

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 4769
STATE OF NEW JERSEY
220th LEGISLATURE

DATED: NOVEMBER 25, 2022

SUMMARY

- Synopsis:** Makes various revisions to requirements for obtaining a firearm purchaser identification card, permit to purchase a handgun, and permit to carry a handgun; codifies sensitive places in which firearms and destructive devices are prohibited.
- Type of Impact:** Annual State and municipal expenditure increases.
Annual State and municipal revenues increases.
- Agencies Affected:** Department of Law and Public Safety; Department of Corrections; Victims of Crime Compensation Office; Administrative Office of the Courts; Superior Courts; Municipal Law Enforcement and Prosecutors.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate
State Revenue Increase	Indeterminate
Local Cost Increase	Indeterminate
Local Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) anticipates that the State and municipalities will incur indeterminate additional annual operating expenses from the processing of an increased number of applications; establishing training programs; enforcing, prosecuting, and trying the offenses established by the bill; and incarcerating any offenders. In addition, the OLS estimates increased State and municipal revenue because of the fee increases for the permit to carry application, the firearms purchaser identification card (FPIC), the permit to purchase a handgun (PPH), and increased fines and penalties.
- The bill’s establishment of crimes of the second, third, and fourth degree, and disorderly persons offenses will increase the workload of the Division of Criminal Justice in the Department of Law and Public Safety, county prosecutor’s offices, the Administrative Office of the Courts, and municipal courts as additional defendants will be prosecuted and tried for

these crimes and offenses. Crimes of the second, third, and fourth degree are adjudicated by the Superior Court. Disorderly persons offenses are adjudicated by municipal courts, in most circumstances. A presumption of non-incarceration applies to first-time offenders of crimes of the third and fourth degree, and disorderly persons offenses. Repeat offenders, however, could be incarcerated, with the Department of Corrections incurring the cost.

- The Victims of Crime Compensation Office will receive a portion of the established \$200 application fee for the permit to carry a handgun.

BILL DESCRIPTION

This bill removes from current law the justifiable need standard, which is the standard an individual is required to meet to hold a permit to carry a handgun in this State, in accordance with a recent decision of the United States Supreme Court in New York State Rifle & Pistol Association v. Bruen. The bill further establishes certain criteria for obtaining a permit to carry a handgun and codifies certain venues at which the right to carry firearms and certain destructive devices would be restricted due to security and safety concerns.

The bill expands the disqualifying criteria that would prohibit a person from obtaining an FPIC, PPH, or permit to carry a handgun.

The bill makes several changes to the procedure for applying for an FPIC or a PPH. The bill increases the fee to obtain an FPIC from \$5 to \$50. The fee for a PPH would be increased from \$2 to \$25.

This bill renders a recent enactment (P.L.2022, c.58), which requires FPICs to display a picture and thumb print, inoperative until the Superintendent of State Police establishes a system for issuing these cards. Eventually, the FPIC would be electronically linked to the fingerprints of the card holder, rather than displaying a thumb print. The permits would be issued to the applicant electronically through the web portal.

This bill codifies the current reporting procedure established by the State Police, which established a web portal for electronically reporting handgun sales and requires that handgun transfers between certain people be conducted via the web portal.

The bill permits retired law enforcement officers to renew their permit to carry a handgun every two years as compared to the annual renewal of their permit to carry.

The bill revises the application process for obtaining a permit to carry a handgun. The bill requires an applicant to provide endorsements from four people, an increase of one additional endorsement, who are unrelated to the applicant. The chief police officer or superintendent, as appropriate, is required to interview the applicant and those persons providing the endorsements and may request information from the applicant or any other person pertaining to publicly available statements posted or published online by the applicant. The bill also extends the time frame within which the superintendent or chief police officer is required to approve or deny an application for a permit to carry a handgun from 60 to 90 days.

The bill also requires the superintendent to establish a training requirement on or before the first day of the seventh month of the bill's enactment in the lawful and safe handling and storage of firearms for persons who obtain a permit to carry a handgun. The training requirement is to consist of an online course of instruction, in-person classroom instruction, and target training. A person who obtained a permit to carry a handgun prior to the first day of the seventh month following the bill's effective date and prior to the establishment of the of the training requirement would be required to complete the classroom instruction and target training within ten months of the bill's enactment.

