

Introduced by: Presiding Officer Norma Gonsalves, Deputy Presiding Officer Richard Nicoletto, Alt. Deputy Presiding Officer Howard Kopel, Minority Leader Kevan Abrahams, and Legislators Siela Bynoe, Carrie Solages, Denise Ford, Laura Curran, Francis X. Becker, Vincent Muscarella, Ellen Birnbaum, Delia-DeRiggi Whitton, Michael Venditto, Laura Schaefer, Dennis Dunne, Judy Jacobs, Rose Marie Walker, Donald Mac Kenzie, and David Denenberg


LOCAL LAW NO. 16 - 2014

A LOCAL LAW TO AMEND THE NASSAU COUNTY ADMINISTRATIVE CODE

IN RELATION TO ESTABLISHING A GUN OFFENDER REGISTRY

Passed by the Nassau County Legislature on October 29, 2014
Voting: ayes: 19 nays: 0 abstained: 0

Became a law on November 7, 2014 with the approval of the County Executive.

APPROVED AS TO FORM

Deputy County Attorney

WHEREAS, individuals previously convicted of a gun offenses and who carry illegal guns pose a unique danger to the residents of Nassau County and should, therefore, be monitored to prevent them from re-offending and to ensure their prompt apprehension if they do commit further crimes, and

WHEREAS, gun offenders also have high rates of recidivism and those convicted of felony gun possession are more likely to be re-arrested and that their re-arrests often involve the use of violence, and

WHEREAS, the expansion of gang involvement in gun-related activity requires Nassau County to take steps to ensure that guns are kept out of our neighborhoods and schools and our crime rate is kept down, and

WHEREAS, this Legislature finds that proactive steps must be taken to protect our residents, specifically our children and police officers, and

WHEREAS, a gun offender registry would be one step towards reducing gun crimes in our communities and schools by assisting police in quickly identifying and apprehending perpetrators of such crimes, thus further ensuring the safety of the residents of Nassau County, and

WHEREAS, a gun offender registry would serve to assist police investigations by providing valuable information about offenders and that this registry could also be shared with educational institutions upon request, which would assist schools in better securing their facilities and protecting innocent students,

WHEREAS, a gun offender registry should not, however, become an on-line status symbol for violent gang members or other criminals, therefore,

BE IT ENACTED by the County Legislature of the County of Nassau as follows:

Section 1. A new title is hereby added to chapter VIII of Chapter 272 of the Laws of 1939 of the Nassau County Administrative Code as follows and may be cited as the "Nassau County Gun Offender Registration Act – GORA:"

Title N

Gun Offender Registration –

Section	8-133.0	Definitions
	8-133.1	Creation of a Gun Offender Registry
	8-133.2	Duty to register and to verify
	8-133.3	Duration of registration and verification
	8-133.4	Sharing of registration information

- 8-133.5 **Cooperation**
- 8-133.6 **Promulgation of rules and procedures**
- 8-133.7 **Fees**
- 8-133.8 **Penalties**
- 8-133.9 **Reverse Preemption**

§ 8-133.0 **Definitions.** As used in this title, the following terms shall have the meanings indicated:

a. "Career education" shall have the meaning given in subdivision 24 of section 2 of the Education Law.

b. "Commissioner" means the Commissioner of the Nassau County Police Department.

c. "Department" means the Nassau County Police Department.

d. "Gun offender" means any person who is convicted, after the effective date of this title, of a gun offense as defined in this title. Convictions that result from or are connected with the same act, or result from offenses committed at the same time, shall be counted for the purpose of this title as one conviction. The entry of a plea of guilty, including a plea of guilty where the gun offender does not accept responsibility, or a verdict of guilty shall constitute a conviction for purposes of this title. Any conviction reversed or otherwise set aside pursuant to law, any adjudication of juvenile delinquency or any matter adjourned in contemplation of dismissal pursuant to Criminal Procedure Law Article 170 is not a conviction for purposes of this title. The term "gun offender" shall not include any person who has been pardoned for all gun offenses by the Governor.

