



# Risk-Based Firearm Policy Recommendations for Delaware

Prepared by:  
The Educational Fund to Stop Gun Violence



## **Risk-Based Firearm Policy Recommendations for Delaware**

**Educational Fund to Stop Gun Violence  
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### ***Additional Resources:***

The Consortium for Risk-Based Firearm Policy State Report:  
*Guns, Public Health, and Mental Illness: An Evidence-Based Approach for State Policy*  
<http://www.efsgv.org/wp-content/uploads/2014/10/Final-State-Report.pdf>

Educational Fund to Stop Gun Violence: <http://www.efsgv.org/>

Delaware Coalition Against Gun Violence: <http://decagv.org/>

Americans for Responsible Solutions: <http://americansforresponsiblesolutions.org/>

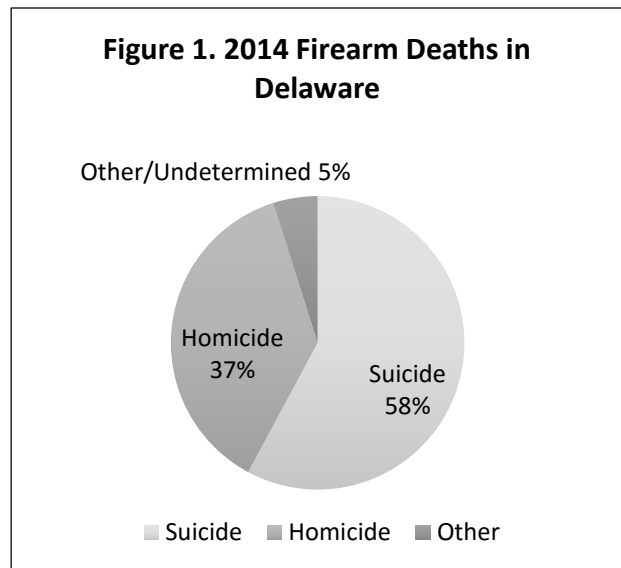
## Introduction

Firearm violence takes a tragic toll on society. Recent data shows there are more than 84,000 nonfatal firearm injuries<sup>1</sup> and 33,000 deaths<sup>2</sup>—nearly two-thirds of which are suicides<sup>3</sup>—per year in the United States. Effective solutions to reduce gun violence demand a comprehensive, evidence-based strategy. The Consortium for Risk-Based Firearm Policy (Consortium), a group of the nation’s leading experts in public health, mental health, and gun violence prevention, came together in March 2013 to address this complex issue. These esteemed researchers, practitioners, and advocates developed evidence-based gun violence prevention policy recommendations to reduce access to firearms by people who are at an increased risk of dangerous behavior.

This analysis from the Educational Fund to Stop Gun Violence (Ed Fund) examines how Delaware law compares to the Consortium’s recommendations, and outlines steps Delaware can take to prohibit individuals at increased risk of dangerous behavior from accessing firearms. The evidence supporting these recommendations is presented in the full Consortium Report: *Guns, Public Health, and Mental Illness: An Evidence-Based Approach for State Policy*.<sup>4</sup>

### I. The Data: Firearm Deaths in Delaware

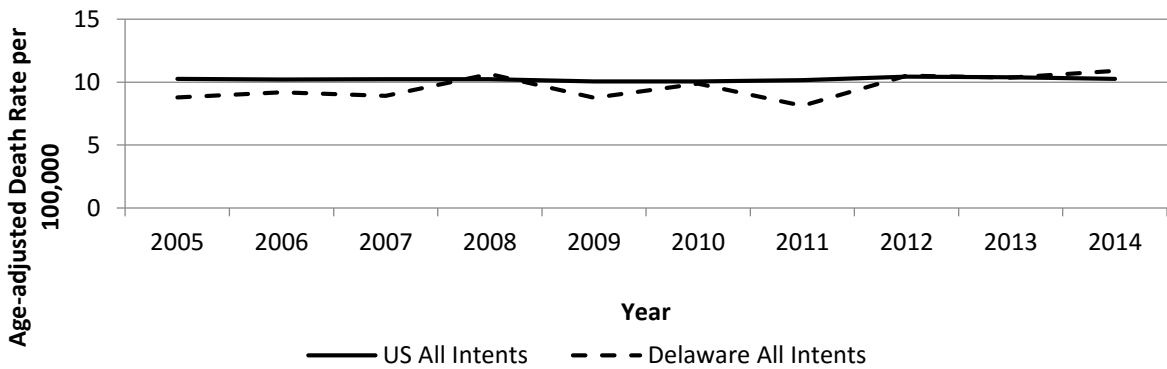
There are more than eight firearm related deaths every month in Delaware (102 total deaths in 2014).<sup>5</sup> Similar to national data, the majority of gun deaths in Delaware are suicides<sup>6</sup> (see Figure 1), which accounted for 58% of all firearm deaths in Delaware in 2014.<sup>7</sup> Delaware’s overall age-adjusted firearm death rate and firearm homicide rate are higher than the national rate, but Delaware’s firearm suicide rate is lower than the national rate (see Figures 2, 3 and 4).<sup>8</sup>



