STATE OF NEW YORK

8102--A

2021-2022 Regular Sessions

IN ASSEMBLY

June 11, 2021

Introduced by M. of A. CLARK, SEAWRIGHT -- read once and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law and the family court act, in relation to requiring the court to order the search for and immediate seizure of certain firearms when a defendant willfully refuses to surrender such firearms

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

Section 1. Paragraph (c) of subdivision 1 of section 530.14 of the criminal procedure law, as added by section 3 of part M of chapter 55 of the laws of 2020, is amended to read as follows:

(c) the court [~~may~~] **shall** where the defendant willfully refuses to surrender such firearm, rifle or shotgun pursuant to paragraphs (a) and (b) of this subdivision, or **may** for other good cause shown, order the immediate seizure of such firearm, rifle or shotgun, and search therefor, pursuant to an order issued in accordance with article six hundred ninety of this part, consistent with such rights as the defendant may derive from this article or the constitution of this state or the United States.

§ 2. Paragraph (c) of subdivision 2 of section 530.14 of the criminal procedure law, as added by section 4 of part M of chapter 55 of the laws of 2020, is amended to read as follows:

(c) the court [~~may~~] **shall** where the defendant willfully refuses to surrender such firearm, rifle or shotgun pursuant to paragraphs (a) and (b) of this subdivision, or **may** for other good cause shown, order the immediate seizure of such firearm, rifle or shotgun, and search therefor, pursuant to an order issued in accordance with article six hundred ninety of this part, consistent with such rights as the defendant may

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

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derive from this article or the constitution of this state or the United States.

§ 3. Paragraph (c) of subdivision 3 of section 530.14 of the criminal procedure law, as added by section 5 of part M of chapter 55 of the laws of 2020, is amended to read as follows:

(c) the court [~~may~~] **shall** where the defendant willfully refuses to surrender such firearm, rifle or shotgun pursuant to paragraphs (a) and (b) of this subdivision, or **may** for other good cause shown, order the immediate seizure of such firearm, rifle or shotgun, and search therefor, pursuant to an order issued in accordance with article six hundred ninety of this part, consistent with such rights as the defendant may derive from this article or the constitution of this state or the United States.

§ 4. Paragraph (c) of subdivision 1 of section 842-a of the family court act, as added by section 8 of part M of chapter 55 of the laws of 2020, is amended to read as follows:

(c) the court [~~may~~] **shall** where the defendant willfully refuses to surrender such firearm, rifle or shotgun pursuant to paragraphs (a) and (b) of this subdivision, or **may** for other good cause shown, order the immediate seizure of such firearm, rifle or shotgun, and search therefor, pursuant to an order issued in accordance with article six hundred ninety of the criminal procedure law, consistent with such rights as the defendant may derive from this article or the constitution of this state or the United States.

§ 5. Paragraph (c) of subdivision 2 of section 842-a of the family court act, as added by section 9 of part M of chapter 55 of the laws of 2020, is amended to read as follows:

(c) the court [~~may~~] **shall** where the defendant willfully refuses to surrender such firearm, rifle or shotgun pursuant to paragraphs (a) and (b) of this subdivision, or **may** for other good cause shown, order the immediate seizure of such firearm, rifle or shotgun, and search therefor, pursuant to an order issued in accordance with article six hundred ninety of the criminal procedure law, consistent with such rights as the defendant may derive from this article or the constitution of this state or the United States.

§ 6. Paragraph (c) of subdivision 3 of section 842-a of the family court act, as added by section 10 of part M of chapter 55 of the laws of 2020, is amended to read as follows:

(c) the court [~~may~~] **shall** where the defendant willfully refuses to surrender such firearm, rifle or shotgun pursuant to paragraphs (a) and (b) of this subdivision, or **may** for other good cause shown, order the immediate seizure of such firearm, rifle or shotgun, and search therefor, pursuant to an order issued in accordance with article six hundred ninety of the criminal procedure law, consistent with such rights as the defendant may derive from this article or the constitution of this state or the United States.

§ 7. This act shall take effect immediately.