

STATE OF NEW YORK

8121

IN SENATE

March 30, 2018

Introduced by Sen. PHILLIPS -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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

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

1 Section 1. Subdivision 17 of section 265.00 of the penal law is
2 amended by adding a new paragraph (c) to read as follows:

3 (c) any of the following offenses, where the defendant and the person
4 against whom the offense was committed were members of the same family
5 or household as defined in subdivision one of section 530.11 of the
6 criminal procedure law and as established pursuant to section 370.15 of
7 the criminal procedure law: assault in the third degree; menacing in
8 the third degree; menacing in the second degree; criminal obstruction of
9 breathing or blood circulation; unlawful imprisonment in the second
10 degree; coercion in the third degree; criminal tampering in the third
11 degree; criminal contempt in the second degree; harassment in the first
12 degree; aggravated harassment in the second degree; criminal trespass in
13 the third degree; criminal trespass in the second degree; arson in the
14 fifth degree; or attempt to commit any of the above-listed offenses.

15 § 2. Section 370.15 of the criminal procedure law is REPEALED and a
16 new section 370.15 is added to read as follows:

17 § 370.15 Procedure for determining whether certain misdemeanor crimes
18 are serious offenses under the penal law.

19 1. When a defendant has been charged with assault in the third degree,
20 menacing in the third degree, menacing in the second degree, criminal
21 obstruction of breathing or blood circulation, unlawful imprisonment in
22 the second degree, coercion in the third degree, criminal tampering in
23 the third degree, criminal contempt in the second degree, harassment in
24 the first degree, aggravated harassment in the second degree, criminal
25 trespass in the third degree, criminal trespass in the second degree,

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

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1 arson in the fifth degree, or attempt to commit any of the above-listed
2 offenses, the people may, at arraignment or no later than forty-five
3 days after arraignment, serve on the defendant and file with the court a
4 notice alleging that the defendant and the person alleged to be the
5 victim of such crime were members of the same family or household as
6 defined in subdivision one of section 530.11 of this chapter.

7 2. Such notice shall include the name of the person alleged to be the
8 victim of such crime and shall specify the nature of the alleged
9 relationship as set forth in subdivision one of section 530.11 of this
10 chapter. Upon conviction of such offense, the court shall advise the
11 defendant that he or she is entitled to a hearing solely on the allega-
12 tion contained in the notice and, if necessary, an adjournment of the
13 sentencing proceeding in order to prepare for such hearing, and that if
14 such allegation is sustained, that determination and conviction will be
15 reported to the division of criminal justice services.

16 3. After having been advised by the court as provided in subdivision
17 two of this section, the defendant may stipulate or admit, orally on the
18 record or in writing, that he or she is related or situated to the
19 victim of such crime in the manner described in subdivision one of this
20 section. In such case, such relationship shall be deemed established.
21 If the defendant denies that he or she is related or situated to the
22 victim of the crime as alleged in the notice served by the people, or
23 stands mute with respect to such allegation, then the people shall bear
24 the burden to prove beyond a reasonable doubt that the defendant is
25 related or situated to the victim in the manner alleged in the notice.
26 The court may consider reliable hearsay evidence submitted by either
27 party provided that it is relevant to the determination of the allega-
28 tion. Facts previously proven at trial or elicited at the time of entry
29 of a plea of guilty shall be deemed established beyond a reasonable
30 doubt and shall not be relitigated. At the conclusion of the hearing, or
31 upon such a stipulation or admission, as applicable, the court shall
32 make a specific written determination with respect to such allegation.

33 § 3. Section 380.97 of the criminal procedure law is REPEALED and a
34 new section 380.97 is added to read as follows:

35 § 380.97 Notification to division of criminal justice services of
36 certain misdemeanor convictions.

