

Not mentioned in this training bulletin is the requirement that all personal firearms transactions (private sales, transfers etc.) now to be done by online portal only.
-HWRGC

AN ACT RELATIVE TO THE REDUCTION OF GUN VIOLENCE*

With the enactment of ***Chapter 284 of the Acts of 2014, "An Act Relative to the Reduction of Gun Violence"*** on **August 11, 2014** there has been several changes to many of the firearms statutes as well as several other related statutes. The following departmental Training Bulletin represents some of the more significant changes and new statutory offenses as they pertain to the Massachusetts Police Officer of which a thorough understanding is essential for the effective performance of the "street" duties of law enforcement.

New Statutory Offenses and Amended Language:

(1) G.L Chapter 265 §13D:

- Whoever commits an offense under this section (A&B on a Public Official)
- **and** which includes an attempt to ***disarm*** a police officer
- in the performance of the officer's duties
- **Penalty: [Felony]** Shall be punished by imprisonment in the **State Prison** for not more than 10 years or by a fine of not more than \$1,000 and imprisonment in a jail or house of correction for not more than 2½ years.

G.L. Chapter 265 § 13D A&B on Public Employees	G.L. Chapter 265 § 13D (2014) Attempt to Disarming a Police Officer – 10 Year FELONY
<ul style="list-style-type: none">■ Elements are:<ul style="list-style-type: none">■ a) Same as those for A&B;■ b) On any public employee;■ c) Must be engaged in the performance of duty at the time of the A&B.■ Misdemeanor - No statutory right of arrest, but it would be obviously arrestable because it is committed in the officer's presence and because it amounts to a breach of the peace.	<ul style="list-style-type: none">■ Whoever commits an offense under this section and which includes:<ul style="list-style-type: none">■ An attempt to■ disarm a police officer■ in the performance of their officer's duties■ Penalty: Shall be punished by imprisonment in the State Prison for not more than 10 years or by a fine of not more than \$1,000 and imprisonment in a jail or house of correction for not more than 2½ years.

(2) G.L. Chapter 265 §15E:

- (a) Whoever commits an Assault and Battery upon another
- by ***Discharging a firearm***, large capacity weapon, rifle, shotgun, sawed-off shotgun or machine gun, as defined in section 121 of chapter 140,
 - **Penalty: [Felony]** Shall be punished by imprisonment in the **State Prison** for not more than 20 years or by imprisonment in the house of correction for not more than 2½ years or by a fine of not more than \$10,000, or by both such fine and imprisonment.

G.L. Chapter 265 § 15E
Assault & Battery by Discharging a Firearm — 20 Year Felony

- (a) Whoever commits an **assault and battery** upon another
- **by discharging a firearm**, large capacity weapon, rifle, shotgun, sawed-off shotgun or machine gun, as defined in section 121 of chapter 140,
- **Penalty**: Shall be punished by imprisonment in the **State Prison** for not more than **20 years** or by imprisonment in the house of correction for not more than 2½ years or by a fine of not more than \$10,000, or by both such fine and imprisonment.

(3) G.L. Chapter 265 § 15F:

- (a) Whoever attempts to commit an Assault and Battery upon another
- by means of **Discharging a firearm**, large capacity weapon, rifle, shotgun, sawed-off shotgun or machine gun, as defined in section 121 of chapter 140,
 - **Penalty: [Felony]** Shall be punished by imprisonment in the **State Prison** for not more than 15 years or by imprisonment in the house of correction for not more than 2½ years or by a fine of not more than \$10,000, or by both such fine and imprisonment.

G.L. Chapter 265 § 15F - ATTEMPT
Assault & Battery by Discharging a Firearm — 15 Year Felony

- (a) Whoever **attempts** to commit **an assault and battery** upon another
- **by means of discharging a firearm**, large capacity weapon, rifle, shotgun, sawed-off shotgun or machine gun, as defined in section 121 of chapter 140,
- **Penalty**: Shall be punished by imprisonment in the **State Prison** for not more than **15 years** or by imprisonment in the house of correction for not more than 2½ years or by a fine of not more than \$10,000, or by both such fine and imprisonment.