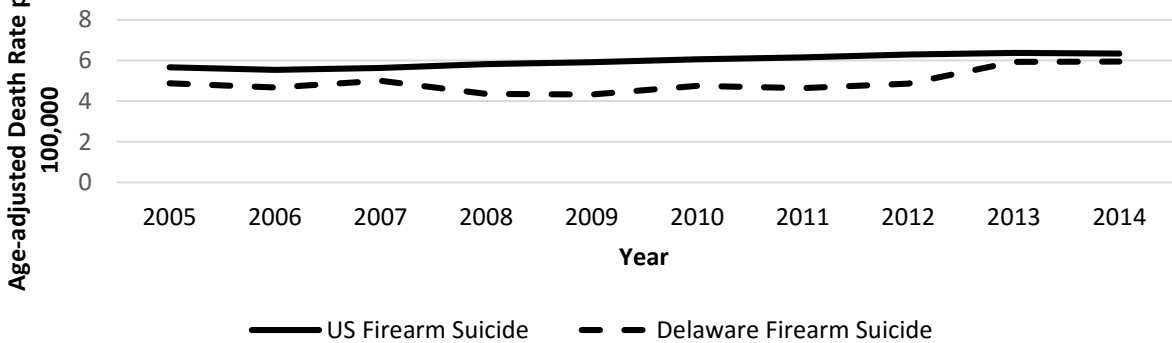
Source: CDC’s WISQARS™ (Web-based Injury Statistics Query and Reporting System).

*“There are more than eight firearm-related deaths every month in Delaware”*

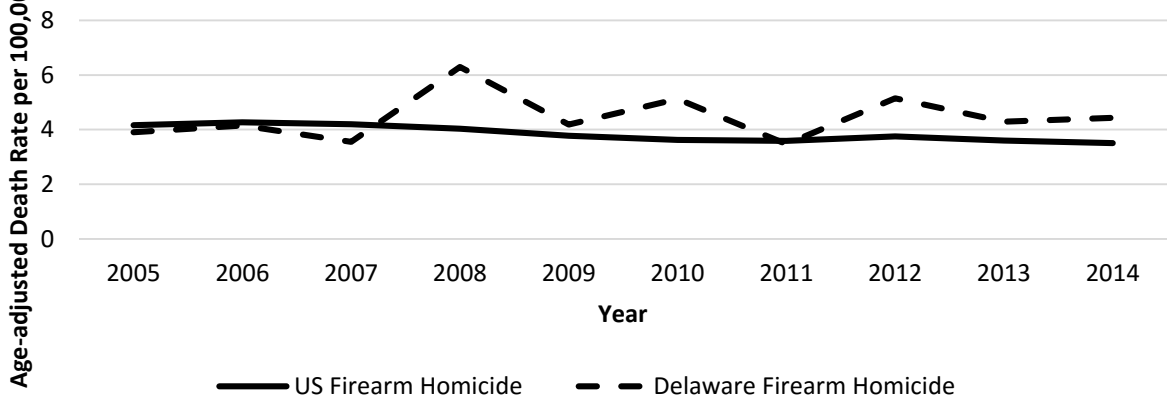
**Figure 2. Age-Adjusted All Intents Firearm Death Rate per 100,000: United States vs. Delaware 2005-2014**



**Figure 3. Age-Adjusted Suicide Firearm Death Rate per 100,000: United States vs. Delaware 2005-2014**



**Figure 4. Age-Adjusted Homicide Firearm Death Rate per 100,000: United States vs. Delaware 2005-2014**



Source: CDC's WISQARS™ (Web-based Injury Statistics Query and Reporting System). Fatal Injury Reports, 1999-2014, for National, Regional, and States

