



## POSITION STATEMENT

### **A7733A/S5466 SEIZURE OF WEAPONS FROM THE MENTALLY ILL**

#### **PURPOSE**

The proposed legislation is intended to remove firearms, rifles, and shotguns from the hands of individuals determined to have mental health problems requiring involuntary commitment and treatment. It would require the court to revoke the individual's pistol permit and require the surrender of any firearms, rifles, or shotguns possessed by that individual. The proposal amends the CPL and MHY to include the various commitment or adjudication situations.

#### **POSITION**

While we concur that the possession of firearms, rifles, or shotguns by the mentally ill should be prohibited, we have some serious concerns about the disposition of surrendered firearms, rifles, or shotguns. These are not "crime guns". They are the personal property of an individual with an illness. Of particular concern are the elderly who may suffer from dementia or veterans with posttraumatic stress disorder.

Particularly in the case of the elderly, these may represent a collection acquired over a lifetime and have significant monetary value. There must be a mechanism to insure that they remain in the family or full value is realized and used to the benefit of the individual.

There does appear to be a conflict between PL § 265.20(a)(1)(f) and MHY § 29.23 with respect to the disposition of the surrendered guns. The PL requires destruction if not sold, reclaimed, or transferred within one year. The MHY states that all property must be used for the benefit of the individual.

We would like to see some assurance that the items surrendered be returned to the individual if they are granted a relief from disabilities under the MHY, disposed of as instructed by the individual if they are competent to conduct their business affairs, or disposed of in a manner that will realize their market value for the benefit of the individual per MHY § 29.23.

The sponsors claim the bill is needed because courts lack the power to revoke permits and remove firearms from individuals adjudicated as incapacitated or ordered to treatment. This is not true with respect to handguns as any court of record can revoke a pistol license at any time, compelling surrender. With respect to rifles and shotguns, the director of any hospital or institution for mental illness can certify an individual who has been adjudicated incompetent or judicially committed as not suitable to possess a rifle or shotgun. Refusal to surrender is a violation of PL § 265.01.

The net effect is that this bill does not really provide any more authority than the court already has, although it appears that currently they might have to get a medical sign off for it.