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FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

Derek Hall - For South Jersey Times, 'N.J. targets gun traffickers with strict new penalties The state Legislature passed the bill at the end of June.', *South Jersey Times* (online), 25 Aug 2023 001

Special to The Claiborne Progress, 'Legislature passes 3 bills before adjournment', *Claiborne Progress* (online), 24Aug 2023

CL/JA

§§1-3
C.2C:39-16.1
to 2C:39-16.3
and Note to
N.J.S.2C:39-9
and 2C:39-10

P.L. 2023, CHAPTER 148, *approved August 23, 2023*
Senate, No. 3150 (*First Reprint*)

1 **AN ACT** concerning unlawful trafficking of firearms and
2 supplementing Title 2C of the New Jersey Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 ¹1 This act shall be known and may be cited as the “Real
8 Accountability for Consequences of Unlawful Trafficking of
9 Firearms Act.”

10

11 2. a. As used in this act, “firearm trafficking violation” means:

12 (1) A violation of paragraph (1) ¹of¹ subsection a. of
13 N.J.S.2C:39-10 by selling, giving, transferring, assigning, or
14 otherwise disposing of a handgun to a purchaser, assignee, donee,
15 receiver, or holder who the defendant knows is not licensed as a
16 dealer or has not secured a permit to purchase a handgun pursuant
17 to subsection a. of N.J.S.2C:58-3;

18 (2) A violation of paragraph (1) ¹of¹ subsection a. of
19 N.J.S.2C:39-10 by selling, giving, transferring, assigning, or
20 otherwise disposing of a rifle or shotgun to a purchaser, assignee,
21 donee, receiver ¹,¹ or holder who the defendant knows is not
22 licensed as a dealer or does not possess a valid firearms purchaser
23 identification card and ¹has not¹ complied with the requirements of
24 paragraph (1) of subsection b. of N.J.S.2C:58-3;

25 (3) A violation of paragraph (4) of subsection a. of N.J.S.2C:39-
26 10 by selling or transferring a firearm knowing that the recipient
27 intends to sell, transfer, assign, or otherwise dispose of that firearm
28 to another person who is disqualified from possessing a firearm
29 under State or federal law;

30 (4) A violation of subsection i. of N.J.S.2C:39-9 by
31 transporting, shipping, or otherwise bringing into this State, or
32 conspiring to transport, ship, or otherwise bring into this State, any
33 firearm for the purpose of unlawfully selling, transferring, giving,
34 assigning, or otherwise disposing of that firearm to another
35 individual;

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SLP committee amendments adopted October 27, 2022.

1 (5) A violation of subsection e. of N.J.S.2C:39-10 by selling,
2 giving, transferring, assigning or otherwise disposing of a firearm to
3 a person who is under the age of 18 years, except as permitted in
4 section 14 of P.L.1979, c.179 (C.2C:58-6.1); or

5 (6) A violation of subsections (a), (b), (c), (d), (h), (i), (j), (n),
6 (u), or (x) of Title 18 U.S.C. s.922 or subparagraph (A) of
7 subsection (a)(1) of Title 18 U.S.C. s.924.

8 b. (1) A person who purposely commits any firearm
9 trafficking violation enumerated in subsection a. of this section
10 shall be strictly liable for a death that results from the discharge of
11 the illegally trafficked firearm used in the course of committing
12 ¹the a crime and shall be guilty of a crime of the first degree.

13 (2) A person who purposely commits any firearm trafficking
14 violation enumerated in subsection a. of this section is strictly liable
15 for a serious bodily injury or significant bodily injury as defined by
16 N.J.S.2C:11-1 that results from the discharge of the illegally
17 trafficked firearm while used in the course of committing ¹the a
18 crime and shall be guilty of a crime of the second degree.

19 (3) For purposes of paragraphs (1) and (2) of this subsection, an
20 act shall be deemed to be in the course of committing a crime if the
21 act occurs during or as part of an attempt to commit a crime or the
22 commission of a crime or in the immediate flight after the attempt
23 to commit or the commission of a crime.

24 c. The act of selling, giving, transferring, assigning, or
25 otherwise disposing of a firearm shall be deemed a cause of death,
26 serious bodily injury, or significant bodily injury when:

27 (1) the act is an antecedent but for which the death, serious
28 bodily injury, or significant bodily injury would not have occurred;

29 (2) the death, serious bodily injury, or significant bodily injury
30 occurred ¹was¹ not more than three years from the person's act;
31 and

32 (3) the death, serious bodily injury, or significant bodily injury
33 was not dependent upon ¹the¹ conduct of another person which was
34 so unrelated to the use of the firearm it did not have a just bearing
35 on the actor's liability.

36
37 ¹2. 3.¹ a. In a prosecution under section ¹1 2¹ of P.L. ,
38 c. (C.) (pending before the Legislature as this bill), the trier of
39 fact may infer that the defendant had the requisite mental state to
40 commit a firearm trafficking violation if the defendant:

41 (1) transferred or planned to transfer the firearm within 45 days
42 of the defendant's purchase and receipt of the firearm;

43 (2) sold three or more firearms to the other person within a one-
44 year period;

45 (3) received compensation for the sale of the firearm to another
46 person that was significantly above the fair market value of the
47 firearm;

1 (4) did not conduct the transaction through a licensed retail
2 dealer pursuant to paragraph (2) of subsection a. or paragraph (2) of
3 subsection b. of N.J.S.2C:58-3; or

4 (5) did not abide by the requirements of paragraph (3) of
5 subsection a. or paragraph (3) of subsection b. of N.J.S.2C:58-3 and
6 did not provide a receipt or other documentation regarding the sale
7 to the other person.

8 b. The provisions of N.J.S.2C:2-3 governing the causal
9 relationship between conduct and result shall not apply in a
10 prosecution under ¹**[this]**¹ section ²2 of P.L. , c. (C.)
11 (pending before the Legislature as this bill)¹.

12 c. In a prosecution under section ¹**[1]**² of P.L. , c. (C.)
13 (pending before the Legislature as this bill), the defendant's actions
14 outside of this State shall be sufficient for prosecution if the
15 defendant knew or should have known that the recipient of the
16 firearm intended to possess, transfer, dispose, sell, or otherwise
17 transport the firearm in this State.

18 d. It shall not be a defense to a prosecution under section ¹**[1]**
19 ²2 of P.L. , c. (C.) (pending before the Legislature as this
20 bill) that:

21 (1) the death or serious or significant bodily injury took place in
22 a jurisdiction other than this State; or

23 (2) the decedent or victim contributed to their own death or
24 serious bodily injury.

25 e. Nothing in this section shall be deemed to preclude, if the
26 evidence so warrants, an indictment and conviction for any other
27 offense.

28

29 ¹**[3.]**⁴ This act shall take effect immediately.