## II. Consortium Recommendation Summary

The discourse after horrific mass shootings often centers on the link between gun violence and mental illness. While research shows mental illness is strongly associated with suicide,<sup>9,10</sup> the majority of mentally ill individuals will never be violent toward others.<sup>11-13</sup> There are certain times when mentally ill persons are at increased risk of interpersonal violence, such as the time period surrounding an involuntary hospitalization,<sup>14, 15</sup> but most people with common mental illnesses are not more violent than the general population without mental illness.<sup>16</sup> Mental illness alone accounts for a very small proportion of societal violence (about 4%);<sup>17</sup> therefore, policies must address other risk factors for dangerousness in order to reduce overall violence in society.<sup>18, 19</sup> Aside from mental illness on its own, stronger predictors for interpersonal violence—including homicide—are a history of violence (violent misdemeanor crime convictions<sup>20</sup> and domestic violence<sup>21-23</sup>), drug abuse,<sup>24</sup> and alcohol abuse.<sup>25,26</sup> The Consortium recommends states expand current federal firearm prohibitions to include these broader risk factors for dangerousness. Policies addressing these criteria provide a comprehensive approach to gun violence prevention that is true to the evidence and does not stigmatize mental illness alone as the root cause of violence.

### 1. Mental Health Risk Factors for Dangerousness

Evidence shows that while mental illness on its own is not a strong predictor for violent behavior toward others, there are circumstances when mental illness makes an individual more prone to violence. The first episode of psychosis, and the time period just before and after an involuntary hospitalization, for example.<sup>27, 28</sup> Mental illness *is* strongly associated with self-harm, and common mental illnesses such as depression can increase risk of suicide.<sup>29, 30</sup> Risk of suicide and access to firearms is particularly dangerous; 90% of attempted suicides by firearm are fatal.<sup>31</sup> More than half of Delaware's firearm deaths were by suicide in 2014 (see Figure 1) and evidence informed policies restricting access to firearms during these periods of crisis might be effective. See below for the Consortium's recommendations regarding mental health risk factors for dangerousness.

**Recommendation #1: States should strengthen their laws to temporarily prohibit individuals from purchasing or possessing firearms after a short-term involuntary hospitalization. Concurrently, the process for restoring firearm rights should be clarified and improved.**

- 1.1 States should enact new legislation temporarily prohibiting individuals from purchasing or possessing firearms after a short-term involuntary hospitalization. This prohibition should be predicated on a clinical finding of danger to self or danger to others.

- 1.2 Restoration of an individual's ability to purchase or possess a firearm following a firearm disqualification due to mental illness should be based on an evaluation by a qualified clinician and a finding that the petitioner is unlikely to relapse and present a danger to self or others in the foreseeable future.

## **2. Other Risk Factors for Dangerousness**

As the majority of violence is related to factors other than mental illness alone, the Consortium recommends a risk-based approach to reducing violence, looking at other risk factors for dangerousness. A history of violence,<sup>32, 33</sup> including violent misdemeanor convictions<sup>34</sup> and perpetration of domestic violence,<sup>35-37</sup> is the strongest predictor of violence toward others. Individuals who abuse alcohol are at increased risk of homicide and suicide,<sup>38</sup> and research also shows that firearm owners are more likely to abuse alcohol.<sup>39-42</sup> Studies also show that illegal use of controlled substances is related to an increased risk of violence.<sup>43-47</sup> The cognitive impairment associated with drug use also makes it difficult to avoid violent conflict.<sup>48-50</sup> See below for the Consortium's recommendations regarding these other risk factors for dangerousness.

### **Recommendation #2: States should enact new prohibitions on individuals' ability to purchase or possess a firearm that reflect evidence-based risk of dangerousness.**

- 2.1 Individuals convicted of a violent misdemeanor should be prohibited from purchasing or possessing firearms for at least ten years.
- 2.2 Individuals who are subject to temporary domestic violence restraining orders should be prohibited from purchasing and possessing firearms for the duration of the temporary order.
- 2.3 Individuals convicted of two or more DWI or DUIs in a period of five years should be prohibited from purchasing and possessing firearms for at least five years.
- 2.4 Individuals convicted of two or more misdemeanor crimes involving controlled substances in a five-year period should be prohibited from purchasing or possessing firearms for at least five years.

## **3. Periods of Crisis**

Law enforcement and concerned family members need tools to temporarily suspend firearms access during periods of crisis. Connecticut<sup>51</sup> and Indiana<sup>52</sup> have discretionary gun-removal tools for law enforcement, and California<sup>53</sup> became the first state in the country to pass a law providing family members with a similar option. See below for the Consortium's recommendations regarding these periods of crisis.