37 Upon judgment of conviction of assault in the third degree, menacing
38 in the third degree, menacing in the second degree, criminal obstruction
39 of breathing or blood circulation, unlawful imprisonment in the second
40 degree, coercion in the third degree, criminal tampering in the third
41 degree, criminal contempt in the second degree, harassment in the first
42 degree, or aggravated harassment in the second degree, criminal trespass
43 in the third degree, criminal trespass in the second degree, arson in
44 the fifth degree, or attempt to commit any of the above-listed offenses,
45 when the defendant and victim have been determined, pursuant to section
46 370.15 of this part, to be members of the same family or household as
47 defined in subdivision one of section 530.11 of this chapter, the clerk
48 of the court shall include notification and a copy of the written deter-
49 mination in a report of such conviction to the division of criminal
50 justice services to enable the division to report such determination to
51 the Federal Bureau of Investigation and assist the bureau in identifying
52 persons prohibited from purchasing and possessing a firearm or other
53 weapon due to conviction of an offense specified in paragraph c of
54 subdivision seventeen of section 265.00 of the penal law.

55 § 4. Section 530.14 of the criminal procedure law, as added by chapter
56 644 of the laws of 1996, the opening paragraph of subdivision 1, para-

1 graph (b) of subdivision 1, the opening paragraph of subdivision 2,
2 paragraph (b) of subdivision 2, the opening paragraph of subdivision 3
3 and paragraph (b) of subdivision 3 as amended by chapter 1 of the laws
4 of 2013, paragraph (a) of subdivision 1 as amended by chapter 434 of the
5 laws of 2000, clause (A) of subparagraph (ii) of paragraph (a) of subdivi-
6 sion 1 and subparagraph (i) of paragraph (a) of subdivision 3 as
7 amended by chapter 198 of the laws of 2007, and paragraph (a) of subdivi-
8 sion 3 as amended by chapter 635 of the laws of 1999, is amended to
9 read as follows:

10 § 530.14 Suspension and revocation of a license to carry, possess,
11 repair or dispose of a firearm or firearms pursuant to
12 section 400.00 of the penal law and ineligibility for such a
13 license; order to surrender firearms.

14 1. Suspension of firearms license and ineligibility for such a license
15 upon issuance of temporary order of protection. Whenever a temporary
16 order of protection is issued pursuant to subdivision one of section
17 530.12 or subdivision one of section 530.13 of this article:

18 (a) the court shall suspend any such existing license possessed by the
19 defendant, order the defendant ineligible for such a license and order
20 the immediate surrender of any or all firearms, rifles and shotguns
21 owned or possessed where the court receives information that gives the
22 court good cause to believe that (i) the defendant has a prior
23 conviction of any violent felony offense as defined in section 70.02 of
24 the penal law; (ii) the defendant has previously been found to have
25 willfully failed to obey a prior order of protection and such willful
26 failure involved (A) the infliction of physical injury, as defined in
27 subdivision nine of section 10.00 of the penal law, (B) the use or
28 threatened use of a deadly weapon or dangerous instrument as those terms
29 are defined in subdivisions twelve and thirteen of section 10.00 of the
30 penal law, or (C) behavior constituting any violent felony offense as
31 defined in section 70.02 of the penal law; or (iii) the defendant has a
32 prior conviction for stalking in the first degree as defined in section
33 120.60 of the penal law, stalking in the second degree as defined in
34 section 120.55 of the penal law, stalking in the third degree as defined
35 in section 120.50 of the penal law or stalking in the fourth degree as
36 defined in section 120.45 of such law; and

37 (b) the court shall where the court finds a substantial risk that the
38 defendant may use or threaten to use a firearm, rifle or shotgun unlaw-
39 fully against the person or persons for whose protection the temporary
40 order of protection is issued, suspend any such existing license
41 possessed by the defendant, order the defendant ineligible for such a
42 license and order the immediate surrender pursuant to subparagraph (f)
43 of paragraph one of subdivision a of section 265.20 and subdivision six
44 of section 400.05 of the penal law, of any or all firearms, rifles and
45 shotguns owned or possessed.

