



SPONSOR: Sen. Brown & Rep. Bentz
Sens. Hansen, Lopez, Sokola, Townsend; Reps.
Baumbach, Chukwuocha, Cooke, Kowalko, Smyk

DELAWARE STATE SENATE
150th GENERAL ASSEMBLY

SENATE BILL NO. 107

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO CIVIL PROCEDURES TO
RELINQUISH FIREARMS OR AMMUNITION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 1448C(d), Title 11 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 1448C. Civil procedures to relinquish firearms or ammunition.

4 (d)(1) If the Justice of the Peace Court finds ~~that there is probable cause to believe that~~, by a preponderance of the
5 evidence, that an individual is dangerous to others or self, the Court shall order the individual to relinquish any firearms or
6 ammunition owned, possessed, or controlled by the individual. The Court may do any of the following through its order:

7 a. Require the individual to relinquish to a law-enforcement agency receiving the Court's order any firearms or
8 ammunition owned, possessed, or controlled by the individual.

9 b. Prohibit the individual from residing with another individual who owns, possesses, or controls firearms or
10 ammunition. Nothing in this section may be construed to impair or limit the rights, under the Second Amendment to the
11 United States Constitution or article I, § 20 of the Delaware Constitution, of an individual who is not the subject of the
12 Court's order of relinquishment.

13 c. Direct a law-enforcement agency having jurisdiction where the individual resides or the firearms or ammunition
14 are located to immediately search for and seize any firearms or ammunition owned, possessed, or controlled by the
15 individual.

16 (2) If the Superior Court finds by clear and convincing evidence that an individual is dangerous to others or self,
17 the Court shall order the individual to relinquish any firearms or ammunition owned, possessed, or controlled by the
18 individual. The Court may do any of the following through its order:

19 a. Require the individual to relinquish to a law-enforcement agency receiving the Court's order any firearms or
20 ammunition owned, possessed, or controlled by the individual.

21 b. Allow the individual to voluntarily relinquish to a law-enforcement agency receiving the Court's order any
22 firearms or ammunition owned, possessed, or controlled by the individual.

23 c. Allow the individual to relinquish firearms or ammunition owned, possessed, or controlled by the individual to
24 a designee of the individual. A designee of the individual must not reside with the individual and must not be a person
25 prohibited under § 1448 of this title. The Court must find that the designee of the individual will keep firearms or
26 ammunition owned, possessed, or controlled by the individual out of the possession of the individual.

27 d. Prohibit the individual from residing with another individual who owns, possesses, or controls firearms or
28 ammunition. Nothing in this section may be construed to impair or limit the rights, under the Second Amendment to the
29 United States Constitution or article I, § 20 of the Delaware Constitution, of an individual who is not the subject of the
30 Court's order of relinquishment.

31 e. Direct a law-enforcement agency having jurisdiction where the individual resides or the firearms or ammunition
32 are located to immediately search for and seize firearms or ammunition of the individual if the Department of Justice shows
33 that the individual has ownership, possession, or control of a firearm or ammunition.

SYNOPSIS

This bill changes the standard of proof necessary to issue a civil gun relinquishment order from the Justice of the Peace Court. The preponderance of the evidence standard is the standard traditionally used in civil matters and is, therefore, appropriate here. This also makes the standard consistent with that required for a Lethal Violence Protective Order, which is highly similar in nature.

Author: Senator Brown