**Recommendation #3: Develop a mechanism to authorize law enforcement officers to remove firearms when they identify someone who poses an immediate threat of harm to self or others. States should also provide law enforcement with a mechanism to request a warrant authorizing gun removal when the risk of harm to self or others is credible, but not immediate. In addition, states should create a new civil restraining order process to allow family members and intimate partners to petition the court to authorize removal of firearms and temporarily prohibit firearm purchase and possession based on a credible risk of physical harm to self or others, even when domestic violence is not an issue.**

- 3.1 Authorize law enforcement to remove guns from any individual who poses an immediate threat of harm to self or others.
- 3.2 Create a new civil restraining order process to allow private citizens to petition the court to request that guns be temporarily removed from a family member or intimate partner who poses a credible risk of harm to self or others. This process should mirror the restraining order process in most states and include a temporary *ex parte* order as well as a long-term order issued after a hearing in which the respondent had an opportunity to participate. Respondents to an order issued through this process (Gun Violence Restraining Order or GVRO) will be prohibited from purchasing and possessing guns for the duration of the order and required to relinquish all firearms in their possession for the duration of the order. Law enforcement officers should be able to request a warrant through this process to remove guns when there is a credible risk of harm that is not immediate.
- 3.3 Include due process protections for affected individuals. Specifically, provide respondents with an opportunity to participate in a hearing after having their guns are removed by law enforcement (3.1) or through the GVRO process (3.2) and assure processes are in place for returning all removed guns at the conclusion of the temporary prohibition.



### III. Policy Opportunities for Delaware

While Delaware state law exceeds federal firearm prohibitions in many ways,<sup>54</sup> Delaware does not meet all the Consortium's risk-based firearm prohibitions. Delaware should take the following steps to clarify their firearm-related laws and to meet the Consortium's recommendations:

***To address mental health risk factors for dangerousness, Delaware should...***

- Temporarily prohibit individuals from purchasing or possessing a firearm after a short-term involuntarily hospitalization.
- Clarify the restoration process to include evidence from a clinician that the petitioner is unlikely to be a dangerous to themselves or others in the foreseeable future.

***To address other risk factors for dangerousness, Delaware should...***

- Prohibit individuals convicted of any violent misdemeanor from purchasing or possessing a firearm for at least ten years.
- Prohibit respondents to ex parte orders from purchasing or possessing a firearm for the duration of order. Additionally, the removal language for protection from abuse orders issued after notice and hearing should be extended to ex parte orders.
- Prohibit those with two or more misdemeanor drug crimes from purchasing or possessing those classes of firearms not covered in Del. Code Ann. tit. 11, § 1448(a)(9) for at least five years at a minimum.
- Prohibit individuals convicted of two or more DUI or DWIs within a five-year period from purchasing or possessing a firearm for at least five years.

***To assist people during periods of crisis, Delaware should...***

- Create a Gun Violence Restraining Order (GVRO) mechanism to enable law enforcement and family or household members to petition the court to temporarily prohibit an individual in crisis from purchasing or possessing firearms.

#### IV. Policy Analysis

An analysis of current Delaware law and the corresponding Consortium recommendations is provided in the table below.

<b>Consortium Recommendation #1: Mental Health Risk Factors for Dangerousness</b>	
<b>1.1: Prohibit individuals following a short-term involuntary hospitalization from purchasing or possessing a firearm.</b>	
<b>Summary of Current Statute &amp; Recommendation</b>	
<ul style="list-style-type: none"> <li>• DE has no prohibition for individuals following a short-term involuntary hospitalization from purchasing or possessing a firearm.</li> <li>• <b>Recommendation:</b> Recommend that DE temporarily prohibit individuals following a short-term involuntary hospitalization from purchasing or possessing firearms.</li> </ul>	
<b>Current Statute</b>	
n/a	