30

31

32

33

34 Establishes strict liability criminal penalties for firearm
35 trafficking that results in injury or death.

SENATE, No. 3150

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED OCTOBER 3, 2022

Sponsored by:
Senator TROY SINGLETON
District 7 (Burlington)

SYNOPSIS

Establishes strict liability criminal penalties for firearm trafficking that results in injury or death.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning unlawful trafficking of firearms and
2 supplementing Title 2C of the New Jersey Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the “Real
8 Accountability for Consequences of Unlawful Trafficking of
9 Firearms Act.”

10

11 2. a. As used in this act, “firearm trafficking violation” means:

12 (1) A violation of paragraph (1) subsection a. of N.J.S.2C:39-10
13 by selling, giving, transferring, assigning, or otherwise disposing of
14 a handgun to a purchaser, assignee, donee, receiver, or holder who
15 the defendant knows is not licensed as a dealer or has not secured a
16 permit to purchase a handgun pursuant to subsection a. of
17 N.J.S.2C:58-3;

18 (2) A violation of paragraph (1) subsection a. of N.J.S.2C:39-10
19 by selling, giving, transferring, assigning, or otherwise disposing of
20 a rifle or shotgun to a purchaser, assignee, donee, receiver or holder
21 who the defendant knows is not licensed as a dealer or does not
22 possess a valid firearms purchaser identification card and complied
23 with the requirements of paragraph (1) of subsection b. of
24 N.J.S.2C:58-3;

25 (3) A violation of paragraph (4) of subsection a. of N.J.S.2C:39-
26 10 by selling or transferring a firearm knowing that the recipient
27 intends to sell, transfer, assign, or otherwise dispose of that firearm
28 to another person who is disqualified from possessing a firearm
29 under State or federal law;

30 (4) A violation of subsection i. of N.J.S.2C:39-9 by
31 transporting, shipping, or otherwise bringing into this State, or
32 conspiring to transport, ship, or otherwise bring into this State, any
33 firearm for the purpose of unlawfully selling, transferring, giving,
34 assigning, or otherwise disposing of that firearm to another
35 individual;

36 (5) A violation of subsection e. of N.J.S.2C:39-10 by selling,
37 giving, transferring, assigning or otherwise disposing of a firearm to
38 a person who is under the age of 18 years, except as permitted in
39 section 14 of P.L.1979, c. 179 (C.2C:58-6.1); or

40 (6) A violation of subsections (a), (b), (c), (d), (h), (i), (j), (n),
41 (u), or (x) of Title 18 U.S.C. s.922 or subparagraph (A) of
42 subsection (a)(1) of Title 18 U.S.C. s.924.

43 b. (1) A person who purposely commits any firearm
44 trafficking violation enumerated in subsection a. of this section
45 shall be strictly liable for a death that results from the discharge of
46 the illegally trafficked firearm used in the course of committing the
47 crime and shall be guilty of a crime of the first degree.

1 (2) A person who purposely commits any firearm trafficking
2 violation enumerated in subsection a. of this section is strictly liable
3 for a serious bodily injury or significant bodily injury as defined by
4 N.J.S.2C:11-1 that results from the discharge of the illegally
5 trafficked firearm while used in the course of committing the crime
6 and shall be guilty of a crime of the second degree.

7 (3) For purposes of paragraphs (1) and (2) of this subsection, an
8 act shall be deemed to be in the course of committing a crime if the
9 act occurs during or as part of an attempt to commit a crime or the
10 commission of a crime or in the immediate flight after the attempt
11 to commit or the commission of a crime.

12 c. The act of selling, giving, transferring, assigning, or
13 otherwise disposing of a firearm shall be deemed a cause of death,
14 serious bodily injury, or significant bodily injury when:

15 (1) the act is an antecedent but for which the death, serious
16 bodily injury, or significant bodily injury would not have occurred;

17 (2) the death, serious bodily injury, or significant bodily injury
18 occurred was not more than three years from the person's act; and

19 (3) the death, serious bodily injury, or significant bodily injury
20 was not dependent upon conduct of another person which was so
21 unrelated to the use of the firearm it did not have a just bearing on
22 the actor's liability.

23

24 3. a. In a prosecution under section 1 of P.L. , c. (C.)
25 (pending before the Legislature as this bill), the trier of fact may
26 infer that the defendant had the requisite mental state to commit a
27 firearm trafficking violation if the defendant:

28 (1) transferred or planned to transfer the firearm within 45 days
29 of the defendant's purchase and receipt of the firearm;

30 (2) sold three or more firearms to the other person within a one-
31 year period;

32 (3) received compensation for the sale of the firearm to another
33 person that was significantly above the fair market value of the
34 firearm;

35 (4) did not conduct the transaction through a licensed retail
36 dealer pursuant to paragraph (2) of subsection a. or paragraph (2) of
37 subsection b. of N.J.S.2C:58-3; or

38 (5) did not abide by the requirements of paragraph (3) of
39 subsection a. or paragraph (3) of subsection b. of N.J.S.2C:58-3 and
40 did not provide a receipt or other documentation regarding the sale
41 to the other person.

42 b. The provisions of N.J.S.2C:2-3 governing the causal
43 relationship between conduct and result shall not apply in a
44 prosecution under this section.

45 c. In a prosecution under section 1 of P.L. , c. (C.)
46 (pending before the Legislature as this bill), the defendant's actions
47 outside of this State shall be sufficient for prosecution if the
48 defendant knew or should have known that the recipient of the

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4

1 firearm intended to possess, transfer, dispose, sell, or otherwise
2 transport the firearm in this State.

3 d. It shall not be a defense to a prosecution under section 1 of
4 P.L. , c. (C.) (pending before the Legislature as this bill)
5 that:

6 (1) the death or serious or significant bodily injury took place in
7 a jurisdiction other than this State; or

8 (2) the decedent or victim contributed to their own death or
9 serious bodily injury.

10 e. Nothing in this section shall be deemed to preclude, if the
11 evidence so warrants, an indictment and conviction for any other
12 offense.

13

14 4. This act shall take effect immediately.

15

16

17 STATEMENT

18

19 This bill establishes strict liability criminal penalties for firearm
20 trafficking that results in bodily injury or death from the discharge
21 of an illegally trafficked firearm used in the course of committing a
22 crime. Under the bill, a person who commits a firearm trafficking
23 violation resulting in a death would be guilty of a first degree crime.
24 The bill also establishes a second degree crime of strict liability
25 firearm trafficking that results in serious bodily injury or significant
26 bodily injury. A crime of the first degree is punishable by 10 to 20
27 years imprisonment, a fine of up to \$200,000, or both. Second
28 degree crimes are punishable by five to 10 years imprisonment, a
29 fine of up to \$150,000, or both.

30 Under the bill, a firearm trafficking violation is defined as
31 unlawfully transferring a handgun, rifle, or shotgun to any person
32 who is not a licensed dealer or does not possess the requisite
33 firearms purchaser identification card or permit to purchase a
34 handgun. A firearm trafficking violation also includes unlawfully
35 transferring a firearm to someone the transferor knows is
36 disqualified from possessing a firearm under current law or is under
37 the age of 18. Transporting a firearm into this State for the purpose
38 of unlawfully transferring it or committing various federal firearm
39 trafficking offenses also would be included as a firearm trafficking
40 violation under the bill.