The bill removes from current law a \$20 fee imposed by the county clerk but imposes a \$200 application fee for the permit to carry a handgun. In the case of an application made to the chief police officer of a municipality, \$150 of the fee is to be retained by the municipality to defray the costs of investigation, administration, and processing of the permit to carry handgun applications. The remaining \$50 is to be forwarded to the superintendent to be deposited into the Victims of Crime Compensation Office account. The permit would be issued to the applicant electronically through email or through an established web portal. Prior to issuing the permit, the chief police officer or superintendent is required to conduct an investigation of the applicant. Any fees submitted to the superintendent are to be deposited into the Victims of Crime Compensation Office account.

The bill establishes requirements for private citizens who obtain a carry permit, including: (1) certain safe carry requirements; (2) obtaining liability insurance and providing proof of insurance in certain instances; (3) disclosing the presence of a handgun and exhibiting the permit to carry to a law enforcement officer if stopped or detained while carrying in public or traveling with a handgun in a motor vehicle; and (4) providing a handgun to a law enforcement officer for inspection, upon request if detained by the officer as part of a criminal investigation. A person who violates the safe carry and insurance requirements would be guilty of a crime of the fourth degree. A person who fails to exhibit a permit to carry would be guilty of a disorderly persons offense and subject to a \$100 fine for the first offense and guilty of a crime of the fourth degree for a second or subsequent offense. A person who is carrying a handgun in public without a permit to carry or openly and not concealed, whether or not the person has a permit to carry, would be guilty of a crime of the fourth degree.

The bill also delineates places in which certain persons would be prohibited from carrying a firearm or destructive device. Under the bill, it would be a third degree crime to carry any firearm or a crime of the second degree to possess a destructive device in those certain locations.

Finally, the bill clarifies that application determinations for a permit to carry a handgun that were pending before the Superior Court and filed prior to bill's enactment are to be made by the court. A Judge of the Superior Court may rely on the approval by the chief police officer or superintendent, as the case may be, as the basis for issuing the permit. Application determinations for a permit to carry a handgun that are submitted on or after the date of the bill's enactment will be made solely by a chief police officer or superintendent..

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS anticipates that the State, county prosecutor's offices, local law enforcement agencies, and municipal courts will incur indeterminate additional annual operating expenses from processing an increased number of applications; establishing a training program; enforcing, prosecuting, and trying the offenses established by the bill; and incarcerating any offenders. In addition, the OLS estimates increased State and municipal revenue because of the fee increases for the permit to carry application, the FPIC, the PPH, and increased fines and penalties.

According to a June 2022 news article, only 1,000 permits to carry a handgun have been issued in the State and New Jersey State Police Superintendent Colonel Pat Callahan anticipates that more than 200,000 people will apply for these permits in light of the United States Supreme Court ruling.

State Expenditure Increases and Decreases – The OLS estimates that the bill’s requirements will result in increased expenditures to the Division of State Police to process additional permit to carry a handgun applications, as well as to establish a training program for those individuals who are approved to obtain a carry permit.

Further, this bill establishes penalties for various offenses related to a permit to carry a handgun. The bill’s establishment of crimes of the second, third, and fourth degree, and disorderly persons offenses, will increase the workload of the Division of Criminal Justice in the Department of Law and Public Safety, county prosecutor’s offices, the Administrative Office of the Courts, and municipal courts, as additional defendants will be prosecuted and tried. Crimes of the second, third, and fourth degree are adjudicated by the Superior Court. Disorderly persons offenses are adjudicated by municipal courts, in most circumstances. A presumption of incarceration applies to crimes of the second degree; however, a presumption of non-incarceration applies to first-time offenders of crimes of the third and fourth degree, and disorderly persons cases. Repeat offenders, however, could be incarcerated.

Further, the bill requires the Division of State Police to accept an increased number of permit to carry a handgun applications and establish a training program (online, in-person, and target training) with the Police Training Commission in the lawful and safe handling and storage of firearms for persons who obtain a permit to carry a handgun. The bill is anticipated to increase the Division of State Police’s workload as there will be additional applications and persons required to be interviewed during the application process. The bill does extend the time frame for the superintendent to approve or deny an application for a permit to carry a handgun from 60 to 90 days, and this extension may be helpful in meeting this deadline depending on the number of applications received at any given time.

The OLS cannot determine if any of the increased firearm related fees or payments for training courses will offset the operations cost to the Division of State Police related to the anticipated increased workload. The Victims of Crime Compensation Office will receive a portion of the established \$200 application fee for the permit to carry a handgun.

