

CHAPTER 122  
FORMERLY  
SENATE BILL NO. 107  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

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:

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

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

(c)(1) The following procedures govern a proceeding under paragraph (b)(1)a. of this section:

a. The Justice of the Peace Court shall immediately hear a request for an order under paragraph (b)(1)a. of this section.

b. The law enforcement agency has the burden of demonstrating that ~~probable cause~~ proof by a preponderance of the evidence exists to believe that the individual subject to a report under § 5402 or § 5403 of Title 16 is dangerous to others or self and in possession of firearms or ammunition.

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

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

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

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

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

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

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

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

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

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

Approved July 17, 2019