41 Under the bill, the act of selling, giving, transferring, assigning,
42 or otherwise disposing of a firearm would be deemed a cause of
43 death or serious or significant bodily injury when the:

- 44 • act is an antecedent but for which the death or serious or
45 significant bodily injury would not have occurred;
- 46 • death or serious or significant bodily injury was not more
47 than three years after the person's act; and

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- 1 • death or serious or significant bodily injury was not
2 dependent upon the conduct of another person which was so
3 unrelated to the use of the firearm it did not have a just
4 bearing on the actor's liability.

5 The bill also addresses the prosecution of strict liability for
6 firearm trafficking violations. Under the bill, a trier of fact may
7 infer that the defendant had the requisite mental state to commit a
8 firearm trafficking violation if the defendant:

- 9 • transferred or planned to transfer the firearm within 45 days
10 of the defendant's purchase and receipt of the firearm;
11 • sold three or more firearms to the other person within a one-
12 year period;
13 • received compensation for the sale of the firearm to the other
14 person that was significantly above the fair market value of
15 the firearm;
16 • did not conduct the transaction through a licensed retail
17 dealer pursuant; or
18 • did not abide by the criminal history record background
19 check requirements under current law and did not provide a
20 receipt or other documentation regarding the sale to the
21 other person.

22 The bill provides that a defendant's actions outside of this State
23 are sufficient for prosecution under the bill if the defendant knew or
24 should have known that the recipient of the firearm intended to
25 possess, transfer, dispose, sell, or otherwise transport the firearm in
26 this State.

27 Under the bill, it would not be a defense to a prosecution that the
28 death or serious or significant bodily injury took place in a
29 jurisdiction other than this State. It also would not be a defense if
30 the decedent or victim contributed to their own death or serious
31 bodily injury.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 3150

STATE OF NEW JERSEY

DATED: JUNE 15, 2023

The Assembly Judiciary Committee reports favorably Senate Bill No. 3150 (1R).

This bill establishes strict liability criminal penalties for firearm trafficking that results in bodily injury or death from the discharge of an illegally trafficked firearm used in the course of committing a crime.

Under the bill, a person who commits a firearm trafficking violation resulting in a death would be guilty of a first degree crime. The bill also establishes a second degree crime of strict liability firearm trafficking that results in serious bodily injury or significant bodily injury. A crime of the first degree is punishable by 10 to 20 years imprisonment, a fine of up to \$200,000, or both. Second degree crimes are punishable by five to 10 years imprisonment, a fine of up to \$150,000, or both.

The bill defines a firearm trafficking violation as:

(1) unlawfully transferring a handgun, rifle, or shotgun to any person who is not a licensed dealer or does not possess the requisite firearms purchaser identification card or permit to purchase a handgun;

(2) unlawfully transferring a firearm to someone the transferor knows is disqualified from possessing a firearm under current law or is under the age of 18; or

(3) transporting a firearm into this State for the purpose of unlawfully transferring it or committing various federal firearm trafficking offenses.

Under the bill, the act of selling, giving, transferring, assigning, or otherwise disposing of a firearm would be deemed a cause of death or serious or significant bodily injury when the:

(1) act is an antecedent but for which the death or serious or significant bodily injury would not have occurred;

(2) death or serious or significant bodily injury was not more than three years after the person's act; and

(3) death or serious or significant bodily injury was not dependent upon the conduct of another person which was so unrelated to the use of the firearm it did not have a just bearing on the actor's liability.

The bill also addresses the prosecution of strict liability for firearm trafficking violations. Under the bill, a trier of fact may infer that the defendant had the requisite mental state to commit a firearm trafficking violation if the defendant:

(1) transferred or planned to transfer the firearm within 45 days of the defendant's purchase and receipt of the firearm;

(2) sold three or more firearms to the other person within a one-year period;

(3) received compensation for the sale of the firearm to the other person that was significantly above the fair market value of the firearm;

(4) did not conduct the transaction through a licensed retail dealer pursuant; or

(5) did not abide by the criminal history record background check requirements under current law and did not provide a receipt or other documentation regarding the sale to the other person.

The bill provides that a defendant's actions outside of this State are sufficient for prosecution under the bill if the defendant knew or should have known that the recipient of the firearm intended to possess, transfer, dispose, sell, or otherwise transport the firearm in this State.

Under the bill, it would not be a defense to a prosecution that the death or serious or significant bodily injury took place in a jurisdiction other than this State. It also would not be a defense if the decedent or victim contributed to their own death or serious bodily injury.

As reported by the committee, Senate Bill No. 3150(1R) is identical to Assembly Bill No. 5064 which was also reported by the committee on this date.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 3150

STATE OF NEW JERSEY

DATED: JUNE 22, 2023

The Assembly Appropriations Committee reports favorably Senate Bill No. 3150 (1R).

This bill establishes strict liability criminal penalties for firearm trafficking that results in bodily injury or death from the discharge of an illegally trafficked firearm used in the course of committing a crime. Under the bill, a person who commits a firearm trafficking violation resulting in a death would be guilty of a first degree crime. The bill also establishes a second degree crime of strict liability firearm trafficking that results in serious bodily injury or significant bodily injury. A crime of the first degree is punishable by 10 to 20 years imprisonment, a fine of up to \$200,000, or both. Second degree crimes are punishable by five to 10 years imprisonment, a fine of up to \$150,000, or both.

Under the bill, a firearm trafficking violation is defined as unlawfully transferring a handgun, rifle, or shotgun to any person who is not a licensed dealer or does not possess the requisite firearms purchaser identification card or permit to purchase a handgun. A firearm trafficking violation also includes unlawfully transferring a firearm to someone the transferor knows is disqualified from possessing a firearm under current law or is under the age of 18. Transporting a firearm into this State for the purpose of unlawfully transferring it or committing various federal firearm trafficking offenses also would be included as a firearm trafficking violation under the bill.

Under the bill, the act of selling, giving, transferring, assigning, or otherwise disposing of a firearm would be deemed a cause of death or serious or significant bodily injury when the:

- act is an antecedent but for which the death or serious or significant bodily injury would not have occurred;
- death or serious or significant bodily injury was not more than three years after the person's act; and
- death or serious or significant bodily injury was not dependent upon the conduct of another person which was so unrelated to the use of the firearm it did not have a just bearing on the actor's liability.

The bill also addresses the prosecution of strict liability for firearm trafficking violations. Under the bill, a trier of fact may infer that the defendant had the requisite mental state to commit a firearm trafficking violation if the defendant:

- transferred or planned to transfer the firearm within 45 days of the defendant's purchase and receipt of the firearm;
- sold three or more firearms to the other person within a one-year period;
- received compensation for the sale of the firearm to the other person that was significantly above the fair market value of the firearm;
- did not conduct the transaction through a licensed retail dealer pursuant; or
- did not abide by the criminal history record background check requirements under current law and did not provide a receipt or other documentation regarding the sale to the other person.