(4) G.L Chapter 265 §21A: [Carjacking – Enhanced Penalty]

Whoever commits any offense described in this section

- while armed with a firearm, rifle, shotgun, machine gun or assault weapon,
- **Penalty**: Shall be punished by imprisonment in the **State Prison**
- for **not less than 7 years**.

G.L. Chapter 265 § 21A
"Carjacking" – Felony

- Elements are:
- a) With **specific intent to steal a motor vehicle**;
- b) Assaults, confines, maims, or puts anyone in fear;
- c) Whether or not successfully stealing a motor vehicle;
- d) **Unarmed (15-year felony)** or **armed (20-year felony)**.
- **7 year minimum** while armed with F,R, or SG

(5) G.L. Chapter 265 §58: [Deceptive Weapon]

- Any person who is in possession of a **Deceptive Weapon** device as defined in §121 of c. 140
- **during the commission of a violent crime** as defined in said §121 of c. 140
- **Shall be deemed to be armed** and shall be punishable by penalties set forth in this chapter.

(5A) G.L. Chapter 140 § 121:

- **"Deceptive Weapon Device":**
 - any device that is intended to convey the presence of a rifle, shotgun or firearm
 - that is used in the commission of a violent crime, as defined in this section,
 - and which presents an objective threat of immediate death or serious bodily harm
 - to a person of reasonable and average sensibility.

(6) G.L. Chapter 266 §17: [B&E Daytime - Fear]

Whoever commits any offense described in this section

- while armed with a firearm, rifle, shotgun, machine gun or assault weapon
- **Penalty:** Shall be punished by imprisonment in the **State Prison**
- **for not less than 7 years** or in the house of correction for not less than 2 years nor more than 2½ years.

G.L. Chapter 266 § 17 – Entering w/o Breaking in the NT, Building, MV - Fear – 10 Year Felony

- Whoever,
- in the **night time**,
- **enters without breaking**, [Constructive breaking]
- **OR**
- **breaks and enters** in the **day time**,
- a **building**, ship, vessel, or **vehicle**,
- with intent to commit a **felony**,
- the owner or any other **person lawfully therein being put in fear**.
- shall be punished by imprisonment in the **state prison** for not more than **ten years**.
- **Enhanced Penalty:** Whoever commits any offense while armed with a firearm, rifle, shotgun, machine gun or assault weapon shall be punished by imprisonment in the **state prison** for not less than **SEVEN years**

(7) G.L. Chapter 266 §18: [B&E Daytime – No Fear]

Whoever commits any offense described in this section

- while armed with a firearm, rifle, shotgun, machine gun or assault weapon
- Penalty: Shall be punished by imprisonment in the **State Prison**
- **for not less than 7 years** or by imprisonment in the house of correction for not less than 2 years nor more than 2½ years.

G.L. Chapter 266 § 18 – Entering w/o Breaking in the NT, Building, MV – No Fear – 10 Year Felony

- Whoever,
- in the **night time**,
- **enters without breaking**, [Constructive breaking]
- **OR**
- **breaks and enters** in the **day time**,
- a **building**, ship, vessel, or **vehicle**,
- with intent to commit a **felony**,
- **NO person lawfully therein being put in fear**.
- shall be punished by imprisonment in the **state prison** for not more than **ten years**.
- **Enhanced Penalty:** Whoever commits any offense while armed with a firearm, rifle, shotgun, machine gun or assault weapon shall be punished by imprisonment in the **state prison** for not less than **SEVEN years**

(8) G.L. Chapter 269 §10(j): [New Right of Arrest for a Firearm Violation]

(j) For the purposes of this paragraph, “firearm” shall mean any pistol, revolver, rifle or smoothbore arm from which a shot, bullet or pellet can be discharged.

