

**Garden State CLE Presents:**

# **New Jersey Gun Law Update - 2025**



## **Instructors**

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## **Lesson Plan**

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## **Introductory Background**

### **a) The Impact of Bruen**

1) The Second Amendment provides that a well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed. In District of Columbia vs. Heller, 554 U.S. 570(2008), the Supreme Court recognized for the first time an individual's right to keep and bear arms in defense of hearth and home. The Court reached that conclusion by consulting both text and history—from the English and colonial origins of a pre-existing right the Second Amendment codified, to interpretations of the Amendment immediately after its ratification through the end of the 19th century to determine the public understanding of that right.

2) Although the Heller decision clarified the parameters of the 2<sup>nd</sup> Amendment, since the case was decided based upon federal law in effect in Washington, D.C., ruling did not apply to the States. An expansion of the Court's holding as a component of the 14<sup>th</sup> Amendment did not occur until the Court's publication of its decision McDonald vs. City of Chicago, 561 U.S. 742(2010) where the Justices held that the individual right to keep and bear arms applied to the States. Reasoning that the right to keep and bear arms is fundamental, the Court decided that the Due Process Clause of the Fourteenth Amendment incorporates the Second Amendment right recognized in Heller. However, significantly, the Court stressed the assurances it had made in Heller that its holding did not cast doubt on such longstanding regulatory measures as laws forbidding the carrying of firearms in sensitive places such as schools and government buildings.

3) An unsuccessful challenge to New Jersey law based upon McDonald sought to invalidate the “justifiable need” element of N.J.S.A. 2C:58-4 related to obtaining a pistol permit. Drake vs. Filko, 724 F.3d 426(3<sup>rd</sup>Cir.2013).

4) The next iteration of 2<sup>nd</sup> Amendment doctrine promulgated by the Supreme Court came in New York State Pistol and Rifle Association vs. Bruen, 597 U.S. 1(2022) where the Justices resolved a Second Amendment challenge to a New York “proper cause” licensing statute. They held that when the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct. The government must then justify its regulation by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation. The Court went on to affirm its holding in Heller as to a prohibition on firearms possession in “sensitive places” but also cautioned that reviewing courts should *not* interpret the law so as to eviscerate the general right to publicly carry arms for self-defense because the government could expand the category of sensitive places simply to all places of public congregation that are not isolated from law enforcement.

5) The holding in Bruen effectively eliminated the “justifiable need” element of New Jersey permit to carry laws.

### **b) Sensitive Places**

1) The New Jersey Supreme Court and Legislature have long maintained that the State’s public policy is aimed at minimizing the possession of firearms by members of the general public, absent a *bona fide*, compelling need by a qualified person. e.g., see discussion in Siccardi vs. State, 59 N.J. 545, 558(1971) (“[w]idespread handgun possession in the streets, somewhat reminiscent of frontier days, would not be at all in the public interest”). In keeping with this tradition and in an effort immediately to blunt the impact of the Court’s decision in Bruen, on December 22, 2022, the legislature enacted N.J.S.A. 2C:58-4.2, which stated that there are a number of sensitive places in New Jersey from which firearms can be lawfully banned.

2) On the same date, the Legislature amended N.J.S.A. 2C:58-4 to provide that henceforth, law enforcement alone,

and not the judiciary, will receive, investigate, and determine all permit to carry applications. The Superior Court was authorized to continue hearing appeals from law enforcement denials of applications for firearms purchaser identification cards, permits to purchase a handgun, and permits to carry a handgun. The new law provided that no formal pleading or filing fee be required for these appeals. N.J.S.A. 2C:58-3(d)(f); N.J.S.A. 2C:58-4(e); N.J.S.A. 2C:39 6(1)(5). [See Supreme Court Directive 14-22.]