The bill provides that a defendant's actions outside of this State are sufficient for prosecution under the bill if the defendant knew or should have known that the recipient of the firearm intended to possess, transfer, dispose, sell, or otherwise transport the firearm in this State.

Under the bill, it would not be a defense to a prosecution that the death or serious or significant bodily injury took place in a jurisdiction other than this State. It also would not be a defense if the decedent or victim contributed to their own death or serious bodily injury.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate annual increase in State expenditures and revenues. The OLS lacks sufficient information to quantify the fiscal impacts as it is not possible to know how many individuals will be prosecuted, tried, and sentenced under the provisions of the bill.

The State may receive indeterminate annual revenue from fines and penalties imposed on individuals violating the provisions of the bill; however, the State's ability to collect criminal fines and penalties has historically been limited.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 3150

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 27, 2022

The Senate Law and Public Safety Committee reports favorably Senate Bill No. 3150, with committee amendments.

As amended and reported by the committee, this bill establishes strict liability criminal penalties for firearm trafficking that results in bodily injury or death from the discharge of an illegally trafficked firearm used in the course of committing a crime. Under the amended bill, a person who commits a firearm trafficking violation resulting in a death would be guilty of a first degree crime. The amended bill also establishes a second degree crime of strict liability firearm trafficking that results in serious bodily injury or significant bodily injury. A crime of the first degree is punishable by 10 to 20 years imprisonment, a fine of up to \$200,000, or both. Second degree crimes are punishable by five to 10 years imprisonment, a fine of up to \$150,000, or both.

Under the amended bill, a firearm trafficking violation is defined as unlawfully transferring a handgun, rifle, or shotgun to any person who is not a licensed dealer or does not possess the requisite firearms purchaser identification card or permit to purchase a handgun. A firearm trafficking violation also includes unlawfully transferring a firearm to someone the transferor knows is disqualified from possessing a firearm under current law or is under the age of 18. Transporting a firearm into this State for the purpose of unlawfully transferring it or committing various federal firearm trafficking offenses also would be included as a firearm trafficking violation under the amended bill.

Under the amended bill, the act of selling, giving, transferring, assigning, or otherwise disposing of a firearm would be deemed a cause of death or serious or significant bodily injury when the:

- act is an antecedent but for which the death or serious or significant bodily injury would not have occurred;
- death or serious or significant bodily injury was not more than three years after the person's act; and
- death or serious or significant bodily injury was not dependent upon the conduct of another person which was so unrelated to the use of the firearm it did not have a just bearing on the actor's liability.

The amended bill also addresses the prosecution of strict liability for firearm trafficking violations. Under the amended bill, a trier of fact may infer that the defendant had the requisite mental state to commit a firearm trafficking violation if the defendant:

- transferred or planned to transfer the firearm within 45 days of the defendant's purchase and receipt of the firearm;
- sold three or more firearms to the other person within a one-year period;
- received compensation for the sale of the firearm to the other person that was significantly above the fair market value of the firearm;
- did not conduct the transaction through a licensed retail dealer pursuant; or
- did not abide by the criminal history record background check requirements under current law and did not provide a receipt or other documentation regarding the sale to the other person.

The amended bill provides that a defendant's actions outside of this State are sufficient for prosecution under the bill if the defendant knew or should have known that the recipient of the firearm intended to possess, transfer, dispose, sell, or otherwise transport the firearm in this State.

Under the amended bill, it would not be a defense to a prosecution that the death or serious or significant bodily injury took place in a jurisdiction other than this State. It also would not be a defense if the decedent or victim contributed to their own death or serious bodily injury.

COMMITTEE AMENDMENTS:

The committee amended the bill to make technical corrections.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 3150

STATE OF NEW JERSEY

DATED: DECEMBER 5, 2022

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3150 (1R).

This bill establishes strict liability criminal penalties for firearm trafficking that results in bodily injury or death from the discharge of an illegally trafficked firearm used in the course of committing a crime. Under the bill, a person who commits a firearm trafficking violation resulting in a death would be guilty of a first degree crime. The bill also establishes a second degree crime of strict liability firearm trafficking that results in serious bodily injury or significant bodily injury. A crime of the first degree is punishable by 10 to 20 years imprisonment, a fine of up to \$200,000, or both. Second degree crimes are punishable by five to 10 years imprisonment, a fine of up to \$150,000, or both.

Under the bill, a firearm trafficking violation is defined as unlawfully transferring a handgun, rifle, or shotgun to any person who is not a licensed dealer or does not possess the requisite firearms purchaser identification card or permit to purchase a handgun. A firearm trafficking violation also includes unlawfully transferring a firearm to someone the transferor knows is disqualified from possessing a firearm under current law or is under the age of 18. Transporting a firearm into this State for the purpose of unlawfully transferring it or committing various federal firearm trafficking offenses also would be included as a firearm trafficking violation under the bill.

Under the bill, the act of selling, giving, transferring, assigning, or otherwise disposing of a firearm would be deemed a cause of death or serious or significant bodily injury when the:

- act is an antecedent but for which the death or serious or significant bodily injury would not have occurred;
- death or serious or significant bodily injury was not more than three years after the person's act; and
- death or serious or significant bodily injury was not dependent upon the conduct of another person which was so unrelated to the use of the firearm it did not have a just bearing on the actor's liability.

The bill also addresses the prosecution of strict liability for firearm trafficking violations. Under the bill, a trier of fact may infer that the defendant had the requisite mental state to commit a firearm trafficking violation if the defendant:

- transferred or planned to transfer the firearm within 45 days of the defendant's purchase and receipt of the firearm;
- sold three or more firearms to the other person within a one-year period;
- received compensation for the sale of the firearm to the other person that was significantly above the fair market value of the firearm;
- did not conduct the transaction through a licensed retail dealer pursuant; or
- did not abide by the criminal history record background check requirements under current law and did not provide a receipt or other documentation regarding the sale to the other person.

The bill provides that a defendant's actions outside of this State are sufficient for prosecution under the bill if the defendant knew or should have known that the recipient of the firearm intended to possess, transfer, dispose, sell, or otherwise transport the firearm in this State.

Under the bill, it would not be a defense to a prosecution that the death or serious or significant bodily injury took place in a jurisdiction other than this State. It also would not be a defense if the decedent or victim contributed to their own death or serious bodily injury.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate annual increase in State expenditures and revenues. The OLS lacks sufficient information to quantify the fiscal impacts as it is not possible to know how many individuals will be prosecuted, tried, and sentenced under the provisions of the bill.

The State may receive indeterminate annual revenue from fines and penalties imposed on individuals violating the provisions of the bill; however, the State's ability to collect criminal fines and penalties has historically been limited.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3150 STATE OF NEW JERSEY 220th LEGISLATURE

DATED: NOVEMBER 15, 2022

SUMMARY

- Synopsis:** Establishes strict liability criminal penalties for firearm trafficking that results in injury or death.
- Type of Impact:** Annual State expenditure and revenue increases.
- Agencies Affected:** Department of Law and Public Safety; the Judiciary; Department of Corrections; State Parole Board; Office of the Public Defender.