<b>1.2: Refine the restoration process to include evidence from a clinician that the petitioner is unlikely to be a danger to themselves or others in the foreseeable future.</b>	
<b>Summary of Current Statute &amp; Recommendation</b>	
<ul style="list-style-type: none"> <li>• DE does not include a finding of unlikely to be dangerous in the restoration process.</li> <li>• <b>Recommendation:</b> DE should refine the restoration process to include evidence from a clinician that the petitioner is unlikely to be a danger to themselves or others in the foreseeable future.</li> </ul>	
<b>Current Statute</b>	
<p><b>§ 1448A. Criminal history record checks for sales of firearms</b> Del. Code Ann. tit. 11, § 1448A (West)</p>	
<p>(k) Relief from Disabilities Program.--A person who is subject to the disabilities of 18 U.S.C. § 922(d)(4) and (g)(4) or of § 1448(a)(2) of this title because of an adjudication or commitment under the laws of this State may petition for relief from a firearms prohibition from the Relief from Disabilities Board. The Relief from Disabilities Board shall be comprised of 3 members, with the chairperson appointed by and serving at the pleasure of the Secretary of Safety and Homeland Security, and 2 members appointed by and serving at the pleasure of the Secretary of the Department of Health and Social Services, 1 of whom shall be a licensed psychiatrist.</p> <p>(1) The Board shall consider the petition for relief in accordance with the following:</p> <p>a. The Board shall give the petitioner the opportunity to present evidence to the Board in a closed and confidential hearing on the record; and b. A record of the hearing shall be maintained by the Board for purposes of appellate review.</p> <p>(2) In determining whether to grant relief, the Board shall consider evidence regarding the following:</p> <p>a. The circumstances regarding the firearms disabilities pursuant to § 1448(a)(2) of this title and 18 U.S.C. § 922(d)(4) and (g)(4); b. The petitioner's record, which must include, at a minimum, the petitioner's mental health record, including a certificate of a medical doctor or psychiatrist licensed in this State that the person is no longer suffering from a mental disorder which interferes or handicaps the person from handling deadly weapons; c. Criminal history records; and d. The petitioner's reputation as evidenced through character witness statements, testimony, or other character evidence.</p> <p>(3) The Board shall have the authority to require that the petitioner undergo a clinical evaluation and risk assessment, which it may also consider as evidence in determining whether to approve or deny the petition for relief.</p> <p>(4) After a hearing on the record, the Board shall grant relief if it finds, by a preponderance of the evidence, that:</p>	

a. The petitioner will not be likely to act in a manner dangerous to public safety; and b. Granting the relief will not be contrary to the public interest.

(5) The Board shall issue its decision in writing explaining the reasons for a denial or grant of relief.

(6) Any person whose petition for relief has been denied by the Relief from Disabilities Board shall have a right to a de novo judicial review in the Superior Court. The Superior Court shall consider the record of the Board hearing on the petition for relief, the decision of the Board, and, at the Court's discretion, any additional evidence it deems necessary to conduct its review.

(7) Upon notice that a petition for relief has been granted, the Department of Safety and Homeland Security shall, as soon as practicable:

a. Cause the petitioner's record to be updated, corrected, modified, or removed from any database maintained and made available to NICS to reflect that the petitioner is no longer subject to a firearms prohibition as it relates to § 1448(a)(2) of this title and 18 U.S.C. § 922(d)(4) and (g)(4); and b. Notify the Attorney General of the United States that the petitioner is no longer subject to a firearms prohibition pursuant to § 1448(a)(2) of this title and 18 U.S.C. § 922(d)(4) and (g)(4).

## **Consortium Recommendation #2: Other Risk Factors for Dangerousness**

### **2.1: Prohibit individuals convicted of a violent misdemeanor from purchasing or possessing a firearm for at least ten years.**

#### **Summary of Current Statute & Recommendation**

- DE prohibits those who have been convicted of a misdemeanor crime of violence involving physical injury to another or a misdemeanor crime of domestic violence from purchasing or possessing a firearm for five years.
- **Recommendation:** Recommend implementing Consortium recommendation 2.1 to extend the five-year prohibition to a ten-year prohibition for all violent misdemeanants.

#### **Current Statute**

##### **§ 1448. Possession and purchase of deadly weapons by persons prohibited; penalties**

Del. Code Ann. tit. 11, § 1448 (West)

(a) Except as otherwise provided herein, the following persons are prohibited from purchasing, owning, possessing or controlling a deadly weapon or ammunition for a firearm within the State:

(1) Any person having been convicted in this State or elsewhere of a felony or a crime of violence involving physical injury to another, whether or not armed with or having in possession any weapon during the commission of such felony or crime of violence ...

(7) Any person who has been convicted in any court of any misdemeanor crime of domestic violence. For purposes of this paragraph, the term "misdemeanor crime of domestic violence" means any misdemeanor offense that:

a. Was committed by a member of the victim's family, as "family" is defined in § 901(12) of Title 10 (regardless, however, of the state of residence of the parties); by a former spouse of the victim; by a person who cohabitated with the victim at the time of the offense; or by a person with a child in common with the victim; and

b. Is an offense as defined under § 601, § 602, § 603, § 611, § 614, § 621, § 625, § 628A, § 763, § 765, § 766, § 767, § 781, § 785 or § 791 of this title, or any similar offense when committed or prosecuted in another jurisdiction...