Whoever,

- not being a law enforcement officer
- and notwithstanding any license [LTC] obtained by the person pursuant to chapter 140,
- carries on the person a firearm, loaded or unloaded,
- or other dangerous weapon
- in any building or on the grounds of any
- elementary or secondary school, college or university
- without the written authorization of the board or officer in charge of the elementary or secondary school, college or university
- **Penalty: [Misdemeanor]** Shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 2 years or both.
- **Right of Arrest:**
 - **A law enforcement officer may arrest**
 - **without a warrant and detain a person found**
 - **carrying a firearm in violation of this paragraph.**

Any officer in charge of an elementary or secondary school, college or university or any faculty member or administrative officer of an elementary or secondary school, college or university that fails to report a violation of this paragraph shall be guilty of a misdemeanor and punished by a fine of not more than \$500.

(9) G.L. Chapter 269 §10E:

Whoever, except as provided by law,

- in a single transaction or occurrence
- or in a series of transactions
- within a 12 month period,
- knowingly or intentionally distributes, sells, or transfers possession of
- a quantity of firearms, rifles, shotguns, machine guns, or any combination thereof,
- Penalty: Shall, if the quantity of firearms, rifles, shotguns, machine guns, or any combination is:

G.L. Chapter 269 §10E Trafficking in Firearms

- (1) **1 or more, but less than 3**, be punished by a term of imprisonment of not more than 10 years in the state prison or by a fine of not more than \$50,000, or by both such imprisonment and fine;
- (2) **3 or more, but less than 10**, be punished by a term of imprisonment, not to exceed 20 years in the state prison; provided, however, that said sentence **shall not be less than a mandatory minimum term of imprisonment of 5 years**; and provided further, that said sentence may include a fine of not more than \$100,000, which shall not be in lieu of the mandatory minimum term of imprisonment;
- (3) **10 or more**, be punished by a term of imprisonment up to life imprisonment in the state prison; provided, that said sentence **shall not be less than a mandatory minimum term of imprisonment of 10 years**; and provided further, that said sentence may include a fine of not more than \$150,000, which shall not be in lieu of the mandatory minimum term of imprisonment.

(10) G.L. Chapter 269 §10I:

G.L. Chapter 269 §10I Transport Firearm into State to be used in Crime; to Prohibited Person

- (a) Whoever **transports a firearm**, rifle, shotgun, machine gun or sawed-off shotgun **into the commonwealth**
- to **use the weapon for the commission of criminal activity**
- Shall be punished by imprisonment in the **state prison for not less than 5 years nor more than 10 years.**
- (b) Whoever **transports a firearm**, rifle, shotgun, machine gun or sawed-off shotgun **into the commonwealth**
- to unlawfully distribute, sell or transfer possession of the weapon **to a prohibited person**, as defined in section 131 of chapter 140,
- shall be punished by imprisonment in the **state prison for not less than 10 years nor more than 20 years.**
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G.L. Chapter 269 §10I Transport a Firearm into State to be used in Crime; or to Prohibited Person

- (c) Whoever **transports a firearm**, rifle, shotgun, machine gun or sawed-off shotgun **into the commonwealth**
- to unlawfully distribute, sell or transfer the weapon **to a prohibited person**, as defined in section 131 of chapter 140,
- **and** if the weapon is subsequently **used to cause the DEATH of another**,
- shall be punished by imprisonment in the **state prison for not less than 20 years**.

(11) G.L. Chapter 269 §10J:

(a) Whoever in the nighttime or the daytime

- breaks and enters a building, ship, vessel or vehicle
- to steal a firearm
- **Penalty:** Shall be punished by imprisonment in the **State Prison for not more than 5 years** or by imprisonment in the house of correction for not more than 2½ years or by a fine of not more than \$10,000, or by both such fine and imprisonment.