Office of Legislative Services Estimate

Annual Fiscal Impact	
State Cost Increase	Indeterminate
State Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate annual increase in State expenditures and revenues. The OLS lacks sufficient information to quantify the fiscal impacts as it is not possible to know how many individuals will be prosecuted, tried, and sentenced under the provisions of the bill.
- The State may receive indeterminate annual revenue from fines and penalties imposed on individuals violating the provisions of the bill; however, the State's ability to collect criminal fines and penalties has historically been limited.

BILL DESCRIPTION

This bill establishes strict liability criminal penalties for firearm trafficking that results in serious or significant bodily injury or death from the discharge of an illegally trafficked firearm used in the course of committing a crime.

A person who commits a firearm trafficking violation resulting in a death would be guilty of a crime of the first degree. A person who commits a firearm trafficking violation resulting in serious or significant bodily injury would be guilty of a crime of the second degree. A crime of the first degree is punishable by 10 to 20 years imprisonment, a fine of up to \$200,000, or both. A crime

of the second degree punishable by five to 10 years imprisonment, a fine of up to \$150,000, or both. Under current State law, a firearm trafficking violation can be a crime of the second or fourth degree depending on the circumstances.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill will result in an indeterminate annual increase in State expenditures and revenues. The OLS lacks sufficient information to quantify the fiscal impacts as it is not possible to know how many individuals will be prosecuted, tried, and sentenced under the provisions of this bill.

The following State agencies would incur caseload and expenditure increases under the bill: a) the Department of Law and Public Safety would likely have to prosecute additional cases because the increased charges may make defendants reluctant to enter a guilty plea; b) the Judiciary would have to adjudicate additional offenders and monitor additional probationers because conviction for crimes of a higher degree could create a reluctance for a defendant to enter a guilty plea, thereby generating additional court costs; c) the Office of the Public Defender would have to represent additional low-income criminal defendants; d) the Department of Corrections would have to house and care for more individuals sentenced to prison terms, and potentially longer prison terms; and e) the State Parole Board would have to supervise the return to society of additional convicts.

A presumption of non-incarceration applies to crimes of the third and fourth degree but not to crimes of the first and second degree. The OLS notes that to the extent that the bill will result in additional incarcerations or incarcerations for longer periods of time, based on information provided by the Department of Corrections, the FY 2021 average annual costs for housing an inmate were \$55,389, whereas the average daily cost was \$151.75. The OLS, however, cannot project the number of future prosecutions, trials, and incarcerations that will occur based on the provisions of this bill.

Additional indeterminate annual State revenue will accrue from fine and penalty payments from convicted violators of the bill's provisions. Crimes of the first degree are punishable by a fine of up to \$200,000, a term of imprisonment between 10 years and 20 years, or both. Crimes of the second degree are punishable by a fine of up to \$150,000, a term of imprisonment of five to 10 years, or both. The OLS cannot determine the number of convictions under the bill, and by extension, the total of any resultant fine and penalty revenue. The OLS additionally notes that due to financial constraints of those convicted of crimes, many penalties go unpaid.

Section: Law and Public Safety

*Analyst: Kristin Brunner Santos
Lead Fiscal Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

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.).

ASSEMBLY, No. 5064

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JANUARY 12, 2023

Sponsored by:

Assemblywoman LINDA S. CARTER
District 22 (Middlesex, Somerset and Union)
Assemblyman REGINALD W. ATKINS
District 20 (Union)
Assemblyman STERLEY S. STANLEY
District 18 (Middlesex)

Co-Sponsored by:

Assemblywomen McKnight, Jaffer, Reynolds-Jackson, Assemblyman Verrelli, Assemblywoman Murphy, Assemblymen Coughlin, Tully and Assemblywoman Swain

SYNOPSIS

Establishes strict liability criminal penalties for firearm trafficking that results in injury or death.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/30/2023)

1 AN ACT concerning unlawful trafficking of firearms and
2 supplementing Title 2C of the New Jersey Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the “Real
8 Accountability for Consequences of Unlawful Trafficking of
9 Firearms Act.”

10

11 2. a. As used in this act, “firearm trafficking violation” means:

12 (1) A violation of paragraph (1) of subsection a. of N.J.S.2C:39-
13 10 by selling, giving, transferring, assigning, or otherwise disposing
14 of a handgun to a purchaser, assignee, donee, receiver, or holder
15 who the defendant knows is not licensed as a dealer or has not
16 secured a permit to purchase a handgun pursuant to subsection a. of
17 N.J.S.2C:58-3;

18 (2) A violation of paragraph (1) of subsection a. of N.J.S.2C:39-
19 10 by selling, giving, transferring, assigning, or otherwise disposing
20 of a rifle or shotgun to a purchaser, assignee, donee, receiver, or
21 holder who the defendant knows is not licensed as a dealer or does
22 not possess a valid firearms purchaser identification card and has
23 not complied with the requirements of paragraph (1) of subsection
24 b. of N.J.S.2C:58-3;

25 (3) A violation of paragraph (4) of subsection a. of N.J.S.2C:39-
26 10 by selling or transferring a firearm knowing that the recipient
27 intends to sell, transfer, assign, or otherwise dispose of that firearm
28 to another person who is disqualified from possessing a firearm
29 under State or federal law;

30 (4) A violation of subsection i. of N.J.S.2C:39-9 by
31 transporting, shipping, or otherwise bringing into this State, or
32 conspiring to transport, ship, or otherwise bring into this State, any
33 firearm for the purpose of unlawfully selling, transferring, giving,
34 assigning, or otherwise disposing of that firearm to another
35 individual;

36 (5) A violation of subsection e. of N.J.S.2C:39-10 by selling,
37 giving, transferring, assigning or otherwise disposing of a firearm to
38 a person who is under the age of 18 years, except as permitted in
39 section 14 of P.L.1979, c.179 (C.2C:58-6.1); or

40 (6) A violation of subsections (a), (b), (c), (d), (h), (i), (j), (n),
41 (u), or (x) of Title 18 U.S.C. s.922 or subparagraph (A) of
42 subsection (a)(1) of Title 18 U.S.C. s.924.

43 b. (1) A person who purposely commits any firearm
44 trafficking violation enumerated in subsection a. of this section
45 shall be strictly liable for a death that results from the discharge of
46 the illegally trafficked firearm used in the course of committing a
47 crime and shall be guilty of a crime of the first degree.

1 (2) A person who purposely commits any firearm trafficking
2 violation enumerated in subsection a. of this section is strictly liable
3 for a serious bodily injury or significant bodily injury as defined by
4 N.J.S.2C:11-1 that results from the discharge of the illegally
5 trafficked firearm while used in the course of committing a crime
6 and shall be guilty of a crime of the second degree.

