



# Senate

General Assembly

**File No. 565**

January Session, 2005

Substitute Senate Bill No. 1133

*Senate, April 28, 2005*

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## **AN ACT REVISING STATUTES RELATIVE TO FIREARMS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (d) of section 29-36l of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2005*):

4 (d) (1) The Department of Public Safety shall be the point of contact  
5 for initiating a background check through the National Instant  
6 Criminal Background Check System (NICS), established under section  
7 103 of the Brady Handgun Violence Prevention Act, on individuals  
8 purchasing firearms.

9 (2) The Department of Public Safety, Department of Mental Health  
10 and Addiction Services and the Judicial Department shall enter into a  
11 memorandum of understanding with the National Instant Criminal  
12 Background Check System division of the Federal Bureau of  
13 Investigation for the purpose of effectuating the implementation of

14 such system in the state. The Department of Public Safety shall report  
15 the name, date of birth and physical description of any person denied a  
16 permit or eligibility certificate under the provisions of sections 29-28 to  
17 29-38, inclusive, as amended by this act, or denied possession of a  
18 firearm pursuant to 18 USC 922(g)(4) to the National Instant Criminal  
19 Background Check System Index, Denied Persons Files.

20 Sec. 2. Subsection (a) of section 53a-217 of the general statutes is  
21 repealed and the following is substituted in lieu thereof (*Effective*  
22 *October 1, 2005*):

23 (a) A person is guilty of criminal possession of a firearm or  
24 electronic defense weapon when such person possesses a firearm or  
25 electronic defense weapon and (1) has been convicted of a felony, (2)  
26 has been convicted as delinquent for the commission of a serious  
27 juvenile offense, as defined in section 46b-120, (3) knows that such  
28 person is subject to a restraining or protective order of a court of this  
29 state or to a foreign order of protection, as defined in section 46b-15a,  
30 that has been issued against such person, after notice and an  
31 opportunity to be heard has been provided to such person, in a case  
32 involving the use, attempted use or threatened use of physical force  
33 against another person, [or] (4) knows that such person is subject to a  
34 firearms seizure order issued pursuant to subsection (d) of section 29-  
35 38c after notice and an opportunity to be heard has been provided to  
36 such person, (5) is prohibited from shipping, transporting, possessing  
37 or receiving a firearm pursuant to 18 USC 922(g)(4), or (6) has been  
38 denied a permit or eligibility certificate under the provisions of  
39 sections 29-28 to 29-38, inclusive, as amended by this act, or a  
40 certificate of possession of an assault weapon under section 53-202d.  
41 For the purposes of this section, "convicted" means having a judgment  
42 of conviction entered by a court of competent jurisdiction.

43 Sec. 3. Subsection (a) of section 53a-217c of the general statutes is  
44 repealed and the following is substituted in lieu thereof (*Effective*  
45 *October 1, 2005*):

46 (a) A person is guilty of criminal possession of a pistol or revolver

47 when such person possesses a pistol or revolver, as defined in section  
48 29-27, and (1) has been convicted of a felony or of a violation of  
49 subsection (c) of section 21a-279 or section 53a-58, 53a-61, 53a-61a, 53a-  
50 62, 53a-63, 53a-96, 53a-175, 53a-176, 53a-178 or 53a-181d, (2) has been  
51 convicted as delinquent for the commission of a serious juvenile  
52 offense, as defined in section 46b-120, (3) has been discharged from  
53 custody within the preceding twenty years after having been found  
54 not guilty of a crime by reason of mental disease or defect pursuant to  
55 section 53a-13, (4) has been confined in a hospital for persons with  
56 psychiatric disabilities, as defined in section 17a-495, within the  
57 preceding twelve months by order of a probate court, (5) knows that  
58 such person is subject to a restraining or protective order of a court of  
59 this state or to a foreign order of protection, as defined in section 46b-  
60 15a, that has been issued against such person, after notice and an  
61 opportunity to be heard has been provided to such person, in a case  
62 involving the use, attempted use or threatened use of physical force  
63 against another person, (6) knows that such person is subject to a  
64 firearms seizure order issued pursuant to subsection (d) of section 29-  
65 38c after notice and an opportunity to be heard has been provided to  
66 such person, [or] (7) is prohibited from shipping, transporting,  
67 possessing or receiving a firearm pursuant to 18 USC 922(g)(4), (8) has  
68 been denied a permit or eligibility certificate under the provisions of  
69 sections 29-28 to 29-38, inclusive, as amended by this act, or a  
70 certificate of possession of an assault weapon under section 53-202d, or  
71 [(7)] (9) is an alien illegally or unlawfully in the United States. For the  
72 purposes of this section, "convicted" means having a judgment of  
73 conviction entered by a court of competent jurisdiction.