(b) Whoever in the nighttime or the daytime

- breaks and enters a building, ship, vessel or vehicle
- to steal a firearm
- to distribute
- to a **Prohibited Person**, as defined in section 131 of chapter 140
- **Penalty:** Shall be punished by imprisonment in the **State Prison for not more than 10 years** or by imprisonment in the house of correction for not more than 2½ years or by a fine of not more than \$10,000, or by both such fine and imprisonment.

(c) Whoever in the nighttime or the daytime

- breaks and enters a building, ship, vessel or vehicle
- to steal a firearm
- **and** in the process
- **causes injury** of another
- **Penalty:** Shall be punished by imprisonment in the **State Prison for not more than 10 years** or by imprisonment in the house of correction for not more than 2½ years or by a fine of not more than \$10,000, or by both such fine and imprisonment.

[Forfeiture of Motor Vehicle]: Any motor vehicle lawfully owned or operated by any person convicted pursuant to this section shall be forfeited pursuant to section 24W of chapter 90. All proceeds from the auction of the vehicle shall be deposited into the Public Safety Training Fund established under section 2JJJ of chapter 29.

(12) G.L. Chapter 269 §10K: [B&E into a Firearms Dealer/Manufacturer]

(a) Whoever

- in the nighttime or the daytime
- breaks and enters
- any building in which a **firearm retailer, wholesaler or manufacturer conducts business**
- **Penalty:** Shall be punished by imprisonment in the **State Prison** for not more than 10 years or by imprisonment in the house of correction for not more than 2½ years or by a fine of not more than \$10,000, or by both such fine and imprisonment.

(b) Whoever

- in the nighttime or the daytime
- breaks and enters
- any building in which a firearm retailer, wholesaler or manufacturer conducts business
- **with the intent to unlawfully obtain a firearm, rifle, shotgun,** machine gun or ammunition
- **Penalty:** Shall be punished by imprisonment in the **State Prison for not more than 10 years** or by imprisonment in the house of correction for not more than 2½ years or by a fine of not more than \$10,000, or by both such fine and imprisonment.

(c) Whoever

- unlawfully obtains a firearm, rifle, shotgun, machine gun or ammunition
- by means of breaking and entering,
- in the nighttime or the daytime,
- any building in which a firearm retailer, wholesaler or manufacturer conducts business
- and **who unlawfully distributes said firearm, rifle, shotgun, machine gun or ammunition**
- **Penalty:** Shall be punished by imprisonment in the **State Prison for not more than 20 years** or by imprisonment in the house of correction for not more than 2½ years or by a fine of not more than \$10,000, or by both such fine and imprisonment.

(13) G.L Chapter 71 §37P: [Effective July 1, 2015]

(a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:

- **“Chief of Police”**, the chief of police or the board or officer having control of the police in a city or town.
- **“School Resource Officer”**, a duly sworn municipal police officer with all necessary training, up-to-date certificates or a special officer appointed by the chief of police charged with providing law enforcement and security services to elementary and secondary public schools. For the purpose of this section a school resource officer shall be exempt under subsection (j) of section 10 of chapter 269 (Carrying a Firearm or other weapon on School Property), **while serving in the officer’s official capacity.**

- (b) Every chief of police, in consultation with the superintendent and **subject to appropriation,** **shall assign at least one (1) School Resource Officer to serve the city,** town, commonwealth charter school, regional school district or county agricultural school. In the case of a regional school district, commonwealth charter school or county agriculture school, the chief of police of the city or town where the school is located, in consultation with the superintendent, shall

assign the school resource officer, which may be the same officer for all schools in the city or town.

[SRO Selection Process]: In assigning a school resource officer, the chief of police shall consider candidates that the chief believes would strive to foster an optimal learning environment and educational community; provided further, that:

- **[SRO Preference]**: the chief of police may give preference to candidates who have received specialized training:
 - in child and adolescent development,
 - de-escalation and conflict resolution techniques with children and adolescents,
 - behavioral health disorders in children and adolescents,
 - alternatives to arrest and other juvenile justice diversion strategies and
 - behavioral threat assessment methods.

