

# STATE OF NEW YORK

827

2019-2020 Regular Sessions

## IN SENATE

January 9, 2019

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

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

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

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

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

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

20 2. he or she disposes of a firearm or other weapon to such other  
21 person.

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

24 § 265.18-a Criminal possession of a weapon by a domestic violence offen-  
25 der in the second degree.

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

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

34 1. knowing that he or she is prohibited by law from possessing a  
35 firearm or other weapon, such person purchases a firearm or other weapon  
36 from another person; or

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

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

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

49 2. he or she disposes of a firearm or other weapon to such other  
50 person.

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

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