Additionally, this bill renders a recent enactment (P.L.2022, c.58), which requires FPICs to display a picture and fingerprint, inoperative until the superintendent establishes a system for issuing these cards. This may provide a temporary cost savings to the Division of State Police.

Lastly, the State may have legal costs associated with those challenging the bill’s constitutionality.

Municipal Law Enforcement Expenditure Increase – The OLS estimates that the bill will produce indeterminate annual expenditure increases to municipalities, specifically law enforcement.

Under current law, in order to lawfully carry a handgun in public, applicants for a permit to carry a handgun need the approval of the chief police officer in the municipality where they reside and the approval of a Superior Court judge in the county where they reside. This approval is contingent upon a person submitting, along with the application, a written certification establishing justifiable need. As the bill changes current law and there is an expectation of increased applications, the OLS estimates that the increase in estimated applications will result in a need for additional manpower to fulfill the bill’s requirements.

Specifically, the bill revises the application process for obtaining a permit to carry a handgun. Currently, the chief police officer is required to interview the applicant and those persons providing

the endorsements. The bill requires an applicant to provide endorsements from four people, an increase of one additional endorsement. The OLS estimates that, based on the anticipated increase in the number of applicants and investigations, this requirement will result in an increased workload for municipal law enforcement. The bill does extend the time frame for the chief police officer to approve or deny an application for a permit to carry a handgun from 60 to 90 days, and this extension may be helpful in meeting this deadline depending on the number of applications received at any given time.

Further, a person who fails to exhibit a carry permit to a law enforcement officer when stopped or detained would be guilty of a disorderly persons offense in the case of a first offense. The bill's establishment of this disorderly persons offense will increase the workload of the municipal courts as additional defendants will be prosecuted and tried.

State and Municipal Annual Revenue – An increase in revenue from increased fees as well as additional indeterminate annual State and municipal revenue will accrue from fine and penalty payments from convicted violators of new statutory provisions.

Fees - The bill increases the fee to obtain an FPIC from \$5 to \$50, which must be renewed every ten years and only applies to those cards issued after the effective date of P.L.2022, c.58. The fee for the PPH would be increased from \$2 to \$25 and is only valid for 90 days.

The bill increases the fee associated with the permit to carry a handgun from \$20 to \$200. In the case of an application made to the chief police officer of a municipality, \$150 of the fee is to be retained by the municipality to defray the costs of investigation, administration, and processing of the permit to carry a handgun applications. The remaining \$50 is to be deposited with the superintendent. Any fees submitted to the superintendent are to be deposited into the Victims of Crime Compensation Office account.

Fine and penalty payments - This bill establishes penalties for various offenses related to the permit to carry a handgun. In establishing the crimes of the second, third, and fourth degree, and disorderly persons offenses, the bill creates the potential for recurring State and municipal revenue gains.

Under the bill, it would be a crime of the second degree to carry a destructive device in certain locations and a crime of the third degree to carry a firearm in certain locations. In creating new crimes of the second and third degree, the bill could potentially generate increased recurring State revenue gains. Crimes of the second degree are punishable by a term of imprisonment of five to 10 years, a fine of up to \$150,000, or both. Crimes of the third degree are punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both.

The bill establishes certain requirements for private citizens who obtain a permit to carry a handgun with penalties for violations. The bill creates several crimes of the fourth degree. Under the bill, a person would be guilty of a crime of a fourth degree by: (1) violating the safe carry requirements established by the bill; (2) violating the requirements to obtain insurance and display proof of the insurance, in certain instances; (3) failing to disclose the presence of a handgun to a law enforcement officer, upon request, if stopped or detained; (4) failing to provide a handgun to a law enforcement officer, upon request, if detained for a criminal investigation; (5) committing a second or subsequent offense of failing to display a permit to carry a handgun to a law enforcement officer if stopped or detained; (6) carrying a handgun in public without a permit to carry, under certain circumstances; and (7) carrying a handgun in public openly and not concealed, whether or not in possession of a permit to carry. Crimes of the fourth degree are punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both.

A person who fails to display the permit to carry a handgun to a law enforcement officer would be guilty of a disorderly persons offense and subject to a \$100 fine for a first offense. A disorderly

persons offense is punishable by up to six months' imprisonment, a fine of up to \$1,000, or both. Disorderly persons offenses are adjudicated by municipal courts, in most circumstances.

The OLS cannot determine the number of convictions the bill's provisions may generate, and by extension, the total of any resultant fine and penalty revenue. The OLS additionally notes that due to financial constraints, many penalties go unpaid.

Section: Law and Public Safety

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).