[Annual Review of SRO]: The appointment shall not be based solely on seniority. The performance of school resource officers shall be reviewed annually by the superintendent and the chief of police. The superintendent and the chief of police shall enter into a written memorandum of understanding to clearly define the role and duties of the school resource officer which shall be placed on file in the office of the school superintendent.

(c) **[SRO Waiver]**: Upon written application by a school department of a city or town, in consultation with the chief of police, a regional school district or a county agricultural school, the commissioner of elementary and secondary education may waive the requirements of this section if the commissioner believes a school resource officer would not assist that particular city or town, regional school district or county agricultural school to ensure school safety. The written application shall include: (i) the reasons for the waiver request; (ii) data or evidence supporting the waiver request; and (iii) a description of, and supporting data for, alternative procedures and resources relied upon to ensure safe schools.

(f) No public employer shall be liable for injury, loss of property, personal injury or death caused by an act or omission of a public employee while acting in the scope of the public employee's employment and arising out of the implementation of this section. This section shall not be construed as creating or imposing a specific duty of care.

(14) G.L. Chapter 140 §131L: [Weapons Stored or Kept by Owner – Felony/Misdemeanor]

G.L. Chapter 140 § 131L: Weapons Stored or Kept by Owner	
	<ul style="list-style-type: none">■ (a) It shall be unlawful to store or keep any firearm, rifle or shotgun including, but not limited to, large capacity weapons, or machine gun in any place <u>unless such weapon is secured in a locked container or equipped with a tamper-resistant mechanical lock</u>■ or other safety device, properly engaged■ so as to render such weapon inoperable by any person other than the owner or other lawfully authorized user.■ For purposes of this section, such weapon shall not be deemed stored or kept if carried by or under the control of the owner or other lawfully authorized user.

G.L. Chapter 140 § 131L: Weapons Stored or Kept by Owner (M) (F)

- (b) A violation of this section shall be punished,
- in the case of a firearm, rifle or shotgun that is **not a large capacity weapon**, by a fine of not less than \$1000 nor more than \$7,500 or by imprisonment for not more than **1 ½ years**, or by both such fine and imprisonment,
- and in the case of a **large capacity weapon** or machine gun, by a fine of not less than \$2,000 nor more than \$15,000 or by imprisonment for not less than **1 ½ years** nor more than **twelve years**, or by both such fine and imprisonment.

G.L. Chapter 140 § 131L: Weapons Stored or Kept by Owner (F) Non-Large - <18 may have access

- (c) A violation of this section
- **shall be punished**, in the case of a rifle or shotgun that is **not a large capacity weapon**
- **and** the weapon
- was stored or kept in a place where a **person younger than 18 years of age** who does not possess a valid firearm identification card issued under section 129B
- may have access without committing an unforeseeable trespass,
- by a fine of not less than \$2,500 nor more than \$15,000 or by imprisonment for **not less than 1 ½ years** nor more than 12 years or by both such fine and imprisonment.

(15) Chapter 140 § 122C:

(a) As used in this section and section 122D, "**self-defense spray**" shall mean:

- **chemical mace, pepper spray or any device or instrument which contains, propels or emits a liquid, gas, powder or other substance designed to incapacitate.**

(b) Whoever,

- not being licensed as provided in section 122B,
- sells self-defense spray
- **Penalty:** Shall be punished by a fine of not more than \$1,000 or by imprisonment in a house of correction for not more than 2 years.

(c) Whoever sells self-defense spray to a person younger than 18 years of age, if the person younger than 18 years of age does not have a firearms identification card, shall be punished by a fine of not more than **\$300**.

(d) A person under 18 years of age who possesses self-defense spray and who does not have a firearms identification card shall be punished by a fine of not more than **\$300**.