46 2. Revocation or suspension of firearms license and ineligibility for
47 such a license upon issuance of an order of protection. Whenever an
48 order of protection is issued pursuant to subdivision five of section
49 530.12 or subdivision four of section 530.13 of this article:

50 (a) the court shall revoke any such existing license possessed by the
51 defendant, order the defendant ineligible for such a license and order
52 the immediate surrender of any or all firearms, rifles and shotguns
53 owned or possessed where such action is required by section 400.00 of
54 the penal law; and

55 (b) the court shall where the court finds a substantial risk that the
56 defendant may use or threaten to use a firearm, rifles or shotguns

1 unlawfully against the person or persons for whose protection the order
2 of protection is issued, (i) revoke any such existing license possessed
3 by the defendant, order the defendant ineligible for such a license and
4 order the immediate surrender of any or all firearms, rifles and shot-
5 guns owned or possessed or (ii) suspend or continue to suspend any such
6 existing license possessed by the defendant, order the defendant ineli-
7 gible for such a license and order the immediate surrender pursuant to
8 subparagraph (f) of paragraph one of subdivision a of section 265.20 and
9 subdivision six of section 400.05 of the penal law, of any or all
10 firearms, rifles and shotguns owned or possessed.

11 3. Revocation or suspension of firearms license and ineligibility for
12 such a license upon a finding of a willful failure to obey an order of
13 protection. Whenever a defendant has been found pursuant to subdivision
14 eleven of section 530.12 or subdivision eight of section 530.13 of this
15 article to have willfully failed to obey an order of protection issued
16 by a court of competent jurisdiction in this state or another state,
17 territorial or tribal jurisdiction, in addition to any other remedies
18 available pursuant to subdivision eleven of section 530.12 or subdivi-
19 sion eight of section 530.13 of this article:

20 (a) the court shall revoke any such existing license possessed by the
21 defendant, order the defendant ineligible for such a license and order
22 the immediate surrender of any or all firearms, rifles and shotguns
23 owned or possessed where the willful failure to obey such order involved
24 (i) the infliction of physical injury, as defined in subdivision nine of
25 section 10.00 of the penal law, (ii) the use or threatened use of a
26 deadly weapon or dangerous instrument as those terms are defined in
27 subdivisions twelve and thirteen of section 10.00 of the penal law,
28 (iii) behavior constituting any violent felony offense as defined in
29 section 70.02 of the penal law; or (iv) behavior constituting stalking
30 in the first degree as defined in section 120.60 of the penal law,
31 stalking in the second degree as defined in section 120.55 of the penal
32 law, stalking in the third degree as defined in section 120.50 of the
33 penal law or stalking in the fourth degree as defined in section 120.45
34 of such law; and

35 (b) the court shall where the court finds a substantial risk that the
36 defendant may use or threaten to use a firearm, rifle or shotgun unlaw-
37 fully against the person or persons for whose protection the order of
38 protection was issued, (i) revoke any such existing license possessed by
39 the defendant, order the defendant ineligible for such a license and
40 order the immediate surrender pursuant to subparagraph (f) of paragraph
41 one of subdivision a of section 265.20 and subdivision six of section
42 400.05 of the penal law, of any or all firearms, rifles and shotguns
43 owned or possessed or (ii) suspend any such existing license possessed
44 by the defendant, order the defendant ineligible for such a license and
45 order the immediate surrender pursuant to subparagraph (f) of paragraph
46 one of subdivision a of section 265.20 and subdivision six of section
47 400.05 of the penal law, of any or all firearms, rifles and shotguns
48 owned or possessed.

49 4. Suspension. Any suspension order issued pursuant to this section
50 shall remain in effect for the duration of the temporary order of
51 protection or order of protection, unless modified or vacated by the
52 court.

53 5. Surrender. (a) Where an order to surrender one or more firearms,
54 rifles and shotguns has been issued, the temporary order of protection
55 or order of protection shall specify the place where such [~~firearms~~]
56 weapons shall be surrendered, shall specify a date and time by which the

1 surrender shall be completed and, to the extent possible, shall describe
2 such [~~firearms~~] weapons to be surrendered, and shall direct the authori-
3 ty receiving such surrendered [~~firearms~~] weapons to immediately notify
4 the court of such surrender.

