two hours of the transfer and the buyer provides
38 the division of state police with information sufficient to constitute a
39 registration under this section. Such registration shall not be valid if
40 such registrant is prohibited or becomes prohibited from possessing a
41 firearm pursuant to state or federal law. The superintendent shall
42 determine whether such registrant is prohibited from possessing a
43 firearm under state or federal law. Such check shall be limited to
44 determining whether the factors in 18 USC 922 (g) apply or whether a
45 registrant has been convicted of a serious offense as defined in subdi-
46 vision sixteen-b of section 265.00 of this chapter, so as to prohibit
47 such registrant from possessing a firearm, and whether a report has been
48 issued pursuant to section 9.46 of the mental hygiene law. [~~All~~] Such
49 registrants shall recertify to the division of state police every five
50 years thereafter. Failure to recertify shall result in a revocation of
51 such registration.

52 (a-1) Notwithstanding any inconsistent provisions of paragraph (a) of
53 this subdivision, an owner, who resides in the county of Kings, Queens,
54 Richmond, New York or Bronx, of an assault weapon as defined in subdivi-
55 sion twenty-two of section 265.00 of this chapter, who is a qualified
56 retired New York or federal law enforcement officer as defined in subdivi-

vision twenty-five of section 265.00 of this chapter, where such weapon was issued to or purchased by such officer prior to retirement and in the course of his or her official duties, and for which such officer was qualified by the agency that employed such officer within twelve months prior to his or her retirement, must register such weapon within sixty days of retirement.

(b) The superintendent of state police shall create and maintain an internet website to educate the public, who reside in the county of Kings, Queens, Richmond, New York or Bronx, as to which semiautomatic rifle, semiautomatic shotgun or semiautomatic pistol or weapon that are illegal as a result of the enactment of ~~[the]~~ chapter one of the laws of two thousand thirteen which added this paragraph, as well as such assault weapons which are illegal pursuant to article two hundred sixty-five of this chapter. Such website shall contain information to assist ~~[the]~~ such public in recognizing the relevant features proscribed by such article two hundred sixty-five, as well as which make and model of weapons that require registration.

(c) A person, who resides in the county of Kings, Queens, Richmond, New York or Bronx, who knowingly fails to apply to register such weapon, as required by this section, within one year of the effective date of ~~[the]~~ chapter one of the laws of two thousand thirteen which added this paragraph shall be guilty of a class A misdemeanor and such person who unknowingly fails to validly register such weapon within such one year period shall be given a warning by an appropriate law enforcement authority about such failure and given thirty days in which to apply to register such weapon or to surrender it. A failure to apply or surrender such weapon within such thirty-day period shall result in such weapon being removed by an appropriate law enforcement authority and declared a nuisance.

§ 31. Section 400.02 of the penal law is REPEALED.

§ 32. Section 400.03 of the penal law, as added by chapter 1 of the laws of 2013, is amended to read as follows:

§ 400.03 Sellers of ammunition.

1. A seller of ammunition as defined in subdivision twenty-four of section 265.00 of this chapter doing business in the county of Kings, Queens, Richmond, New York or Bronx, shall register with the superintendent of state police in a manner provided by the superintendent. Any dealer in firearms that is validly licensed pursuant to section 400.00 of this article shall not be required to complete such registration.

2. Any seller of ammunition or dealer in firearms doing business in the county of Kings, Queens, Richmond, New York or Bronx, shall keep a record book approved as to form by the superintendent of state police. In the record book shall be entered at the time of every transaction involving ammunition the date, name, age, occupation and residence of any person from whom ammunition is received or to whom ammunition is delivered, and the amount, calibre, manufacturer's name and serial number, or if none, any other distinguishing number or identification mark on such ammunition. The record book shall be maintained on the premises mentioned and described in the license and shall be open at all reasonable hours for inspection by any peace officer, acting pursuant to his or her special duties, or police officer. Any record produced pursuant to this section and any transmission thereof to any government agency shall not be considered a public record for purposes of article six of the public officers law.

~~3. [No later than thirty days after the superintendent of the state police certifies that the statewide license and record database estab-~~

~~lished pursuant to section 400.02 of this article is operational for the purposes of this section, a]~~ A dealer in firearms licensed pursuant to section 400.00 of this article, a seller of ammunition as defined in subdivision twenty-four of section 265.00 of this chapter doing business in the county of Kings, Queens, Richmond, New York or Bronx, shall not transfer any ammunition to any other person who is not a dealer in firearms as defined in subdivision nine of such section 265.00 or a seller of ammunition as defined in subdivision twenty-four of section 265.00 of this chapter, unless:

(a) before the completion of the transfer, the licensee or seller contacts the ~~[statewide license and record database]~~ superintendent of state police and provides the ~~[database]~~ superintendent with information sufficient to identify such dealer or seller, transferee based on information on the transferee's identification document as defined in paragraph (c) of this subdivision, as well as the amount, calibre, manufacturer's name and serial number, if any, of such ammunition;

(b) the ~~[system]~~ superintendent provides the licensee or seller with a unique identification number; and

(c) the transferor has verified the identity of the transferee by examining a valid state identification document of the transferee issued by the department of motor vehicles or if the transferee is not a resident of the state of New York, a valid identification document issued by the transferee's state or country of residence containing a photograph of the transferee.