(16) G.L. Chapter 140 § 121: [Definition of Ammunition]

The **Definition of Ammunition no longer includes** the following language:

1. *“chemical mace or any device or instrument which contains or emits a liquid, gas, powder or any other substance designed to incapacitate”.*

(17) G.L. Chapter 140 § 131: [Prohibited Person]

A ***Prohibited Person*** shall be a person who:

(i) has, in a court of the commonwealth [(ii) or in any other state or federal jurisdiction] been convicted or adjudicated a Youthful Offender or Delinquent Child, both as defined in section 52 of chapter 119, for the commission of :

Lifetime Disqualifiers:

- (A) any **Felony**;
- (B) any **Misdemeanor** punishable by imprisonment for **more than 2 years (M>2)** ;
- (C) a **Violent Crime** as defined in section 121;
- (D) a violation of any **Weapons Offense** for which a term of imprisonment may be imposed;
- (E) a violation of any **Drug Offense** (Chapter 94C); or
- (F) any misdemeanor crime of **Domestic Violence** as defined in 18 U.S.C. 921(a)(33);

(iii) is or has been

(A) **committed** to a

- hospital or institution for
 - mental illness,
 - alcohol or
 - substance abuse, except a commitment pursuant to sections 35 or 36C of chapter 123 where they were granted relief by court order,
- **unless** after **five (5) years from the date of the confinement**, the applicant submits with the application an affidavit of a licensed physician or clinical psychologist attesting that such physician or psychologist is familiar with the applicant's mental illness, alcohol or substance abuse and that in the physician's or psychologist's opinion, the applicant is not disabled by a mental illness, alcohol or substance abuse in a manner that shall prevent the applicant from possessing a firearm, rifle or shotgun;

Additional Disqualifiers:

- (iv) is younger than 21 years of age at the time of the application;
- (v) is an **Alien** who does not maintain lawful permanent residency;
- (vi) currently subject to: **Restraining Order** (via §§3B or 3C of c.209A);
- (vii) is currently the subject of an outstanding **Arrest Warrant** in any state or federal jurisdiction;
- (viii) **Dishonorable Discharge** from Armed Services;
- (ix) is a **Fugitive from Justice**; or
- (x) having been a citizen of the United States, has **Renounced that Citizenship**.

(18) G.L. Chapter 140 § 131C: [Carrying of Firearms in a Vehicle]

G.L. Chapter 140 § 131C: Carrying of Firearms in a Vehicle – Class A & B

- (a) No person **carrying a loaded firearm** under a **Class A license** issued under section 131 or 131F shall carry the same in a vehicle unless such **firearm while carried therein is under the direct control of such person**. [\$500 Fine]
- (b) No person **carrying a firearm** under a **Class B license** issued under section 131 or 131F shall possess the same in a vehicle unless such weapon is **unloaded and contained within the locked trunk of such vehicle or in a locked case or other secure container**. [\$500 Fine].

G.L. Chapter 140 § 131C: Carrying of Firearms in a Vehicle – Class A & B Rifle or Shotgun

- (c) No person possessing a **large capacity rifle or shotgun** under a Class A or Class B license issued under section 131 or 131F shall possess the same in a vehicle unless **such weapon is unloaded and contained within the locked trunk of such vehicle or in a locked case or other secure container**. \$500-\$5000 Fine

G.L. Chapter 140 § 131C: Carrying of Firearms in a Vehicle – Class A & B

- (d) The provisions of this section(131C) **shall not apply to**
- (i) **any officer**, agent or employee of the commonwealth or any state or the United States;
- (ii) any **member of the military** or other service of any state or of the United States;
- (iii) any **duly authorized law enforcement officer**, agent or employee of any municipality of the commonwealth;
- provided, however, that any such person described in clauses (i) to (iii), inclusive, is **authorized by a competent authority to carry or possess the weapon** so carried or possessed
- **and is acting within the scope of his duties**.