e. "Gun offense" means a conviction for any crime or any attempted crime pursuant to Penal Law sections 265.01 (4), (6), (7) or (8) (Criminal possession of a weapon in the fourth degree); 265.01-a (Criminal possession of a weapon on school grounds); 265.02 (Criminal possession of a weapon in the third degree); 265.03 (Criminal possession of a weapon in the second degree); 265.04 (Criminal possession of a weapon in the first degree); 265.08 (Criminal use of a firearm in the second degree); 265.09 (Criminal use of a firearm in the first degree); 265.10(3) or (6) Manufacture, transport, disposition and defacement of weapons and dangerous instruments and appliances); 265.11 (Criminal sale of a firearm in the third degree); 265.12 (Criminal sale of a firearm in the second degree); 265.13 (Criminal sale of a firearm in the first degree); 265.14 (Criminal sale of a firearm with the aid of a minor) or 265.16 (Criminal sale of a firearm to a minor).

f. "Higher education" shall have the meaning given in subdivision 8 of section 2 of the Education Law.

g. "Local correctional facility" shall have the meaning given in paragraph (a) of subdivision 16 of section 2 of the Correction Law.

h. "Secondary education" shall have the meaning given in subdivision 7 of section 2 of the Education Law.

i. "State correctional facility" means a correctional facility as defined in paragraph (a) of subdivision 4 of section 2 of the Correction Law.

§ 8-150.2 Creation of a Gun Offender Registry.

A registry is hereby created which shall contain the names, residence and identifying information of individuals who live in Nassau County and who are convicted of a gun offense as defined by this title.

§ 8-133.2 **Duty to register and to verify.**

a. A gun offender shall register with the Department (1) at the time sentence is imposed, or (2) if sentence was imposed prior to the individual becoming a resident of Nassau County, when that individual becomes a resident of Nassau County, and as set forth in subdivision (d) below, on a form prescribed by the Department.

b. Registration as required by this title shall consist of a statement in writing signed by the gun offender giving such information as may be required under subdivision (c) of this section.

c. A gun offender shall, to the extent required by the Department, provide the following information to the Department:

1. The gun offender's name, all aliases used, date of birth, sex, race, height, weight, eye color, number of any driver's license or non-driver photo ID card, home address and/or expected place of residence.
2. A set of fingerprints and a photograph, updated during the period of registration as described in subdivision (d) of this section.
3. A description of the offense for which the gun offender was convicted, the date of conviction and the sentence imposed.
4. The name and address of any institution of career education, higher education or secondary education at which the gun offender is or expects to be enrolled or attending, and whether such offender resides in or will reside in a facility owned or operated by such institution.
5. The gun offender's place of employment or expected place of employment, including name and phone number of supervisor and mailing address of said employer.
6. Any other information deemed pertinent by the Department.

d. First personal appearance. A gun offender who is required to register shall personally appear to the Department or office designated by the Commissioner within forty-eight hours (48) of:

1. release, in the event the gun offender receives a sentence of imprisonment; or
2. the time sentence is imposed, if such sentence does not include imprisonment, for the purpose of personally providing and verifying such information as may be required under subdivision (c) of this section with the Department. The Department shall at such time photograph the gun offender. The Commissioner may require the gun offender to provide documentation the Commissioner deems necessary for verifying such information.

e. For a gun offender who resides in Nassau County and is subject to registration requirements of this title, the following shall apply:

1. Except as specified in paragraph 2 of this subdivision, within twenty (20) days of each six (6) month anniversary of the gun offender's initial registration date, the gun offender shall personally appear at such office as the Commissioner may direct for the purpose of verifying such information as may be required under subdivision (c) of this section with the department. The Department may at such time photograph the gun offender. The Commissioner may require the gun offender to provide documentation the Commissioner deems necessary to verify such information.