(d) Any person who is a prohibited person solely as the result of a conviction for an offense which is not a felony shall not be prohibited from purchasing, owning, possessing or controlling a deadly weapon or ammunition for a firearm if 5 years have elapsed from the date of conviction.

**2.2: Prohibit individuals subject to a temporary domestic violence restraining order from purchasing or possessing a firearm for the duration of the order.**

**Summary of Current Statute & Recommendation**

- Under DE law, those subject to a Family Court protection from abuse order, except ex parte, are prohibited from purchasing, owning, possessing or controlling a firearm for the duration of the order.
- Under DE law, judges may order the respondent to a Family Court protection from abuse order, except ex parte, to surrender firearms to a law enforcement officer, or issue an order directing law enforcement to search for and seize firearms of the respondent and hold them for the duration of the order.
- **Recommendation:** Recommend implementing Consortium recommendation 2.2 to include a firearm prohibition for the duration of ex parte orders. Additionally, the removal language for protection from abuse orders issued after notice and hearing should be extended to ex parte orders.

**Current Statute**

**§ 1448. Possession and purchase of deadly weapons by persons prohibited; penalties**

Del. Code Ann. tit. 11, § 1448 (West)

(a) Except as otherwise provided herein, the following persons are prohibited from purchasing, owning, possessing or controlling a deadly weapon or ammunition for a firearm within the State:...

(6) Any person who is subject to a Family Court protection from abuse order (other than an ex parte order), but only for so long as that order remains in effect or is not vacated or otherwise terminated, except that this paragraph shall not apply to a contested order issued solely upon § 1041(1)d., e., or h. of Title 10, or any combination thereof;

**§ 1045. Relief available; duration of orders, modification and termination**

Del. Code Ann. tit. 10, § 1045 (West)

(a) After consideration of a petition for a protective order, the Court may grant relief as follows:

- (8) Order the respondent to temporarily relinquish to the sheriff, constable or to a police officer the respondent's firearms and to refrain from purchasing or receiving additional firearms for the duration of the order;
- (11) Issue an order directing any law-enforcement agency to forthwith search for and seize firearms of the respondent upon a showing by the petitioner that the respondent has possession of a firearm, and
  - a. Petitioner can describe, with sufficient particularity, both the type and location of the firearm or firearms; and
  - b. Respondent has used or threatened to use a firearm against the petitioner, or the petitioner expresses a fear that the respondent may use a firearm against them;

**2.3: Prohibit individuals convicted of two or more DUI or DWIs within a five-year period from purchasing or possessing firearms for at least five years.**

**Summary of Current Statute & Recommendation**

- DE has no specific alcohol-related prohibitions on possessing firearms.
- **Recommendation:** Recommend implementing Consortium recommendation 2.3 to prohibit individuals convicted of two or more DUI/DWI offenses within a five-year period for purchasing or possessing a firearm for five years.

**Current Statute**

n/a

**2.4: Prohibit individuals convicted of two or more misdemeanor drug crimes within a five- year period from purchasing or possessing firearms for at least five years.**

**Summary of Current Statute & Recommendation**

- DE has a drug-related misdemeanor prohibition for semi-automatic or automatic firearms and handguns that lasts for five years following a conviction.
- **Recommendation:** DE should prohibit those with two or more misdemeanor drug crimes from purchasing or possessing those classes of firearms not covered in Del. Code Ann. tit. 11, § 1448(a)(9) for at least five years at a minimum.

**Current Statute**

**§ 1448. Possession and purchase of deadly weapons by persons prohibited; penalties**

Del. Code Ann. tit. 11, § 1448 (West)

(a) Except as otherwise provided herein, the following persons are prohibited from purchasing, owning, possessing or controlling a deadly weapon or ammunition for a firearm within the State:...

(9) Any person, if the deadly weapon is a semi-automatic or automatic firearm, or a handgun, who, at the same time, possesses a controlled substance in violation of § 4763, or § 4764 of Title 16.