7 (3) For purposes of paragraphs (1) and (2) of this subsection, an
8 act shall be deemed to be in the course of committing a crime if the
9 act occurs during or as part of an attempt to commit a crime or the
10 commission of a crime or in the immediate flight after the attempt
11 to commit or the commission of a crime.

12 c. The act of selling, giving, transferring, assigning, or
13 otherwise disposing of a firearm shall be deemed a cause of death,
14 serious bodily injury, or significant bodily injury when:

15 (1) the act is an antecedent but for which the death, serious
16 bodily injury, or significant bodily injury would not have occurred;

17 (2) the death, serious bodily injury, or significant bodily injury
18 occurred not more than three years from the person's act; and

19 (3) the death, serious bodily injury, or significant bodily injury
20 was not dependent upon the conduct of another person which was so
21 unrelated to the use of the firearm it did not have a just bearing on
22 the actor's liability.

23

24 3. a. In a prosecution under section 2 of P.L. , c. (C.)
25 (pending before the Legislature as this bill), the trier of fact may
26 infer that the defendant had the requisite mental state to commit a
27 firearm trafficking violation if the defendant:

28 (1) transferred or planned to transfer the firearm within 45 days
29 of the defendant's purchase and receipt of the firearm;

30 (2) sold three or more firearms to the other person within a one-
31 year period;

32 (3) received compensation for the sale of the firearm to another
33 person that was significantly above the fair market value of the
34 firearm;

35 (4) did not conduct the transaction through a licensed retail
36 dealer pursuant to paragraph (2) of subsection a. or paragraph (2) of
37 subsection b. of N.J.S.2C:58-3; or

38 (5) did not abide by the requirements of paragraph (3) of
39 subsection a. or paragraph (3) of subsection b. of N.J.S.2C:58-3 and
40 did not provide a receipt or other documentation regarding the sale
41 to the other person.

42 b. The provisions of N.J.S.2C:2-3 governing the causal
43 relationship between conduct and result shall not apply in a
44 prosecution under section 2 of P.L. , c. (C.) (pending before
45 the Legislature as this bill).

46 c. In a prosecution under section 2 of P.L. , c. (C.)
47 (pending before the Legislature as this bill), the defendant's actions
48 outside of this State shall be sufficient for prosecution if the

1 defendant knew or should have known that the recipient of the
2 firearm intended to possess, transfer, dispose, sell, or otherwise
3 transport the firearm in this State.

4 d. It shall not be a defense to a prosecution under section 2 of
5 P.L. , c. (C.) (pending before the Legislature as this bill)
6 that:

7 (1) the death or serious or significant bodily injury took place in
8 a jurisdiction other than this State; or

9 (2) the decedent or victim contributed to their own death or
10 serious bodily injury.

11 e. Nothing in this section shall be deemed to preclude, if the
12 evidence so warrants, an indictment and conviction for any other
13 offense.

14

15 4. This act shall take effect immediately.

16

17

18

STATEMENT

19

20 This bill establishes strict liability criminal penalties for firearm
21 trafficking that results in bodily injury or death from the discharge
22 of an illegally trafficked firearm used in the course of committing a
23 crime. Under the bill, a person who commits a firearm trafficking
24 violation resulting in a death would be guilty of a first degree crime.
25 The bill also establishes a second degree crime of strict liability
26 firearm trafficking that results in serious bodily injury or significant
27 bodily injury. A crime of the first degree is punishable by 10 to 20
28 years imprisonment, a fine of up to \$200,000, or both. Second
29 degree crimes are punishable by five to 10 years imprisonment, a
30 fine of up to \$150,000, or both.

31 Under the bill, a firearm trafficking violation is defined as
32 unlawfully transferring a handgun, rifle, or shotgun to any person
33 who is not a licensed dealer or does not possess the requisite
34 firearms purchaser identification card or permit to purchase a
35 handgun. A firearm trafficking violation also includes unlawfully
36 transferring a firearm to someone the transferor knows is
37 disqualified from possessing a firearm under current law or is under
38 the age of 18. Transporting a firearm into this State for the purpose
39 of unlawfully transferring it or committing various federal firearm
40 trafficking offenses also would be included as a firearm trafficking
41 violation under the bill.

42 Under the bill, the act of selling, giving, transferring, assigning,
43 or otherwise disposing of a firearm would be deemed a cause of
44 death or serious or significant bodily injury when the:

- 45 • act is an antecedent but for which the death or serious or
46 significant bodily injury would not have occurred;
- 47 • death or serious or significant bodily injury was not more than
48 three years after the person's act; and

1 • death or serious or significant bodily injury was not dependent
2 upon the conduct of another person which was so unrelated to
3 the use of the firearm it did not have a just bearing on the
4 actor's liability.

5 The bill also addresses the prosecution of strict liability for
6 firearm trafficking violations. Under the bill, a trier of fact may
7 infer that the defendant had the requisite mental state to commit a
8 firearm trafficking violation if the defendant:

- 9 • transferred or planned to transfer the firearm within 45 days
10 of the defendant's purchase and receipt of the firearm;
11 • sold three or more firearms to the other person within a one-
12 year period;
13 • received compensation for the sale of the firearm to the other
14 person that was significantly above the fair market value of
15 the firearm;
16 • did not conduct the transaction through a licensed retail
17 dealer pursuant; or
18 • did not abide by the criminal history record background
19 check requirements under current law and did not provide a
20 receipt or other documentation regarding the sale to the other
21 person.

22 The bill provides that a defendant's actions outside of this State
23 are sufficient for prosecution under the bill if the defendant knew or
24 should have known that the recipient of the firearm intended to
25 possess, transfer, dispose, sell, or otherwise transport the firearm in
26 this State.

27 Under the bill, it would not be a defense to a prosecution that the
28 death or serious or significant bodily injury took place in a
29 jurisdiction other than this State. It also would not be a defense if
30 the decedent or victim contributed to their own death or serious
31 bodily injury.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5064

STATE OF NEW JERSEY

DATED: JUNE 22, 2023

The Assembly Appropriations Committee reports favorably Assembly Bill No. 5064.

This bill establishes strict liability criminal penalties for firearm trafficking that results in bodily injury or death from the discharge of an illegally trafficked firearm used in the course of committing a crime. Under the bill, a person who commits a firearm trafficking violation resulting in a death would be guilty of a first degree crime. The bill also establishes a second degree crime of strict liability firearm trafficking that results in serious bodily injury or significant bodily injury. A crime of the first degree is punishable by 10 to 20 years imprisonment, a fine of up to \$200,000, or both. Second degree crimes are punishable by five to 10 years imprisonment, a fine of up to \$150,000, or both.

Under the bill, a firearm trafficking violation is defined as unlawfully transferring a handgun, rifle, or shotgun to any person who is not a licensed dealer or does not possess the requisite firearms purchaser identification card or permit to purchase a handgun. A firearm trafficking violation also includes unlawfully transferring a firearm to someone the transferor knows is disqualified from possessing a firearm under current law or is under the age of 18. Transporting a firearm into this State for the purpose of unlawfully transferring it or committing various federal firearm trafficking offenses also would be included as a firearm trafficking violation under the bill.