(19) G.L. Chapter 140 §129C:

Whoever

- fails to report the loss or theft
- of a firearm, rifle, shotgun or machine gun
- or the recovery of a firearm, rifle, shotgun or machine gun previously reported lost or stolen
- to the commissioner of the department of criminal justice information services
- and the licensing authority in the city or town where the owner resides
- **Penalty:** Shall be punished by a fine of not less than \$500 nor more than \$1,000 for a first offense,
 - by a fine of not less than \$2,500 nor more than \$7,500 for a second offense
 - and by a fine of not less than \$7,500 nor more than \$10,000 or imprisonment for not less than 1 year nor more than **5 years**, or by both such fine and imprisonment, for a **third** or subsequent offense.

Note: Failure to so report shall be a cause for suspension or permanent revocation of a person's firearm identification card or license to carry firearms, or both.

(20) G.L. Chapter 140 §131E: [Straw Purchaser]:

A person

- who uses a license to carry firearms
- or a firearm identification card
- to purchase a firearm, rifle or shotgun
- for the unlawful use of another
- or for resale to
- or giving to an unlicensed person
- **Penalty:** Shall be punished by a fine of not less than \$1,000 nor more than \$50,000 or by imprisonment for not less than 2½ years nor more than 10 years in a **State Prison** or by both such fine and imprisonment.

(21) G.L. Chapter 123 § 35:

The court, in its order, shall specify whether such commitment is based upon a finding that the person is a person with an:

1. **alcohol use disorder,**
2. **substance use disorder, or both.**

The court, upon ordering the commitment of a person found to be a person with an alcohol use disorder or substance use disorder pursuant to this section, shall transmit the person's name and nonclinical identifying information, including the person's social security number and date of birth, to the department of criminal justice information services.

The court shall notify the person that such person is prohibited from being issued a firearm identification card pursuant to section 129B of chapter 140 or a license to carry pursuant to sections 131 and 131F of said chapter 140 unless a petition for relief pursuant to this section is subsequently granted.

2. **After 5 years from the date of commitment,** a person found to be a person with an alcohol use disorder or substance use disorder and committed pursuant to this section **may file a petition**

for relief with the court that ordered the commitment requesting that the court restore the person's ability to possess a firearm, rifle or shotgun.

3. The court may grant the relief sought in accordance with the principles of due process if the circumstances regarding the person's disqualifying condition and the person's record and reputation are determined to be such that:
- (i) the person is not likely to act in a manner that is dangerous to public safety; and
 - (ii) the granting of relief would not be contrary to the public interest.
 - In making the determination, the court may consider evidence from a licensed physician or clinical psychologist that the person is no longer suffering from the disease or condition that caused the disability or that the disease or condition has been successfully treated for a period of 3 consecutive years.

(22) G.L. Chapter 140 §129B: [Application for FID Card]

(1) Any person residing or having a place of business within the jurisdiction of the licensing authority or any person residing in an area of exclusive federal jurisdiction located within a city or town may submit to the licensing authority an **application for a firearm identification card**, or renewal of the same, which the licensing authority shall issue if it appears that the applicant is not a prohibited person. [See 17 above]

[Chief may file Petition to Deny FID]: (1½) (a) Notwithstanding paragraph (1) to the contrary, the **licensing authority may file a petition** to request that an applicant be denied the issuance or renewal of a firearm identification card, or to suspend or revoke such a card in the district court of jurisdiction. If the licensing authority files any such petition it shall be accompanied by written notice to the applicant describing the specific evidence in the petition. Such petition shall be founded upon a written statement of the reasons for supporting a finding of unsuitability pursuant to subsection (d).

(b) **[Denial – 90 days]:** Upon the filing of a petition to **deny the issuance or renewal** of a firearm identification card, the **court shall within 90 days hold a hearing** to determine if the applicant is **unsuitable** under subsection (d) of this paragraph. Such a petition shall serve to stay the issuance or renewal of the firearm identification card pending a judicial determination on such petition.