5 (b) The prompt surrender of one or more firearms, rifles or shotguns
6 pursuant to a court order issued pursuant to this section shall be
7 considered a voluntary surrender for purposes of subparagraph (f) of
8 paragraph one of subdivision a of section 265.20 of the penal law. The
9 disposition of any such [~~firearms~~] weapons shall be in accordance with
10 the provisions of subdivision six of section 400.05 of the penal law;
11 provided, however, that upon termination of any suspension order issued
12 pursuant to this section or section eight hundred forty-two-a of the
13 family court act, upon written application of the subject of the order,
14 with notice and opportunity to be heard to the district attorney, the
15 county attorney, the protected party, and every licensing officer
16 responsible for issuance of a firearms license to the subject of the
17 order pursuant to article four hundred of the penal law, and upon a
18 written finding that there is no legal impediment to the subject's
19 possession of a surrendered firearm, rifle or shotgun, any court of
20 record exercising criminal jurisdiction may order the return of a
21 firearm, rifle or shotgun not otherwise disposed of in accordance with
22 subdivision six of section 400.05 of the penal law. When issuing such
23 order in connection with any firearm subject to a license requirement
24 under article four hundred of the penal law, if the licensing officer
25 informs the court that he or she will seek to revoke the license, the
26 order shall be stayed by the court until the conclusion of any license
27 revocation proceeding.

28 (c) The provisions of this section shall not be deemed to limit,
29 restrict or otherwise impair the authority of the court to order and
30 direct the surrender of any or all firearms, rifles and shotguns owned
31 or possessed by a defendant pursuant to sections 530.12 or 530.13 of
32 this article.

33 6. Notice. (a) Where an order [~~of~~] requiring surrender, revocation,
34 suspension or ineligibility has been issued pursuant to this section,
35 any temporary order of protection or order of protection issued shall
36 state that such firearm license has been suspended or revoked or that
37 the defendant is ineligible for such license, as the case may be, and
38 that the defendant is prohibited from possessing any firearm, rifle or
39 shotgun.

40 (b) The court revoking or suspending the license, ordering the defend-
41 ant ineligible for such a license, or ordering the surrender of any
42 firearm, rifle or shotgun shall immediately notify the duly constituted
43 police authorities of the locality concerning such action and, in the
44 case of orders of protection and temporary orders of protection issued
45 pursuant to section 530.12 of this article, shall immediately notify the
46 statewide registry of orders of protection.

47 (c) The court revoking or suspending the license or ordering the
48 defendant ineligible for such a license shall give written notice there-
49 of without unnecessary delay to the division of state police at its
50 office in the city of Albany.

51 (d) Where an order of revocation, suspension, ineligibility or surren-
52 der is modified or vacated, the court shall immediately notify the
53 statewide registry of orders of protection and the duly constituted
54 police authorities of the locality concerning such action and shall give
55 written notice thereof without unnecessary delay to the division of
56 state police at its office in the city of Albany.

1 7. Hearing. The defendant shall have the right to a hearing before the
2 court regarding any revocation, suspension, ineligibility or surrender
3 order issued pursuant to this section, provided that nothing in this
4 subdivision shall preclude the court from issuing any such order prior
5 to a hearing. Where the court has issued such an order prior to a hear-
6 ing, it shall commence such hearing within fourteen days of the date
7 such order was issued.

8 8. Nothing in this section shall delay or otherwise interfere with the
9 issuance of a temporary order of protection or the timely arraignment of
10 a defendant in custody.

11 § 5. Section 842-a of the family court act, as added by chapter 644 of
12 the laws of 1996, subdivision 1, 2 and 3 as amended by chapter 1 of the
13 laws of 2013, is amended to read as follows:

14 § 842-a. Suspension and revocation of a license to carry, possess,
15 repair or dispose of a firearm or firearms pursuant to section 400.00 of
16 the penal law and ineligibility for such a license; order to surrender
17 firearms.