74 Sec. 4. Subsection (b) of section 29-28 of the general statutes is  
75 repealed and the following is substituted in lieu thereof (*Effective*  
76 *October 1, 2005*):

77 (b) Upon the application of any person having a bona fide residence  
78 or place of business within the jurisdiction of any such authority, such  
79 chief of police, warden or selectman may issue a temporary state  
80 permit to such person to carry a pistol or revolver within the state,

81 provided such authority shall find that such applicant intends to make  
82 no use of any pistol or revolver which such applicant may be  
83 permitted to carry under such permit other than a lawful use and that  
84 such person is a suitable person to receive such permit. No state or  
85 temporary state permit to carry a pistol or revolver shall be issued  
86 under this subsection if the applicant (1) has failed to successfully  
87 complete a course approved by the Commissioner of Public Safety in  
88 the safety and use of pistols and revolvers including, but not limited  
89 to, a safety or training course in the use of pistols and revolvers  
90 available to the public offered by a law enforcement agency, a private  
91 or public educational institution or a firearms training school, utilizing  
92 instructors certified by the National Rifle Association or the  
93 Department of Environmental Protection and a safety or training  
94 course in the use of pistols or revolvers conducted by an instructor  
95 certified by the state or the National Rifle Association, (2) has been  
96 convicted of a felony or of a violation of subsection (c) of section 21a-  
97 279, section 53a-58, 53a-61, 53a-61a, 53a-62, 53a-63, 53a-96, 53a-175,  
98 53a-176, 53a-178 or 53a-181d, (3) has been convicted as delinquent for  
99 the commission of a serious juvenile offense, as defined in section 46b-  
100 120, (4) has been discharged from custody within the preceding twenty  
101 years after having been found not guilty of a crime by reason of mental  
102 disease or defect pursuant to section 53a-13, (5) has been confined in a  
103 hospital for persons with psychiatric disabilities, as defined in section  
104 17a-495, within the preceding twelve months by order of a probate  
105 court, (6) is subject to a restraining or protective order issued by a  
106 court in a case involving the use, attempted use or threatened use of  
107 physical force against another person, (7) is subject to a firearms  
108 seizure order issued pursuant to subsection (d) of section 29-38c after  
109 notice and hearing, (8) is prohibited from shipping, transporting,  
110 possessing or receiving a firearm pursuant to 18 USC 922(g)(4), (9) is  
111 an alien illegally or unlawfully in the United States, or [(9)] (10) is less  
112 than twenty-one years of age. Nothing in this section shall require any  
113 person who holds a valid permit to carry a pistol or revolver on  
114 October 1, 1994, to participate in any additional training in the safety  
115 and use of pistols and revolvers. Upon issuance of a temporary state



The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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### **OFA Fiscal Note**

#### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 06 \$</b>	<b>FY 07 \$</b>
Public Safety, Dept.	GF - Cost	Potential Minimal	Potential Minimal
Judicial Department (Probation); Correction, Dept.	GF - Cost	Potential	Potential
Judicial Dept.	GF - Revenue Gain	Potential Minimal	Potential Minimal

Note: GF=General Fund

**Municipal Impact:** None

#### **Explanation**

The bill requires the Department of Public Safety, Judicial Department and Department of Mental Health and Addiction Services to enter into a memorandum of understanding with the federal government in order to engage in the National Instant Criminal Background Check System (NICS), which is used by gun dealers to conduct explosives and firearm background checks before transferring firearms. Subsequent to this agreement, the Department of Public Safety must submit certain information electronically to the NICS regarding persons who have been denied possession of a firearm or firearm permit or eligibility certificate. The state agencies involved with developing a memorandum of understanding could do so at no cost. The Department of Public Safety would incur a potential minimal cost to transfer data to the federal government.

The bill also expands certain crimes involving the possession of a firearm. To the extent that offenders are subject to incarceration or probation supervision in the community as a result of the bill, a potential cost to criminal justice agencies exists. On average, it costs the state \$2,150 to supervise an offender on probation in the

community as compared to \$35,040 to incarcerate the offender (note that both figures include fringe benefits). It is anticipated that any revenue gain from criminal fines under the bill would be minimal.