**§ 4763. Possession of controlled substances or counterfeit controlled substances; class A or B misdemeanor**

Del. Code Ann. tit. 16, § 4763 (West)

(a) It shall be unlawful for any person to knowingly or intentionally possess, use, or consume a controlled substance or a counterfeit controlled substance (except a controlled substance or counterfeit controlled substance classified in § 4714(d)(19) of this title) unless:

- (1) The possession, use or consumption of such substance was by a person who obtained the substance directly from or pursuant to, a lawful prescription or order; or
- (2) The possession or transfer of such substance was for medical or scientific use or purpose by persons included in any of the following classes, or the agents or employees of such persons, for use in the usual course of their business or profession or in the performance of their official duties:
  - a. Pharmacists.
  - b. Practitioners.
  - c. Persons who procure controlled substances in good faith and in the course of professional practice only, by or under the supervision of pharmacists or practitioners employed by them, or for the purpose of lawful research, teaching, or testing, and not for resale.
  - d. Hospitals and healthcare facilities that procure controlled substances for lawful administration by practitioners, but only for use by or in the particular hospital.
  - e. Officers or employees of state, federal, or local governments acting in their official capacity only, or informers acting under their jurisdiction.
  - f. Common carriers.
  - g. Manufacturers, wholesalers, and distributors.
  - h. Law-enforcement officers for bona fide law-enforcement purposes in the course of an active criminal investigation.

(3) The possession or transfer is otherwise authorized by this chapter.

(b) Any person who violates subsection (a) of this section shall be guilty of a class B misdemeanor.

(c) Any person who violates subsection (a) of this section, and there is an aggravating factor, shall be guilty of a class A misdemeanor.

**§ 4764. Possession of marijuana; class B misdemeanor, unclassified misdemeanor, or civil violation**

Del. Code Ann. tit. 16, § 4764 (West)

(a) Any person under the age of 18 who knowingly or intentionally possesses, uses, or consumes a controlled substance or a counterfeit controlled substance classified in § 4714(d)(19) of this title, except as otherwise authorized by this chapter, and there is an aggravating factor, shall be guilty of a class B

misdemeanor. Any person 18 years of age or older who knowingly or intentionally uses, consumes, or possesses other than a personal use quantity of a controlled substance or a counterfeit controlled substance classified in § 4714(d)(19) of this title, except as otherwise authorized by this chapter, and there is an aggravating factor, shall be guilty of a class B misdemeanor.

(b) Any person under the age of 18 who knowingly or intentionally possesses, uses, or consumes a controlled substance or a counterfeit controlled substance classified in § 4714(d)(19) of this title, except as otherwise authorized by this chapter, shall be guilty of an unclassified misdemeanor and be fined not more than \$100. Any person 18 years of age or older who knowingly or intentionally uses, consumes, or possesses other than a personal use quantity of a controlled substance or a counterfeit controlled substance classified in § 4714(d)(19) of this title, except as otherwise authorized by this chapter, shall be guilty of an unclassified misdemeanor and be fined not more than \$575, imprisoned not more than 3 months, or both.

(c) Any person 21 years of age or older who knowingly or intentionally possesses a personal use quantity of a controlled substance or a counterfeit controlled substance classified in § 4714(d)(19) of this title, except as otherwise authorized by this chapter, shall be assessed a civil penalty of \$100 in addition to such routine assessments necessary for the administration of civil violations and the marijuana shall be forfeited. Private use or consumption by a person 21 years of age or older of a personal use quantity of a controlled substance or a counterfeit controlled substance classified in § 4714(d)(19) of this title shall likewise be punishable by a civil penalty under this subsection. Any person 18 years of age or older, but under 21 years of age, who commits any of the acts described in this subsection shall be assessed a civil penalty of \$100 for the first offense and shall be guilty of an unclassified misdemeanor and fined \$100 for a second or subsequent offense. Unpaid fines shall double if not paid within 90 days of final adjudication of the violation.

(d) Any person 18 years of age or older who knowingly or intentionally uses or consumes up to a personal use quantity of a controlled substance or a counterfeit controlled substance classified in § 4714(d)(19) of this title in an area accessible to the public or in a moving vehicle, except as otherwise authorized by this chapter, shall be guilty of an unclassified misdemeanor and be fined not more than \$200, imprisoned not more than 5 days, or both. For purposes of this section "area accessible to the public" means any of the following:

- (1) Sidewalks, streets, alleys, parking lots, parks, playgrounds, stores, restaurants, and any other areas to which the general public is invited.
- (2) Any outdoor location within a distance of 10 feet from a sidewalk, street, alley, parking lot, park, playground, store, restaurant, or any other area to which the general public is invited.
- (3) Any outdoor location within a distance of 10 feet from the entrances, exits, windows that open, or ventilation intakes of any public or private building.

(e) Information concerning a civil offense classified in subsection (c) of this section shall not appear on a person's certified criminal record.