18 1. Suspension of firearms license and ineligibility for such a license
19 upon the issuance of a temporary order of protection. Whenever a tempo-
20 rary order of protection is issued pursuant to section eight hundred
21 twenty-eight of this article, or pursuant to article four, five, six,
22 seven or ten of this act:

23 (a) the court shall suspend any such existing license possessed by the
24 respondent, order the respondent ineligible for such a license, and
25 order the immediate surrender pursuant to subparagraph (f) of paragraph
26 one of subdivision a of section 265.20 and subdivision six of section
27 400.05 of the penal law, of any or all firearms, rifles and shotguns
28 owned or possessed where the court receives information that gives the
29 court good cause to believe that: (i) the respondent has a prior
30 conviction of any violent felony offense as defined in section 70.02 of
31 the penal law; (ii) the respondent has previously been found to have
32 willfully failed to obey a prior order of protection and such willful
33 failure involved (A) the infliction of physical injury, as defined in
34 subdivision nine of section 10.00 of the penal law, (B) the use or
35 threatened use of a deadly weapon or dangerous instrument as those terms
36 are defined in subdivisions twelve and thirteen of section 10.00 of the
37 penal law, or (C) behavior constituting any violent felony offense as
38 defined in section 70.02 of the penal law; or (iii) the respondent has a
39 prior conviction for stalking in the first degree as defined in section
40 120.60 of the penal law, stalking in the second degree as defined in
41 section 120.55 of the penal law, stalking in the third degree as defined
42 in section 120.50 of the penal law or stalking in the fourth degree as
43 defined in section 120.45 of such law; and

44 (b) the court shall where the court finds a substantial risk that the
45 respondent may use or threaten to use a firearm, rifle or shotgun unlaw-
46 fully against the person or persons for whose protection the temporary
47 order of protection is issued, suspend any such existing license
48 possessed by the respondent, order the respondent ineligible for such a
49 license, and order the immediate surrender pursuant to subparagraph (f)
50 of paragraph one of subdivision a of section 265.20 and subdivision six
51 of section 400.05 of the penal law, of any or all firearms, rifles and
52 shotguns owned or possessed.

53 2. Revocation or suspension of firearms license and ineligibility for
54 such a license upon the issuance of an order of protection. Whenever an
55 order of protection is issued pursuant to section eight hundred forty-

1 one of this part, or pursuant to article four, five, six, seven or ten
2 of this act:

3 (a) the court shall revoke any such existing license possessed by the
4 respondent, order the respondent ineligible for such a license, and
5 order the immediate surrender pursuant to subparagraph (f) of paragraph
6 one of subdivision a of section 265.20 and subdivision six of section
7 400.05 of the penal law, of any or all firearms, rifles and shotguns
8 owned or possessed where the court finds that the conduct which resulted
9 in the issuance of the order of protection involved (i) the infliction
10 of physical injury, as defined in subdivision nine of section 10.00 of
11 the penal law, (ii) the use or threatened use of a deadly weapon or
12 dangerous instrument as those terms are defined in subdivisions twelve
13 and thirteen of section 10.00 of the penal law, or (iii) behavior
14 constituting any violent felony offense as defined in section 70.02 of
15 the penal law; and

16 (b) the court shall, where the court finds a substantial risk that the
17 respondent may use or threaten to use a firearm, rifle or shotgun unlaw-
18 fully against the person or persons for whose protection the order of
19 protection is issued, (i) revoke any such existing license possessed by
20 the respondent, order the respondent ineligible for such a license and
21 order the immediate surrender pursuant to subparagraph (f) of paragraph
22 one of subdivision a of section 265.20 and subdivision six of section
23 400.05 of the penal law, of any or all firearms, rifles and shotguns
24 owned or possessed or (ii) suspend or continue to suspend any such
25 existing license possessed by the respondent, order the respondent inel-
26 ible for such a license, and order the immediate surrender pursuant to
27 subparagraph (f) of paragraph one of subdivision a of section 265.20 and
28 subdivision six of section 400.05 of the penal law, of any or all
29 firearms, rifles and shotguns owned or possessed.