2. If a gun offender who is required to register under this title is confined to any federal, state or local correctional facility, hospital or institution throughout the twenty (20) day period described in paragraph 1 of this subdivision, such gun offender shall personally report to the department as required by paragraph(1) within forty-eight (48) hours of release. The Department may at such time photograph the gun offender and require the gun offender to

provide such documentation as the Commissioner deems necessary to verify the information provided

f. The Department is authorized to maintain in the registry database information other than that specified in subdivision (c) of this section.

g. -Any gun offender required to register according to this title shall personally appear at the Department or at the office designated by the Commissioner to update his or her residency information, provide documentation as required by the Commissioner to verify any change in residence and to provide other verification information as required by this title when the following applies:

1. within ten (10) calendar days after establishing a residence in Nassau County;

or

2. within ten (10) calendar days after changing residences within Nassau County; or

3. within (10) days prior to moving from a residence in Nassau County and establishing a residence outside of Nassau County.

§ 8-133.3 Continuing registration and verification. A gun offender shall register and verify for a period of four (4) years from the date of conviction of a gun offense, if the conviction does not include imprisonment, or for a period of four (4) years from the date of release from imprisonment after conviction of a gun offense, in the event the gun offender receives a sentence of imprisonment. After the conclusion of four (4) years, a gun offender need not register or verify, provided the gun offender has not been convicted of a new gun offense.

§ 8-133.4 Sharing of registration information.

a. The Department is authorized to make the registry available to any state, regional or federal government-operated registry of gun offenders for the purpose of sharing information. The Department may accept files from any state, regional or national registry of gun offenders.

b. The Department is authorized to make the registry information available within a reasonable amount of time to any institution of career education, higher education, secondary or primary education upon the request of said institution.

c. The Department shall not place the registry on any internet page or allow public access to the registry through the internet.

§ 8-133.5 **Cooperation.** The Department is authorized to cooperate with state and county departments and agencies and the judiciary to facilitate implementation of this title.

Assistance and cooperation in the implementation of this title shall be provided by other county departments and agencies upon request by the Commissioner.

§ 8-133.6 **Promulgation of rules and procedures.** The Commissioner may make and promulgate such rules and procedures and establish such forms as are necessary to carry out the provisions of this title.

§ 8-133.7 **Fees.** Each person required to register with the Gun Offenders Registry shall pay a fee of fifty dollars (\$50.00) at the time of the initial registration and on each six month anniversary of the initial registration. These funds will be used to pay the administrative costs of maintaining the registry required by this title.

§ 8-133.8 **Penalties.** Any violation by a gun offender of this title or of the rules and regulations established pursuant to this title, including any failure to register or to verify pursuant in the manner and within the time periods provided for in this title, shall be a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000) or imprisonment of not more

than one (1) year or both such fine and imprisonment. Failure to receive any form shall not excuse any violation of this title.

§ 8-133.9 Reverse Preemption. This title shall be null and void and deemed repealed and removed from this Administrative Code on the day that any state or federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this title. The County Executive shall determine whether or not identical or substantially similar state or federal legislation has been enacted for the purposes of triggering the provisions of this section and shall advise this Legislature thirty (30) days prior to the triggering of the provisions of this section.

Section 2. Severability. If any clause, sentence, paragraph, subdivision, section or part of this local law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, effect or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application to the person, individual, corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 3. SEQRA Determination. This legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this action is an unlisted action under the provisions of Title 6 NYCRR Part 617, and that based on an evaluation of the environmental criteria set forth in §617.7(c) that are considered to be indicia of significant adverse environmental impacts, along with the recommendation of the Nassau County Planning Commission acting in its advisory capacity to the legislature, that such action will not have

significant adverse impacts on the environment, and that no additional environmental review or action is necessary.

Section 4. Effective date. This local law shall become effective ninety (90) days after it shall have become a law, provided that the Commissioner may take any actions necessary prior to such effective date for the implementation of this local law, including, but not limited to, promulgating rules and regulations.

APPROVED



County Executive

DATE Nov. 7, 2014