**OLR Bill Analysis**

sSB 1133

***AN ACT REVISING STATUTES RELATIVE TO FIREARMS*****SUMMARY:**

This bill expands the crimes of (1) criminal possession of a handgun and (2) criminal possession of a firearm or electronic defense weapon to include possession by anyone (a) prohibited from shipping, transporting, possessing, or receiving the pertinent gun or weapon under federal law or (b) denied a gun permit, gun eligibility certificate, or assault weapon certificate of possession under state law. By law, these crimes are class D felonies, punishable by one to five years' imprisonment, a fine of up to \$5,000, or both. But criminal possession of a firearm or electronic defense weapon carries a mandatory minimum two-year sentence.

The bill adds people prohibited from shipping, transporting, possessing, or obtaining a gun under federal law to those who cannot get a permit to carry a gun under Connecticut law. (But it does not add them to those who cannot get an eligibility certificate to obtain a gun under CGS § 29-36f.)

The bill requires the Public Safety (DPS), Mental Health and Addiction Services, and Judicial departments to enter into a memorandum of understanding with the National Instant Criminal Background Check System (NICS) division of the Federal Bureau of Investigation to implement the system in the state. It requires DPS to report to the NICS, Denied Persons Files, the name, date of birth, and physical description of anyone denied a gun permit or eligibility certificate under state law, or denied possession of a firearm under federal law. (DPS has already entered into a memorandum of understanding with NICS and reports denials based on all the disqualifying factors in state law, except mental illness.)

EFFECTIVE DATE: October 1, 2005

**BACKGROUND**

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***People Who Cannot Get a Gun Permit or Eligibility Certificate Under State Law***

A person cannot get the required permit to carry, or required eligibility certificate to get, handguns if he:

1. failed to complete a DPS-approved handgun safety and use course successfully;
2. was convicted of a felony or other specified, mostly violent, misdemeanors;
3. was convicted of a serious juvenile offense;
4. was discharged from custody within the last 20 years after having been found not guilty of a crime by reason of mental disease or defect;
5. was committed involuntarily to a psychiatric hospital in the last 12 months;
6. is subject to a restraining or protective order issued by a court in a case involving the use, attempted use, or threatened use of physical force against someone else;
7. is subject to a gun seizure order issued after notice and hearing;
8. is under age 21; or
9. is an illegal alien.

***People Who Cannot Possess Guns Under Federal Law***

Under federal law, a person is barred from possessing firearms if he:

1. was convicted of a crime punishable by more than one year imprisonment,
2. is a fugitive from justice;
3. is addicted to, or uses, any controlled substance illegally;

4. was adjudicated as a mental defective or was committed to a mental institution;
5. was dishonorably discharged from the armed forces;
6. was ever convicted of a misdemeanor crime of domestic violence;
7. has renounced his citizenship;
8. is an illegal alien; or
9. is the subject of a court order restraining him from harassing, stalking, or threatening an intimate partner or such partner's child (18 USC § 922 g).

***Criminal Possession of a Firearm or Electronic Defense Weapon***

By law, a person is guilty of criminal possession of a firearm or electronic defense weapon if he possesses a firearm (other than a handgun) or an electronic defense weapon and:

- 1 was convicted of a felony;
- 2 was convicted of a serious juvenile offense;
- 3 knows that he is subject to a restraining or protective order for the use, attempted use, or threatened use of physical force;  
or
- 4 knows that he is subject to a firearms seizure order.

***Criminal Possession of a Handgun***

By law, a person is guilty of criminal possession of a handgun if he possesses a handgun and:

1. was convicted of a felony or specified misdemeanors;
2. was convicted of a serious juvenile offense;
3. was discharged from custody in the last 20 years after having

been found not guilty of a crime because of mental illness;

4. was involuntarily confined in a psychiatric hospital in the past 12 months;
5. knows that he is the subject of a restraining or protective order for the use, attempted use or threatened use of physical force;
6. knows that he is the subject of a firearms seizure order; or
7. is an illegal alien.

**NICS**

NICS is a national computerized database that allows authorized users to check available records for an immediate response on persons disqualified from possessing firearms. Connecticut is among 14 states that have entered into a memorandum of understanding to access the system and conduct firearm background checks on behalf of federal firearms licensees (FFL). (In some states, the FFLs must contact the FBI directly.) Under current practice, Connecticut reports all disqualifying information to NICS, except disqualifications based on mental illness.

**COMMITTEE ACTION**

Public Safety and Security Committee

Joint Favorable Substitute Change of Reference  
Yea 22 Nay 0

Judiciary Committee

Joint Favorable Report  
Yea 40 Nay 0