30 3. Revocation or suspension of firearms license and ineligibility for
31 such a license upon a finding of a willful failure to obey an order of
32 protection or temporary order of protection. Whenever a respondent has
33 been found, pursuant to section eight hundred forty-six-a of this part
34 to have willfully failed to obey an order of protection or temporary
35 order of protection issued pursuant to this act or the domestic
36 relations law, or by this court or by a court of competent jurisdiction
37 in another state, territorial or tribal jurisdiction, in addition to any
38 other remedies available pursuant to section eight hundred forty-six-a
39 of this part:

40 (a) the court shall revoke any such existing license possessed by the
41 respondent, order the respondent ineligible for such a license, and
42 order the immediate surrender pursuant to subparagraph (f) of paragraph
43 one of subdivision a of section 265.20 and subdivision six of section
44 400.05 of the penal law, of any or all firearms, rifles and shotguns
45 owned or possessed where the willful failure to obey such order involves
46 (i) the infliction of physical injury, as defined in subdivision nine of
47 section 10.00 of the penal law, (ii) the use or threatened use of a
48 deadly weapon or dangerous instrument as those terms are defined in
49 subdivisions twelve and thirteen of section 10.00 of the penal law, or
50 (iii) behavior constituting any violent felony offense as defined in
51 section 70.02 of the penal law; or (iv) behavior constituting stalking
52 in the first degree as defined in section 120.60 of the penal law,
53 stalking in the second degree as defined in section 120.55 of the penal
54 law, stalking in the third degree as defined in section 120.50 of the
55 penal law or stalking in the fourth degree as defined in section 120.45
56 of such law; and

1 (b) the court shall where the court finds a substantial risk that the
2 respondent may use or threaten to use a firearm, rifle or shotgun unlaw-
3 fully against the person or persons for whose protection the order of
4 protection was issued, (i) revoke any such existing license possessed by
5 the respondent, order the respondent ineligible for such a license,
6 whether or not the respondent possesses such a license, and order the
7 immediate surrender pursuant to subparagraph (f) of paragraph one of
8 subdivision a of section 265.20 and subdivision six of section 400.05 of
9 the penal law, of any or all firearms, rifles and shotguns owned or
10 possessed or (ii) suspend any such existing license possessed by the
11 respondent, order the respondent ineligible for such a license, and
12 order the immediate surrender of any or all firearms, rifles and shot-
13 guns owned or possessed.

14 4. Suspension. Any suspension order issued pursuant to this section
15 shall remain in effect for the duration of the temporary order of
16 protection or order of protection, unless modified or vacated by the
17 court.

18 5. Surrender. (a) Where an order to surrender one or more firearms,
19 rifles or shotguns has been issued, the temporary order of protection or
20 order of protection shall specify the place where such [~~firearms~~] weap-
21 ons shall be surrendered, shall specify a date and time by which the
22 surrender shall be completed and, to the extent possible, shall describe
23 such [~~firearms~~] weapons to be surrendered and shall direct the authority
24 receiving such surrendered [~~firearms~~] weapons to immediately notify the
25 court of such surrender.

26 (b) The prompt surrender of one or more firearms, rifles or shotguns
27 pursuant to a court order issued pursuant this section shall be consid-
28 ered a voluntary surrender for purposes of subparagraph (f) of paragraph
29 one of subdivision a of section 265.20 of the penal law. The disposition
30 of any such [~~firearms~~] weapons shall be in accordance with the
31 provisions of subdivision six of section 400.05 of the penal law;
32 provided, however that upon the termination of any suspension order
33 issued pursuant to this section, any court of record exercising criminal
34 jurisdiction may order the return of a firearm, rifle or shotgun pursu-
35 ant to paragraph b of subdivision five of section 530.14 of the criminal
36 procedure law.