3) Finally, in the same batch of amendments, in N.J.S.A. 2C:58-4.6(a), the Legislature went on to define sensitive places as follows:

- (1) a place owned, leased, or under the control of State, county or municipal government used for the purpose of government administration, including but not limited to police stations;
- (2) a courthouse, courtroom, or any other premises used to conduct judicial or court administrative proceedings or functions;
- (3) a State, county, or municipal correctional or juvenile justice facility, jail and any other place maintained by or for a governmental entity for the detention of criminal suspects or offenders;
- (4) a State-contracted half-way house;
- (5) a location being used as a polling place during the conduct of an election and places used for the storage or tabulation of ballots;

(6) within 100 feet of a place where a public gathering, demonstration or event is held for which a government permit is required, during the conduct of such gathering, demonstration or event;

(7) a school, college, university or other educational institution, and on any school bus;

(8) a childcare facility, including a daycare center;

(9) a nursery school, pre-school, zoo, or summer camp;

(10) a park, beach, recreation facility or area or playground owned or controlled by a State, county or local government unit, or any part of such a place, which is designated as a gun-free zone by the governing authority based on considerations of public safety;

(11) youth sports events, as defined in N.J.S.A. 5:17-1, during and immediately preceding and following the conduct of the event, except that this provision shall not apply to participants of a youth sports event which is a firearm shooting competition to which paragraph (3) of subsection b. of section 14 of P.L.1979, c. 179 (C.2C:58-6.1) applies;

(12) a publicly owned or leased library or museum;

(13) a shelter for the homeless, emergency shelter for the homeless, basic center shelter program,

shelter for homeless or runaway youth, children's shelter, childcare shelter, shelter for victims of domestic violence, or any shelter licensed by or under the control of the Juvenile Justice Commission or the Department of Children and Families;

(14) a community residence for persons with developmental disabilities, head injuries, or terminal illnesses, or any other residential setting licensed by the Department of Human Services or Department of Health;

(15) a bar or restaurant where alcohol is served, and any other site or facility where alcohol is sold for consumption on the premises;

(16) a Class 5 Cannabis retailer or medical cannabis dispensary, including any consumption areas licensed or permitted by the Cannabis Regulatory Commission established pursuant to section 31 of P.L.2019, c. 153 (C.24:6I-24);

(17) a privately or publicly owned and operated entertainment facility within this State, including but not limited to a theater, stadium, museum, arena, racetrack or other place where performances, concerts, exhibits, games or contests are held;

(18) a casino and related facilities, including but not limited to appurtenant hotels, retail premises, restaurant and bar facilities, and entertainment and recreational venues located within the casino property;

(19) a plant or operation that produces, converts, distributes or stores energy or converts one form of energy to another;

(20) an airport or public transportation hub;

(21) a health care facility, including but not limited to a general hospital, special hospital, psychiatric hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, intermediate care facility, tuberculosis hospital, chronic disease hospital, maternity hospital, outpatient clinic, dispensary, assisted living center, home health care agency, residential treatment facility, residential health care facility, medical office, or ambulatory care facility;

(22) a facility licensed or regulated by the Department of Human Services, Department of Children and Families, or Department of Health, other than a health care facility, that provides addiction or mental health treatment or support services;

(23) a public location being used for making motion picture or television images for theatrical, commercial or educational purposes, during the time such location is being used for that purpose;

(24) private property, including but not limited to residential, commercial, industrial, agricultural, institutional or undeveloped property, unless the owner has provided express consent or has posted

a sign indicating that it is permissible to carry on the premises a concealed handgun with a valid and lawfully issued permit under N.J.S.A. 2C:58-4, provided that nothing in this paragraph shall be construed to affect the authority to keep or carry a firearm established under subsection e. of N.J.S.A. 2C:39-6; and

25) any other place in which the carrying of a firearm is prohibited by statute or rule or regulation promulgated by a federal or State agency.

The challenge to the new sensitive place's doctrine came in 2025 in the form of a decision from the Third Circuit captioned Koons vs. Attorney General, \_\_\_ F.4th \_\_\_ (3<sup>rd</sup> Cir. 2025) 2025 WL 2612055. In Koons, the Court of Appeals called into question the constitutionality of portions of N.J.S.A. 2C:58-4.6, N.J.S.A. 2C:58-4(c), N.J.S.A. 2C:58-4.3 and N.J.A.C. 7:25-5.23(f)(5).

The Court's holding essentially struck down a statutory requirement for mandatory liability insurance for people who carry pistols, the assessment of a permit application fee, and the general prohibition on carrying a firearm on private property under N.J.S.A. 2C:58-4.6(a)(24) and the transport of firearms in a motor vehicle under N.J.S.A. 2C:58-4.6(b)(1).