Under the bill, the act of selling, giving, transferring, assigning, or otherwise disposing of a firearm would be deemed a cause of death or serious or significant bodily injury when the:

- act is an antecedent but for which the death or serious or significant bodily injury would not have occurred;
- death or serious or significant bodily injury was not more than three years after the person's act; and
- death or serious or significant bodily injury was not dependent upon the conduct of another person which was so unrelated to the use of the firearm it did not have a just bearing on the actor's liability.

The bill also addresses the prosecution of strict liability for firearm trafficking violations. Under the bill, a trier of fact may infer that the defendant had the requisite mental state to commit a firearm trafficking violation if the defendant:

- transferred or planned to transfer the firearm within 45 days of the defendant's purchase and receipt of the firearm;
- sold three or more firearms to the other person within a one-year period;
- received compensation for the sale of the firearm to the other person that was significantly above the fair market value of the firearm;
- did not conduct the transaction through a licensed retail dealer pursuant; or
- did not abide by the criminal history record background check requirements under current law and did not provide a receipt or other documentation regarding the sale to the other person.

The bill provides that a defendant's actions outside of this State are sufficient for prosecution under the bill if the defendant knew or should have known that the recipient of the firearm intended to possess, transfer, dispose, sell, or otherwise transport the firearm in this State.

Under the bill, it would not be a defense to a prosecution that the death or serious or significant bodily injury took place in a jurisdiction other than this State. It also would not be a defense if the decedent or victim contributed to their own death or serious bodily injury.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate annual increase in State expenditures and revenues. The OLS lacks sufficient information to quantify the fiscal impacts as it is not possible to know how many individuals will be prosecuted, tried, and sentenced under the provisions of the bill.

The State may receive indeterminate annual revenue from fines and penalties imposed on individuals violating the provisions of the bill; however, the State's ability to collect criminal fines and penalties has historically been limited.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5064

STATE OF NEW JERSEY

DATED: JUNE 15, 2023

The Assembly Judiciary Committee reports favorably Assembly Bill No. 5064.

This bill establishes strict liability criminal penalties for firearm trafficking that results in bodily injury or death from the discharge of an illegally trafficked firearm used in the course of committing a crime.

Under the bill, a person who commits a firearm trafficking violation resulting in a death would be guilty of a first degree crime. The bill also establishes a second degree crime of strict liability firearm trafficking that results in serious bodily injury or significant bodily injury. A crime of the first degree is punishable by 10 to 20 years imprisonment, a fine of up to \$200,000, or both. Second degree crimes are punishable by five to 10 years imprisonment, a fine of up to \$150,000, or both.

The bill defines a firearm trafficking violation as:

(1) unlawfully transferring a handgun, rifle, or shotgun to any person who is not a licensed dealer or does not possess the requisite firearms purchaser identification card or permit to purchase a handgun;

(2) unlawfully transferring a firearm to someone the transferor knows is disqualified from possessing a firearm under current law or is under the age of 18; or

(3) transporting a firearm into this State for the purpose of unlawfully transferring it or committing various federal firearm trafficking offenses.

Under the bill, the act of selling, giving, transferring, assigning, or otherwise disposing of a firearm would be deemed a cause of death or serious or significant bodily injury when the:

(1) act is an antecedent but for which the death or serious or significant bodily injury would not have occurred;

(2) death or serious or significant bodily injury was not more than three years after the person's act; and

(3) death or serious or significant bodily injury was not dependent upon the conduct of another person which was so unrelated to the use of the firearm it did not have a just bearing on the actor's liability.

The bill also addresses the prosecution of strict liability for firearm trafficking violations. Under the bill, a trier of fact may

infer that the defendant had the requisite mental state to commit a firearm trafficking violation if the defendant:

(1) transferred or planned to transfer the firearm within 45 days of the defendant's purchase and receipt of the firearm;

(2) sold three or more firearms to the other person within a one-year period;

(3) received compensation for the sale of the firearm to the other person that was significantly above the fair market value of the firearm;

(4) did not conduct the transaction through a licensed retail dealer pursuant; or

(5) did not abide by the criminal history record background check requirements under current law and did not provide a receipt or other documentation regarding the sale to the other person.

The bill provides that a defendant's actions outside of this State are sufficient for prosecution under the bill if the defendant knew or should have known that the recipient of the firearm intended to possess, transfer, dispose, sell, or otherwise transport the firearm in this State.

Under the bill, it would not be a defense to a prosecution that the death or serious or significant bodily injury took place in a jurisdiction other than this State. It also would not be a defense if the decedent or victim contributed to their own death or serious bodily injury.

As reported by the committee, Assembly Bill No. 5064 is identical to Senate Bill No. 3150(1R) which was also reported by the committee on this date.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 5064
STATE OF NEW JERSEY
220th LEGISLATURE

DATED: JUNE 21, 2023

SUMMARY

- Synopsis:** Establishes strict liability criminal penalties for firearm trafficking that results in injury or death.
- Type of Impact:** Annual State expenditure and revenue increases.
- Agencies Affected:** Department of Law and Public Safety; the Judiciary; Department of Corrections; State Parole Board; Office of the Public Defender.

Office of Legislative Services Estimate

Annual Fiscal Impact	
State Cost Increase	Indeterminate
State Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate annual increase in State expenditures and revenues. The OLS lacks sufficient information to quantify the fiscal impacts as it is not possible to know how many individuals will be prosecuted, tried, and sentenced under the provisions of the bill.
- The State may receive indeterminate annual revenue from fines and penalties imposed on individuals violating the provisions of the bill; however, the State's ability to collect criminal fines and penalties has historically been limited.

BILL DESCRIPTION

This bill establishes strict liability criminal penalties for firearm trafficking that results in serious or significant bodily injury or death from the discharge of an illegally trafficked firearm used in the course of committing a crime.

A person who commits a firearm trafficking violation resulting in a death would be guilty of a crime of the first degree. A person who commits a firearm trafficking violation resulting in serious or significant bodily injury would be guilty of a crime of the second degree. A crime of the first degree is punishable by 10 to 20 years imprisonment, a fine of up to \$200,000, or both. A crime of the second degree punishable by five to 10 years imprisonment, a fine of up to \$150,000, or

both. Under current State law, a firearm trafficking violation can be a crime of the second or fourth degree depending on the circumstances.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill will result in an indeterminate annual increase in State expenditures and revenues. The OLS lacks sufficient information to quantify the fiscal impacts as it is not possible to know how many individuals will be prosecuted, tried, and sentenced under the provisions of this bill.