37 (c) The provisions of this section shall not be deemed to limit,
38 restrict or otherwise impair the authority of the court to order and
39 direct the surrender of any or all pistols, revolvers, rifles, shotguns
40 or other firearms owned or possessed by a respondent pursuant to this
41 act.

42 6. Notice. (a) Where an order [~~of~~] requiring surrender, revocation,
43 suspension or ineligibility has been issued pursuant to this section,
44 any temporary order of protection or order of protection issued shall
45 state that such firearm license has been suspended or revoked or that
46 the respondent is ineligible for such license, as the case may be, and
47 that the defendant is prohibited from possessing any firearms, rifles or
48 shotguns.

49 (b) The court revoking or suspending the license, ordering the
50 respondent ineligible for such license, or ordering the surrender of any
51 firearm, rifles or shotguns shall immediately notify the statewide
52 registry of orders of protection and the duly constituted police author-
53 ities of the locality of such action.

54 (c) The court revoking or suspending the license or ordering the
55 defendant ineligible for such license shall give written notice thereof

1 without unnecessary delay to the division of state police at its office
2 in the city of Albany.

3 (d) Where an order of revocation, suspension, ineligibility, or
4 surrender is modified or vacated, the court shall immediately notify the
5 statewide registry of orders of protection and the duly constituted
6 police authorities of the locality concerning such action and shall give
7 written notice thereof without unnecessary delay to the division of
8 state police at its office in the city of Albany.

9 7. Hearing. The respondent shall have the right to a hearing before
10 the court regarding any revocation, suspension, ineligibility or surren-
11 der order issued pursuant to this section, provided that nothing in this
12 subdivision shall preclude the court from issuing any such order prior
13 to a hearing. Where the court has issued such an order prior to a hear-
14 ing, it shall commence such hearing within fourteen days of the date
15 such order was issued.

16 8. Nothing in this section shall delay or otherwise interfere with the
17 issuance of a temporary order of protection.

18 § 6. Paragraph (c) of subdivision 1 of section 400.00 of the penal
19 law, as amended by chapter 1 of the laws of 2013, is amended to read as
20 follows:

21 (c) who has not been convicted anywhere of a felony or a serious
22 offense or who is not the subject of an outstanding warrant of arrest
23 issued upon the alleged commission of a felony or serious offense;

24 § 7. The criminal procedure law is amended by adding a new section
25 370.25 to read as follows:

26 § 370.25 Procedure for the surrender of firearms, rifles and shotguns
27 upon judgment of conviction for a felony or a serious
28 offense.

29 1. Upon judgment of conviction for a felony or a serious offense, the
30 court shall inquire of the defendant as to the existence of all
31 firearms, rifles and shotguns he or she owns or possesses. The court
32 shall order the immediate surrender, pursuant to subparagraph (f) of
33 paragraph one of subdivision a of section 265.20 of the penal law and
34 subdivision six of section 400.05 of the penal law, of any or all
35 firearms, rifles and shotguns owned or possessed by the defendant.

36 2. The court ordering the surrender of any firearms, rifles or shot-
37 guns as provided in this section shall immediately notify the duly
38 constituted police authorities of the locality of such action and the
39 division of state police at its office in the city of Albany. The court
40 shall direct the authority receiving such surrendered firearms, rifles
41 and shotguns to immediately notify the court of such surrender.

42 3. The disposition of any firearms, rifles or shotguns surrendered
43 pursuant to this section shall be in accordance with the provisions of
44 subdivision six of section 400.05 of the penal law.

45 4. The provisions of this section shall not be deemed to limit,
46 restrict or otherwise impair the authority of the court to order and
47 direct the surrender of any or all firearms, rifles and shotguns owned
48 or possessed by a defendant pursuant to any other provision of law.

49 § 8. This act shall take effect on the sixtieth day after it shall
50 have become a law.