



House of Representatives

General Assembly

File No. 376

January Session, 2013

Substitute House Bill No. 6598

House of Representatives, April 4, 2013

The Committee on Public Safety and Security reported through REP. DARGAN of the 115th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE DISPOSAL OF WEAPONS SEIZED FROM A PERSON WHO POSES A RISK OF IMMINENT PERSONAL INJURY TO SELF OR OTHERS.

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

1 Section 1. Section 29-38c of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 (a) Upon complaint on oath by any state's attorney or assistant
4 state's attorney or by any two police officers, to any judge of the
5 Superior Court, that such state's attorney or police officers have
6 probable cause to believe that (1) a person poses a risk of imminent
7 personal injury to himself or herself or to other individuals, (2) such
8 person possesses one or more firearms, and (3) such firearm or
9 firearms are within or upon any place, thing or person, such judge may
10 issue a warrant commanding a proper officer to enter into or upon
11 such place or thing, search the same or the person and take into such
12 officer's custody any and all firearms. Such state's attorney or police

13 officers shall not make such complaint unless such state's attorney or
14 police officers have conducted an independent investigation and have
15 determined that such probable cause exists and that there is no
16 reasonable alternative available to prevent such person from causing
17 imminent personal injury to himself or herself or to others with such
18 firearm.

19 (b) A warrant may issue only on affidavit sworn to by the
20 complainant or complainants before the judge and establishing the
21 grounds for issuing the warrant, which affidavit shall be part of the
22 seizure file. In determining whether grounds for the application exist
23 or whether there is probable cause to believe they exist, the judge shall
24 consider: (1) Recent threats or acts of violence by such person directed
25 toward other persons; (2) recent threats or acts of violence by such
26 person directed toward himself or herself; and (3) recent acts of cruelty
27 to animals as provided in subsection (b) of section 53-247 by such
28 person. In evaluating whether such recent threats or acts of violence
29 constitute probable cause to believe that such person poses a risk of
30 imminent personal injury to himself or herself or to others, the judge
31 may consider other factors including, but not limited to (A) the
32 reckless use, display or brandishing of a firearm by such person, (B) a
33 history of the use, attempted use or threatened use of physical force by
34 such person against other persons, (C) prior involuntary confinement
35 of such person in a hospital for persons with psychiatric disabilities,
36 and (D) the illegal use of controlled substances or abuse of alcohol by
37 such person. If the judge is satisfied that the grounds for the
38 application exist or that there is probable cause to believe that they
39 exist, such judge shall issue a warrant naming or describing the
40 person, place or thing to be searched. The warrant shall be directed to
41 any police officer of a regularly organized police department or any
42 state police officer. It shall state the grounds or probable cause for its
43 issuance and it shall command the officer to search within a reasonable
44 time the person, place or thing named for any and all firearms. A copy
45 of the warrant shall be given to the person named therein together
46 with a notice informing the person that such person has the right to a
47 hearing under this section and the right to be represented by counsel at

48 such hearing.

49 (c) The applicant for the warrant shall file a copy of the application
50 for the warrant and all affidavits upon which the warrant is based with
51 the clerk of the court for the geographical area within which the search
52 will be conducted no later than the next business day following the
53 execution of the warrant. Prior to the execution and return of the
54 warrant, the clerk of the court shall not disclose any information
55 pertaining to the application for the warrant or any affidavits upon
56 which the warrant is based. The warrant shall be executed and
57 returned with reasonable promptness consistent with due process of
58 law and shall be accompanied by a written inventory of all firearms
59 seized.