The following State agencies would incur caseload and expenditure increases under the bill: a) the Department of Law and Public Safety would likely have to prosecute additional cases because the increased charges may make defendants reluctant to enter a guilty plea; b) the Judiciary would have to adjudicate additional offenders and monitor additional probationers because conviction for crimes of a higher degree could create a reluctance for a defendant to enter a guilty plea, thereby generating additional court costs; c) the Office of the Public Defender would have to represent additional low-income criminal defendants; d) the Department of Corrections would have to house and care for more individuals sentenced to prison terms, and potentially longer prison terms; and e) the State Parole Board would have to supervise the return to society of additional convicts.

A presumption of non-incarceration applies to crimes of the third and fourth degree but not to crimes of the first and second degree. The OLS notes that to the extent that the bill will result in additional incarcerations or incarcerations for longer periods of time, based on information provided by the Department of Corrections, the FY 2021 average annual costs for housing an inmate were \$55,389, whereas the average daily cost was \$151.75. The OLS, however, cannot project the number of future prosecutions, trials, and incarcerations that will occur based on the provisions of this bill.

Additional indeterminate annual State revenue will accrue from fine and penalty payments from convicted violators of the bill's provisions. Crimes of the first degree are punishable by a fine of up to \$200,000, a term of imprisonment between 10 years and 20 years, or both. Crimes of the second degree are punishable by a fine of up to \$150,000, a term of imprisonment of five to 10 years, or both. The OLS cannot determine the number of convictions under the bill, and by extension, the total of any resultant fine and penalty revenue. The OLS additionally notes that due to financial constraints of those convicted of crimes, many penalties go unpaid.

Section: Law and Public Safety

*Analyst: Kristin Brunner Santos
Lead Fiscal Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

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.).

Governor Murphy Signs First-in-the-Nation Legislation to Hold Gun Traffickers Criminally Liable for Resulting Deaths and Injuries

08/23/2023

New Initiative Continues the Murphy Administration's Steadfast Commitment to Combatting Gun Violence

TRENTON – Expanding on New Jersey's nation-leading gun safety laws, Governor Phil Murphy today signed S3150, which establishes strict liability criminal penalties for gun traffickers when an illegally trafficked firearm provided by them is used in a crime that results in serious or significant bodily injury or death.

Under the first-in-the-nation legislation, also known as the "Real Accountability for Consequences of Unlawful Trafficking of Firearms Act," a trafficked firearm used for a crime resulting in a death may be charged with a first-degree crime. Similarly, a person who commits a firearm trafficking violation resulting in serious or significant bodily injury may be charged with a second-degree crime. The bill will also allow New Jersey prosecutors to charge out-of-state traffickers, who have supplied around 80% of guns used for crimes in our state, for the harms their illegal out-of-state conduct causes in New Jersey.

The legislation is modeled on similar, longstanding laws that impose strict criminal liability on drug dealers for overdose deaths caused by their illicit products.

"Far too many New Jerseyans live with the daily fear that people in their communities who cannot legally possess guns can illegally obtain firearms and cause great harm," said **Governor Murphy**. "This bill allows us to hold those who illegally traffic those guns accountable for the harm that those weapons are used to cause. With today's new law, New Jersey will become the first state in the nation to go after illegal gun traffickers in this way. This is yet another historic step to protect our children and families from gun violence, and we continue to support long-term solutions that will break the cycle of violence once and for all."

Today's strong anti-trafficking bill builds on the Governor's commonsense record of gun reforms, which has positioned New Jersey as a leader in gun safety. Since the beginning of the Murphy Administration, more than a dozen steps have been taken to address gun violence in the state. In July 2022, Governor Murphy signed seven comprehensive gun safety bills as part of a third significant gun safety package signing since taking office in 2018.

In collaboration with the Office of the Attorney General, more actions have been taken beyond the passing of legislation to address violence. Last week, it was announced that \$15 million would be made available through a competitive grant process to support Community-Based Violence Intervention (CBVI) Programs throughout the state. The program now stands at a \$40 million investment in state and federal funds since 2021. CBVI programs use interventions and protective activities in communities and among populations associated with risk factors for exposure to violence. Through this public health approach to interrupt cycles of violence, and with a focus on reducing gun violence, CBVI initiatives include a range of strategies: mentoring programs, street outreach, trauma support services, de-escalation among high-risk individuals, targeted afterschool programs, job training, and more.

The first prime sponsors of today's bill, which passed unanimously through both houses, include Senator Troy Singleton and Assemblywoman Linda Carter.

"Under the leadership of Governor Murphy and Attorney General Platkin, we are strengthening New Jersey's existing status as a national leader in combating gun violence," said **Fir Assistant Attorney General Lyndsay V. Ruotolo**. "The legislation signed today will provide more tools for prosecutors and law enforcement across the state to hold firearms traffickers accountable and make our communities safer."

"Approximately 80 percent of crime guns traced in New Jersey come from out of state. We must continue to hold gun traffickers responsible for their role in perpetuating gun violence," said **Senator Troy Singleton**. "Increasing the penalties of gun traffickers will aid in deterring and holding traffickers responsible for the risk they pose to residents. This law specifically targets traffickers that pose a severe threat to the safety of residents through illegal gun transfers and sales."

"Those responsible for illegal firearm trafficking must be held accountable for the consequences of their actions," said **Assemblywoman Linda Carter**. "These individuals are responsible for putting dangerous weapons in the hands of wrongdoers, and they deserve to be held responsible when a life is lost due to their unlawful actions. We will be able to impose strict penalties on firearm traffickers thanks to this law."

"This bill is another victory for our citizens and public safety. I applaud the Governor's and Sponsor's efforts to address the horrific consequences of how easily criminals provide firearms to others who engage in acts of violence. This bill will better secure communities such as Trenton throughout the state. This law will give our law enforcement officers the tools to cut off illegal supply lines and help keep unregistered weapons off the streets and away from our neighborhoods," said **Trenton Mayor Reed Gusciara**.

"This law sends a clear message to those who would participate and/or profit from the illegal distribution of firearms, that they can now be held accountable for the injuries sustained and the lives lost due to gun violence," said **Trenton Police Department Director Steve Wilson**.

"I want to thank the Governor and the Legislature for passing such an important bill for the safety of all New Jerseyans. It's very important across our state that we address guns that are sold illegally and taking the lives of our youth. The illegal distribution of guns is destroying our communities and today's bill signing is a step towards holding illegal traffickers accountable for their actions," said **Pastor John Taylor of Friendship Baptist Church**.

"Today's signing creates a strong deterrence for those who would bring illegal firearms into the State of New Jersey from the South via I-95 and from our western neighbors through other interstate roadways. Last year, 777 illegal guns were recovered by Newark Police, representing a 26 percent increase over the previous year. This new legislation is a crucial step for more significantly holding accountable those who traffic illegal guns across state lines and for progressively reducing the number of senseless deaths and shootings that occur each year in New Jersey. I am grateful to Governor Murphy and our legislators who have tightened the screws on gun traffickers and made S3150 the law of the land," said **Ras J. Baraka, Mayor of the City of Newark and President and Chair of the New Jersey Urban Mayors Association**.