

STATE OF NEW YORK

9167

IN SENATE

September 17, 2018

Introduced by Sen. BOYLE -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the penal law, in relation to establishing the crimes of criminal possession of a weapon by a domestic violence offender in the first and second degrees

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

1 Section 1. The penal law is amended by adding two new sections 265.18
2 and 265.18-a to read as follows:

3 § 265.18 Criminal possession of a weapon by a domestic violence offender
4 in the first degree.

5 A person is guilty of criminal possession of a weapon by a domestic
6 violence offender in the first degree when:

7 (a) Such person has been convicted of assault in the third degree,
8 menacing in the third degree, menacing in the second degree, criminal
9 obstruction of breathing or blood circulation, unlawful imprisonment in
10 the second degree, coercion in the third degree, criminal contempt in
11 the second degree, harassment in the first degree, or aggravated harass-
12 ment in the second degree, criminal trespass in the third degree, crimi-
13 nal trespass in the second degree, arson in the fifth degree, or attempt
14 to commit any of the above-listed offenses, and the defendant and victim
15 have been determined, pursuant to section 370.15 of the criminal proce-
16 dure law, to be members of the same family or household as defined in
17 subdivision one of section 530.11 of the criminal procedure law, and
18 such person has been deemed prohibited from possessing a firearm or
19 other weapon due to such conviction; and

20 1. knowing that he or she is prohibited by law from possessing a
21 firearm or other weapon, such person purchases a firearm or other weapon
22 from another person; or

23 2. knowing that he or she is prohibited by law from possessing a
24 firearm or other weapon, such person possesses a firearm or other weap-
25 on; or

26 (b) Knowing that it would be unlawful for another person to possess a
27 firearm or other weapon due to a conviction of assault in the third

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

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1 degree, menacing in the third degree, menacing in the second degree,
2 criminal obstruction of breathing or blood circulation, unlawful impri-
3 sonment in the second degree, coercion in the third degree, criminal
4 contempt in the second degree, harassment in the first degree, or aggra-
5 vated harassment in the second degree, criminal trespass in the third
6 degree, criminal trespass in the second degree, arson in the fifth
7 degree, or attempt to commit any of the above-listed offenses, and the
8 defendant and victim have been determined, pursuant to section 370.15 of
9 the criminal procedure law, to be members of the same family or house-
10 hold as defined in subdivision one of section 530.11 of the criminal
11 procedure law, and such person has been deemed prohibited from possess-
12 ing a firearm or other weapon due to such conviction; and

13 1. he or she purchases a firearm or other weapon, on behalf of, or for
14 the use of such other person; or

15 2. he or she disposes of a firearm or other weapon to such other
16 person.

17 Criminal possession of a weapon by a domestic violence offender in the
18 first degree is a class D felony.

19 § 265.18-a Criminal possession of a weapon by a domestic violence offen-
20 der in the second degree.

21 A person is guilty of criminal possession of a weapon by a domestic
22 violence offender in the second degree when:

23 (a) Such person has been convicted of criminal tampering in the third
24 degree and the defendant and victim have been determined, pursuant to
25 section 370.15 of the criminal procedure law, to be members of the same
26 family or household as defined in subdivision one of section 530.11 of
27 the criminal procedure law, and such person has been deemed prohibited
28 from possessing a firearm or other weapon due to such conviction; and

29 1. knowing that he or she is prohibited by law from possessing a
30 firearm or other weapon, such person purchases a firearm or other weapon
31 from another person; or

32 2. knowing that he or she is prohibited by law from possessing a
33 firearm or other weapon, such person possesses a firearm or other weap-
34 on; or

35 (b) Knowing that it would be unlawful for another person to possess a
36 firearm or other weapon due to a conviction of criminal tampering in the
37 third degree and the defendant and victim have been determined, pursuant
38 to section 370.15 of the criminal procedure law, to be members of the
39 same family or household as defined in subdivision one of section 530.11
40 of the criminal procedure law, and such person has been deemed prohibit-
41 ed from possessing a firearm or other weapon due to such conviction; and

42 1. he or she purchases a firearm or other weapon, on behalf of, or for
43 the use of such other person; or

44 2. he or she disposes of a firearm or other weapon to such other
45 person.

46 Criminal possession of a weapon by a domestic violence offender in the
47 second degree is a class E felony.

48 § 2. This act shall take effect on the one hundred eightieth day after
49 it shall have become a law.