60 (d) Not later than fourteen days after the execution of a warrant
61 under this section, the court for the geographical area where the
62 person named in the warrant resides shall hold a hearing to determine
63 whether the seized firearms should be returned to the person named in
64 the warrant or should continue to be held by the state. At such hearing
65 the state shall have the burden of proving all material facts by clear
66 and convincing evidence. If, after such hearing, the court finds by clear
67 and convincing evidence that the person poses a risk of imminent
68 personal injury to himself or herself or to other individuals, it may
69 order that the firearm or firearms seized pursuant to the warrant
70 issued under subsection (a) of this section continue to be held by the
71 state for a period not to exceed one year, otherwise the court shall
72 order the seized firearm or firearms to be returned to the person
73 named in the warrant. If the court finds that the person poses a risk of
74 imminent personal injury to himself or herself or to other individuals,
75 it shall give notice to the Department of Mental Health and Addiction
76 Services which may take such action pursuant to chapter 319i as it
77 deems appropriate.

78 (e) Any person whose firearm or firearms have been ordered seized
79 pursuant to subsection (d) of this section, or such person's legal
80 representative, may transfer such firearm or firearms in accordance

81 with the provisions of section 29-33 or other applicable state or federal
 82 law, to any person eligible to possess such firearm or firearms. Upon
 83 notification in writing by such person, or such person's legal
 84 representative, and the transferee, the head of the state agency holding
 85 such seized firearm or firearms shall within ten days deliver such
 86 firearm or firearms to the transferee.

87 (f) Any person whose firearm or firearms have been ordered seized
 88 pursuant to subsection (d) of this section and who does not transfer
 89 such firearm or firearms in accordance with subsection (e) of this
 90 section may request the return of such firearm or firearms upon the
 91 expiration of any period, ordered by the court pursuant to subsection
 92 (d) of this section, during which such firearm or firearms shall
 93 continue to be held. Such request shall be made in writing to the state
 94 agency holding such firearm or firearms, and shall be made not later
 95 than sixty days after the expiration of the holding period ordered by
 96 the court. If no such request is received by the state agency prior to the
 97 expiration of such time period, the state agency may dispose of such
 98 firearm or firearms in any manner it deems appropriate, and no
 99 liability shall thereby accrue against such state agency or its
 100 employees.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2013	29-38c

PS *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 14 \$	FY 15 \$
Department of Emergency Services and Public Protection	GF - Savings	Minimal	Minimal

Municipal Impact: None

Explanation

The bill would allow state agencies to dispose of weapons seized from certain individuals 60 days after the expiration of the term imposed by the courts. This is anticipated to result in a minimal savings to the Department of Emergency Services and Public Protection (DESPP) as the agency would no longer incur certain storage costs.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 6598*****AN ACT CONCERNING THE DISPOSAL OF WEAPONS SEIZED FROM A PERSON WHO POSES A RISK OF IMMINENT PERSONAL INJURY TO SELF OR OTHERS.*****SUMMARY:**

This bill allows anyone whose firearm the court ordered seized, because he or she posed a risk of imminent personal injury to himself or herself or others, to request the firearm's return at the expiration of the order. The request must be in writing and submitted, within 60 days after the expiration of the court-ordered holding period, to the state agency holding the firearm. If the person does not submit such a request within the allotted time, the state agency may dispose of the firearm in any manner it deems appropriate, with no liability. Under current law, there is no procedure for the state agency to dispose such unclaimed firearms.

EFFECTIVE DATE: October 1, 2013

BACKGROUND***Gun Seizure***

By law, any two police officers (or a state's attorney), under limited circumstances, can get warrants and seize guns from anyone who poses an imminent risk of injuring himself or herself or someone else. The officials may seek the warrant only after (1) conducting an independent investigation to establish probable cause and (2) determining that no reasonable alternative exists to avert the risk of harm. The court must hold a hearing within 14 days after a seizure to determine whether to return the guns or order them held for up to one year. The person whose firearm is being seized may transfer the firearm to any person eligible to possess it. Upon written notification, the state agency holding the firearm must deliver it to the transferee

with 10 days.

COMMITTEE ACTION

Public Safety and Security Committee

Joint Favorable Substitute

Yea 24 Nay 0 (03/21/2013)