### **c) Post-Bruen Case Law**

1) In re Application denial of M.U., 475 N.J. Super 148(App.Div.2023)

This case involves a constitutional challenge to N.J.S.A. 2C:58-3(c) which prohibits the issuance of a firearms

purchaser identification card or a handgun purchase permit. The Court ruled that:

a) N.J.S.A. 2C:58-3 is neither unconstitutionally vague or overbroad; [N.J.S.A. 2C:58-3(c)(5) provides that a permit shall be denied to any person where the issuance would not be in the interest of the public health, safety or welfare because the person is found to be lacking the essential character of temperament necessary to be entrusted with a firearm].

b) The State may access and consider expunged records in determining fitness to receive a permit;

c) Despite the revocation of his permit, the applicant maintains the right to possess firearms in his home as the weapons forfeiture statute does not apply to him; and

d) N.J.S.A. 2C:64-1(a)(2) provides for the forfeiture of “all property,” such as appellant's firearms, “which has been, or is intended to be, utilized in furtherance of an unlawful activity.” The State did not file a statutory forfeiture action under N.J.S.A. 2C:64-3. If it had, appellant would have been entitled to have that issue determined by a jury.

2) In re R.T.W., 477 N.J.Super 443(App.Div.2023)

Denial of permits were lawful based upon false information set forth in the application. N.J.S.A. 2C:58-3(c)(3) (“to any person who knowingly falsifies any information on the

application form for a handgun purchase permit or firearms purchaser identification card”)

3) State vs. Wade, 476 N.J.Super 490(App.Div.2023)

Challenge brought for a criminal conviction for unlawful possession of a handgun (2<sup>nd</sup> degree) based upon the unconstitutionality of the justifiable need provision in the statute at the time of the defendant’s criminal acts. The Appellate Division held that the justifiable need provision in the statute was unconstitutional in light of Bruen but also held that the defendant’s appeal had to be denied based upon lack of standing.

4) N.J. Judiciary Directive 14-22

Directive #14-22 - Criminal - Gun Permit Procedures  
Supersedes Directive #06-19

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**To: Assignment Judges  
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**From: Glenn A. Grant, Administrative Director**

**DIRECTIVE #14-22**

**[Supersedes Directive #06-19]**

**Subj: Criminal – Gun Permit Procedures**

**Date: December 22, 2022**

**New Legislation and Revised Court Responsibility**

Governor Murphy today signed A-4769 into law (L. 2022, c. \_\_), amending a number of New Jersey firearms statutes and addresses issues raised in the United States Supreme Court’s decision in N.Y. State Rifle & Pistol Association v. Bruen, 142 S. Ct. 2111 (2022). The enactment is effective immediately. In part, it removes the Judiciary from the initial decision-making process for applications for permits to carry a handgun. This Directive, which supersedes Directive #06-19, is intended to establish uniformity in how the vicinages handle appeals from law enforcement’s denial of firearms identification cards, handgun purchase permits, and permits to carry a handgun.

New Jersey law previously required applicants to submit a written certification of “justifiable need” to the reviewing law enforcement officer as part of their application for a permit to carry. If approved by law enforcement, the application would then be presented to the Superior Court for action by a judge. So long as the applicant demonstrated, among other things, a “justifiable need” to carry a handgun in accordance with the statute, the judge would approve the application and issue the permit. Although New Jersey was not a party in Bruen, the U.S. Supreme Court likened New Jersey’s requirements for permits to carry to those of New York, which the Court deemed to be unconstitutional.

Bruen thus eliminated New Jersey’s “justifiable need” requirement, which was a significant factor, but not the only factor, that New Jersey Courts considered in acting on applications for permits to carry a handgun. The amendments to N.J.S.A. 2C:58-4 adopted in L. 2022, c. \_\_, both eliminate the “justifiable need” requirement and remove the court from the decision-making and issuance process for applications for permits to carry.

