



POSITION STATEMENT

A7575A & S4685A AMEND THE DEFINITION OF SERIOUS OFFENSE

CONCEPT

These bills would add violations and misdemeanors where Family Court shares jurisdiction to the list of “Serious Offenses” defined in PL § 265.00(17). This would preclude anyone convicted of one of these offenses from possessing a firearm, rifle, or shotgun. The started purpose of the proposed legislation is to prevent domestic violence incidents from escalating.

POSITION

It is not clear that there is really a need for this legislation. Any judge of a court of record can revoke a pistol license and compel the holder to surrender their handguns. Under CPL § 530.14 and FCA § 842a the court has broad authority to compel the surrender of all firearms upon violation of an order of protection or conviction on a violent offense.

This is not “heat of the moment” legislation. The provisions of this proposal would only become effective after conviction on the offense. There is certainly time to permit action under the CPL and FCA sections above.

The offenses listed in FCA § 812 are for the most part violations and B misdemeanors. These are offenses that would not normally preclude an individual from possessing a rifle or shotgun and would not automatically exclude them from obtaining a pistol license. The Assembly bill would mandate a lifetime ban for minor non-violent offenses while the Senate version allows the respondent to petition to vacate the “serious offense” designation three years after the disposition of the Family Court case.

The definition of “serious offense” was meant to include just that – misdemeanor weapons offenses, Class A Misdemeanors likely to have been bargained down from felonies, or offenses indicating a propensity for future escalation. It was certainly not intended to include violations meriting only an appearance ticket.

RECOMMENDATION

This legislation is not really needed and could be extremely punitive. It should not be enacted.