(f) Nothing contained herein shall be construed to repeal or modify any law concerning the medical use of marijuana or tetrahydrocannabinol in any other form, such as Marinol, or the possession of more than 1 ounce of marijuana, or selling, manufacturing, or trafficking in marijuana.

(g) Nothing contained herein shall be construed to repeal or modify existing laws, ordinances or bylaws, regulations, personnel practices, or policies concerning the operation of motor vehicles or other actions taken while under the influence of marijuana.

(h) Nothing contained herein shall be construed to repeal or modify any law or procedure regarding search and seizure.

(i) Any person who was convicted of a single criminal offense under subsection (c) of this section and who was under the age of 21 at the time of the offense may, upon reaching the age of 21, apply for an expungement of the record of the conviction and any indicia of arrest to the court in which the person was convicted. For violations of subsection (c) of this section, an order granting such expungement shall issue upon proof that the person has reached the age of 21, unless the person has failed to comply with the sentencing order or the person has another charge under this section which remains outstanding. Upon issuance of the order of expungement, the records of the conviction and any indicia of arrest shall be dealt with in accordance with the procedures specified in §§ 4373(c), 4374 and 4375 of Title 11.

Nothing in this section shall prohibit the Family Court from expunging a record of conviction as otherwise provided by law. The application for or granting of a pardon pursuant to §§ 4361 through

4363 of Title 11 shall not prohibit an expungement under this section. All sentencing orders for violations of this section by persons under the age of 21 at the time of the offense shall state that the record of the conviction may be expunged upon reaching the age of 21 and thereafter. The civil filing fee shall apply to applications for expungement plus a \$100 fee payable to the State Bureau of Identification for administrative costs.

<b>Consortium Recommendation #3: Periods of Crisis</b>	
<b>3.1-3.3: Create a Gun Violence Restraining Order (GVRO) mechanism to enable law enforcement, family members, and intimate partners to petition the court to temporarily prohibit an individual in crisis from purchasing or possessing firearms.</b>	
<b>Summary of Current Statute &amp; Recommendation</b>	
<ul style="list-style-type: none"> <li>• There is no mechanism for law enforcement to apply for a warrant to remove firearms in Delaware based on risk of dangerousness.</li> <li>• There is no civil mechanism for private citizens to petition the court to remove firearms. Nor is there a mechanism for private citizens to contact law enforcement to petition the removal of guns for the broader dangerous behaviors we identify in the state report.</li> <li>• <b>Recommendation:</b> Recommend implementing Consortium recommendations 3.1, 3.2, and 3.3.</li> </ul>	
<b>Current Statute</b>	
n/a	

<sup>1</sup> National Center for Injury Prevention and Control, CDC. (2013). Overall Firearm Gunshot Nonfatal Injuries and Rates per 100,000, United States. *Nonfatal Injury Reports, 2001 - 2013*. Retrieved February 27, 2015, from <http://www.cdc.gov/injury/wisqars/nonfatal.html>

<sup>2</sup> National Center for Injury Prevention and Control, CDC. (2015). 2002 - 2013, United States Firearm Deaths and Rates per 100,000. *Fatal Injury Reports 1999-2013, for National, Regional, and States (RESTRICTED)*. Retrieved March 4, 2015, from [http://www.cdc.gov/injury/wisqars/fatal\\_injury\\_reports.html](http://www.cdc.gov/injury/wisqars/fatal_injury_reports.html)

<sup>3</sup> National Center for Injury Prevention and Control, CDC. (2015). 2002 - 2013, United States Suicide Firearm Deaths and Rates per 100,000. *Fatal Injury Reports 1999-2013, for National, Regional, and States (RESTRICTED)*. Retrieved January 28, 2015, from [http://www.cdc.gov/injury/wisqars/fatal\\_injury\\_reports.html](http://www.cdc.gov/injury/wisqars/fatal_injury_reports.html)

<sup>4</sup> Consortium for Risk-Based Firearm Policy. (2013). *Guns, Public Health and Mental Illness: An Evidence-Based Approach for State Policy*. Retrieved from <http://www.efsgv.org/wp-content/uploads/2014/10/Final-State-Report.pdf>

<sup>5</sup> National Center for Injury Prevention and Control, CDC. (2016). 2005-2014, Delaware Firearm Deaths and Rates per 100,000. *Fatal Injury Reports 1999-2013, for National, Regional, and States (RESTRICTED)*. Retrieved January 20, 2016, from [http://www.cdc.gov/injury/wisqars/fatal\\_injury\\_reports.html](http://www.cdc.gov/injury/wisqars/fatal_injury_reports.html)

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