Pursuant to the new law, which, as noted, is effective immediately, determinations on applications for permits to carry a handgun will no longer be made by the court; law

enforcement alone will receive, investigate, and determine all permit to carry applications. Any applications for a permit to carry a handgun currently pending before the Superior Court as of today are to be decided and, if approved, issued by the court. The new law allows judges to rely on the prior approval by law enforcement as the basis for approving these pending applications. L. 2022, c. \_\_. Judges must strive to act on those pending applications within 60 days and should not exceed that 60-day timeframe without good cause.

Any applications pending with law enforcement are to be decided by the appropriate chief police officer or superintendent. Effective today, any permit to carry application presented to the court will be returned to the law enforcement entity from which it was received.

The Superior Court will continue to hear appeals from law enforcement denials of applications for firearms purchaser identification cards, permits to purchase a handgun, and permits to carry a handgun. The new law provides that no formal pleading or filing fee is required for these appeals. N.J.S.A. 2C:58-3(d)(f); N.J.S.A. 2C:58-4(e); N.J.S.A. 2C:39-6(l)(5).

### **Filing of Gun Permit Appeals**

Any applicant aggrieved by the denial of a permit by law enforcement who wishes to file an appeal with the court is encouraged to file electronically through the Judiciary Electronic Document Submission (JEDS) System. The aggrieved applicant must also serve copies of the request for a hearing on the New Jersey State Police Superintendent, the county prosecutor, and the chief police officer of the municipality where the applicant resides, if the applicant is a New Jersey resident.

### **Statewide System for Tracking Denials of Gun Permit and Carry Permit Appeals**

In 2019, a universal numbering protocol for docketing and tracking appeals was implemented to maintain statewide consistency. This manual numbering convention will continue until an electronic filing and tracking system is completed.

Appeals from the law enforcement denial to issue firearms purchaser identification cards, permits to purchase a handgun, and permits to carry a handgun should use a similar numbering system. For example, the first gun permit appeal for Camden County in 2023 should be as follows:

GPA - CAM - 001 - 23 (Gun Permit Appeal - county abbreviation - number - year)

In addition, when the court receives an appeal from a gun permit denial, court staff must record, at a minimum, the following information:

- (1) the applicant's name;
- (2) the applicant's date of birth;
- (3) the applicant's SBI number;
- (4) whether the applicant is a retired law enforcement officer;

- (5) whether the applicant originally applied for a firearms purchase identification card, a permit to purchase a handgun, and/or a carry permit;
- (6) whether the appeal is for a new or a renewal permit;
- (7) if an appeal for a renewal permit, the expiration date of the old permit;
- (8) the law enforcement agency that denied the permit;
- (9) the date the application was submitted to law enforcement;
- (10) the date law enforcement denied the permit;
- (11) the date the appeal was received by the court;
- (12) if the applicant is requesting a notation on the permit for employment purposes, the type of employment (e.g. armored car, security);
- (13) the court's decision;
- (14) the date of the court's decision; and
- (15) the judge's name.

The information listed above will allow for easier tracking and reviewing of gun permit applications and appeals statewide. Counties may also track additional data.

### **Timeframe for Hearing Appeals**

N.J.S.A. 2C:58-4(e) anticipates that the Superior Court will hold a hearing on an appeal from law enforcement's denial of an identification card, a purchase permit, or a carry permit within 60 days of the applicant's written request for such a hearing. The hearing on an appeal from the denial of a carry permit for a retired law enforcement officer must be held within 30 days of request pursuant to N.J.S.A. 2C:39-6(l)(5).

### **Prosecutor Review of Applicant's Appeal from Denial of an Application for a Permit to Carry**

N.J.S.A. 2C:58-4(e) requires aggrieved applicants appealing the law enforcement denial of a carry permit to serve the request for a hearing on the county prosecutor. County prosecutors are not required by law to provide input to the court regarding these appeals. If they wish to do so, however, county prosecutors must file their response to these appeals within 14 days of the filing of the appeal. If the prosecutor does not respond within 14 days, the court is to move forward with the appeal hearing.

Questions or comments may be directed to Criminal Practice Division by email to the AOC Criminal Practice Division at [aoccrimprac.mbx@njcourts.gov](mailto:aoccrimprac.mbx@njcourts.gov) or by phone at 609-815-2900, x55300.

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