4. If the ~~[database]~~ superintendent of state police determines that the purchaser of ammunition is eligible to possess ammunition pursuant to state and federal laws, ~~[the system]~~ he or she shall:

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

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

5. If the ~~[statewide license and record database]~~ superintendent of state police notifies the licensee or seller that the information available ~~[to the database]~~ does not demonstrate that the receipt of ammunition by such other person would violate 18 U.S.C. 922(g) or state law, and the licensee transfers ammunition to such other person, the licensee shall indicate to the ~~[database]~~ superintendent that such transaction has been completed at which point a record of such transaction shall be created which shall be accessible by the division of state police and maintained for no longer than one year from point of purchase~~[, which shall not be incorporated into the database established pursuant to section 400.02 of this article or the registry established pursuant to subdivision sixteen-a of section 400.00 of this article]~~. The division of state police may share such information with a local law enforcement agency. Evidence of the purchase of ammunition is not sufficient to establish probable cause to believe that the purchaser has committed a crime absent other information tending to prove the commission of a crime. Records assembled or accessed pursuant to this section shall not be subject to disclosure pursuant to article six of the public officers law. This requirement of this section shall not apply (i) if a background check cannot be completed because the system is not operational as determined by the superintendent of state police, or where it cannot be accessed by the practitioner due to a temporary technological or electrical failure, as set forth in regulation, or (ii) a dealer or seller has been granted a waiver from conducting such background check if the superintendent of state police determines that such dealer is incapable of such check due to technological limitations that are not reasonably within the control of the dealer, or other exceptional

1 circumstances demonstrated by the dealer, pursuant to a process estab-
2 lished in regulation, and at the discretion of such superintendent.

3 6. If the superintendent of state police certifies that background
4 checks of ammunition purchasers in the county of Kings, Queens, Rich-
5 mond, New York or Bronx may be conducted through the national instant
6 criminal background check system, use of that system by a dealer or
7 seller shall be sufficient to satisfy subdivisions four and five of this
8 section and such checks shall be conducted through such system, provided
9 that a record of such transaction shall be forwarded to the state police
10 in a form determined by the superintendent.

11 7. No commercial transfer of ammunition shall take place in the county
12 of Kings, Queens, Richmond, New York or Bronx unless a licensed dealer
13 in firearms or registered seller of ammunition acts as an intermediary
14 between the transferor and the ultimate transferee of the ammunition for
15 the purposes of contacting the statewide license and record database
16 pursuant to this section. Such transfer between the dealer or seller,
17 and transferee must occur in person.

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

22 A seller of ammunition that fails to keep any record required pursuant
23 to this section, for a first offense shall be guilty of a violation and
24 subject to a fine of five hundred dollars, and for a second offense
25 shall be guilty of a class B misdemeanor, and the registration of such
26 seller shall be revoked.

27 § 33. Paragraph (a) of subdivision 1 and subdivision 3 of section
28 400.10 of the penal law, as amended by chapter 1 of the laws of 2013,
29 are amended to read as follows:

30 (a) Any owner or other person lawfully in possession of: (i) a
31 firearm, rifle or[7] shotgun who suffers the loss or theft of said weap-
32 on; (ii) in the county of Kings, Queens, Richmond, New York or Bronx,
33 ammunition as well as a firearm, rifle or shotgun who suffers the loss
34 or theft of such ammunition as well as a firearm, rifle or shotgun; or
35 (iii) in the county of Kings, Queens, Richmond, New York or Bronx, ammu-
36 nition and is a dealer in firearms or seller of ammunition who suffers
37 the loss or theft of such ammunition shall within twenty-four hours of
38 the discovery of the loss or theft report the facts and circumstances of
39 the loss or theft to a police department or sheriff's office.

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

43 § 34. Section 2509 of the surrogate's court procedure act, as added by
44 chapter 1 of the laws of 2013, is amended to read as follows:

45 § 2509. Firearms inventory

46 Whenever, by regulation, rule or statute, a fiduciary or attorney of
47 record in the county of Kings, Queens, Richmond, New York or Bronx must
48 file a list of assets constituting a decedent's estate, such list must
49 include a particularized description of every firearm, shotgun and
50 rifle, as such terms are defined in section 265.00 of the penal law,
51 that are part of such estate. Such list must be filed with the surro-
52 gate's court in the county in which the estate proceeding, if any, is
53 pending and a copy must be filed with the division of criminal justice
54 services.

55 § 35. This act shall take effect immediately.