(c) **[Suspension or Revocation – 15 days]:** Upon the filing of a petition to **suspend or revoke** a firearm identification card, the **court shall within 15 days determine whether there is sufficient evidence to support a finding that the applicant is unsuitable**. Such petition shall serve to effect the suspension or revocation pending a judicial determination on the sufficiency of evidence. If a court determines that insufficient evidence exists to support a finding of unsuitability, the licensing authority shall not file a petition under this subsection for the same applicant within 75 days of the licensing authority's previous petition for that applicant. If a court determines that sufficient evidence exists to support a finding of unsuitability, the court shall within 75 days hold a hearing to determine if the applicant is unsuitable under subsection (d); provided, however, that such initial suspension or revocation shall remain in effect pending a judicial determination thereon.

(d) **A determination of unsuitability shall be based on a preponderance of evidence that there exists:**

(i) reliable, articulable, and credible information that the applicant **has exhibited or engaged in behavior** to suggest the **applicant could potentially create a risk to public safety**; or

(ii) **existing factors that suggest** that the **applicant could potentially create a risk to public safety**. If a court enters a judgment that an applicant is unsuitable the court shall notify the applicant in a writing setting forth the specific reasons for such determination. If a court has not entered a judgment that an applicant is unsuitable under this clause within 90 days for petitions under clause (ii) or within 75 days under clause

(iii), the court shall enter a judgment that the applicant is suitable for the purposes of this paragraph.

A firearm identification card shall not entitle a holder thereof to possess:

(i) a large capacity firearm or large capacity feeding device therefor, except under a license issued to a shooting club as provided under section 131 or under the direct supervision of a holder of a license issued to an individual under said section 131 at an incorporated shooting club or licensed shooting range; or

(ii) **a non-large capacity firearm** or large capacity rifle or shotgun or large capacity feeding device therefor, except under a license issued to a shooting club as provided under said section 131 or under the direct supervision of a holder of a license issued to an individual under said section 131 at an incorporated shooting club or licensed shooting range. A firearm identification card shall not entitle a holder thereof to possess any rifle or shotgun that is, or in such manner that is, otherwise prohibited by law. A firearm identification card issued pursuant to subclause (vi) of clause (1) of section 122D, **shall be valid to purchase and possess chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate**. Except as otherwise provided herein, a firearm identification card shall not be valid for the use, possession, ownership, transfer, purchase, sale, lease, rental or transportation of a rifle or shotgun if such rifle or shotgun is a large capacity weapon as defined in section 121.

(23) [Local Trace Required to Fusion Center] G.L. Chapter 140 Section 131Q.

A firearm, rifle or shotgun, large capacity weapon, machine gun or assault weapon used to carry out a criminal act **shall be traced by the licensing authority** for the city or town in which the crime took place.

The licensing authority shall report statistical data, when the data is readily available as determined by the chief of police, including, but not limited to:

- (i) the make, model, serial number and caliber of the weapon used;
- (ii) the type of crime committed;
- (iii) whether an arrest or conviction was made;
- (iv) whether fingerprint evidence was found on the firearm;
- (v) whether ballistic evidence was retrieved from the crime scene;
- (vi) whether the criminal use of the firearm was related to known gang activity;
- (vii) whether the weapon was obtained illegally;
- (viii) whether the weapon was lost or stolen; and
- (ix) whether the person using the weapon was otherwise a prohibited person.

The data shall be reported to the commonwealth fusion center or the criminal firearms and trafficking unit within the division of investigation and intelligence in the department of state police established pursuant to section 6 of chapter 22C. The **colonel of state police shall produce an annual report** by December 31 of each year regarding crimes committed in the commonwealth using firearms, rifles or shotguns, large capacity weapons, machine guns or assault weapons, including all of the categories of

data contained in this section, and shall submit a copy of the report to the joint committee on public safety and homeland security, the clerks of the house of representatives and the senate and, upon request, to criminology, public policy and public health researchers and other law enforcement agencies.