

2000

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Recommended Citation

Troy Stark *Struggle Continues Over Safe Neighborhoods Act*, 12 Loy. Consumer L. Rev. 271 (2000).

Available at: <http://lawcommons.luc.edu/lclr/vol12/iss3/6>

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CONSUMER NEWS

Troy Stark

Struggle Continues Over Safe Neighborhoods Act

On December 2, 1999 the Illinois Supreme Court struck down the Safe Neighborhoods Act ("Act") saying the legislature violated the single subject rule of the Illinois Constitution when they passed the law.¹ The single subject rule demands that each piece of legislation passed in Illinois deal with only one subject.² While the court found nothing substantively wrong with the Act, its decision opened the door for a heated political debate concerning the reenactment of a controversial provision contained in the original bill. The debate centers on whether unlawful possession of a firearm should be considered a felony, like it was under the Act, or a misdemeanor, like it was before the Act was passed. The outcome of this controversy could have a significant impact on the ability of consumers to possess and transport firearms in the state of Illinois.

The Act was originally passed by the Illinois legislature in 1994 and was called "the most important piece of legislation in 20 years" by Chicago's mayor, Richard M. Daley.³ In its original form, the Act amended fifty-five Illinois statutes and created ten new ones.⁴ The Act dealt with issues such as combating fraud in the Women, Infants and Children ("WIC") Program and toughening child pornography laws.⁵ It was the disparate nature of issues addressed by the Act that prompted the Illinois Supreme Court to decide that it

violated the single subject rule contained in the Illinois constitution. The court has recently used the single subject rule to strike down other penal statutes as well.⁶

By striking down the entire Act, the court unknowingly ignited a political firestorm over a provision in the original Act that made unlawful possession of a firearm a felony. Prior to the Act, the crime was treated as a misdemeanor and carried a lesser penalty.⁷ The debate pits Illinois' two leading Republicans, Governor George Ryan and Senate President James "Pate" Philip, against one another. Governor Ryan, who ran for office on a gun control platform, is leading the push to reinstate the felony status of unlawful possession of a firearm, while Senator Philip is working to ensure the crime stays a misdemeanor, at least for first-time offenders.⁸

The line drawing between Governor Ryan and Senator Philip began soon after the Act was overruled. In an attempt to properly enact the provisions contained in the original legislation, Governor Ryan called a special legislative session soon after the December 2, 1999 supreme court decision. Senator Philip and his allies, however, stalled Governor Ryan's attempt to reinstate the law, claiming they were unaware the original felony provision was added to the Act.⁹ Governor Ryan's inability to gain the support needed to reenact the felony provision led him to call two additional special legislative sessions before letting the state's politicians return home for the holidays. Despite his best efforts, Governor Ryan could not muster the thirty-six votes needed to pass the law.¹⁰

Accordingly, over the winter break, Senator Philip had enough time to draft his own version of the replacement legislation and gather more support from his peers in the Senate. In fact, on January 19, 2000, a panel of Illinois senators introduced eight separate bills designed to reinstate the Act.¹¹ Despite Governor Ryan's wishes, however, the newly introduced legislation fails to

make unlawful firearm possession a felony.¹² Senator Philip did note that he wished to continue discussions with Governor Ryan's camp, presumably with the goal of reaching a compromise.¹³

According to Governor Ryan's spokesman, Dennis Culloton, however, the Governor is no longer willing to compromise on the felony provision.¹⁴ That sentiment runs counter to Governor Ryan's actions before the legislature broke for the winter holiday. In fact, in his final effort to get the law reinstated during the special legislative sessions, Governor Ryan offered a compromise whereby first-time offenders could be sentenced to probation and, upon successful completion, have the conviction erased from their records.¹⁵ The compromise provision was probably Governor Ryan's best offer to Senator Philip's group, but it failed by seven votes.¹⁶

Governor Ryan's unwillingness to compromise on the felony status of unlawful possession of a firearm stems from two beliefs. First, Governor Ryan and his supporters, like Chicago Police Superintendent Terry Hillard, feel that public safety will be threatened if people are only charged with the lesser crime.¹⁷ This belief is based on statistics that show the number of guns seized by Illinois law enforcement officials decreased significantly after the Act was first passed. Chicago Police Department spokesman Pat Camden reported that in 1994, the year the Act was passed, Chicago police seized 22,247 illegal firearms, while in 1998 only 11,522 were confiscated.¹⁸ Governor Ryan's second reason for supporting the felony charge is based on the overwhelming support Illinois voters have voiced for heightened penalties in the area of unlawful weapons possession.¹⁹ In fact, Governor Ryan spokesman Dave Urbanek accused Senator Philip of ignoring the voice of Illinois voters by failing to include the felony charge in the group of bills he introduced to replace the original Act.²⁰

Senator Philip, on the other hand, has dismissed polls showing public support for heightened criminal charges, claiming “[i]t all depends on how you asked the question.”²¹ In fact, Senator Philip insists that voters in his district have inundated his office with telephone calls and faxes demonstrating overwhelming support for his position.²² Furthermore, Senator Philip has voiced his belief that the increased penalty is against the interests of law-abiding hunters who wish to own firearms. Senator Philip, a hunter himself, is concerned that the increased penalty will prompt police officers to charge sportsmen with felonies if they are caught transporting hunting rifles and shotguns to and from their hunting grounds.²³ Governor Ryan’s supporters, however, are quick to claim that no hunters were ever prosecuted under the felony provision before the Act was struck down.²⁴

Additionally, Arthur Lurigio, head of Loyola University Chicago’s criminal justice department, echoed the feeling of many Philip supporters when he stated that it is unclear whether the increased penalty can account for the decrease in the number of weapons seized by law enforcement officials.²⁵ Lurigio, who supports gun control, points out that crime rates across the country are at their lowest point in twenty-five years; a trend which obviously cannot be attributed to the Act.²⁶ Senator Philip claims that this indicates a lack of any criminal crisis sufficient to justify Governor Ryan’s attempt to rush the new law through the legislative process. Rather, he suggests an amicable solution can be reached in due time.²⁷

Indeed, it is unlikely that this issue will be resolved in the near future. For the time being, Senator Philip has capitalized on the Illinois Supreme Court’s December decision. He has successfully thwarted Governor Ryan’s attempt to reinstate the felony provision that was contained in the original Act and has forced the issue into the political process, where it will be discussed and debated until both parties can agree upon an

acceptable provision. Whatever the outcome of this debate may be, the legislature's efforts to reinstate the Safe Neighborhoods Act will undoubtedly have an effect on the ability of consumers to possess and transport firearms in Illinois.

Endnotes

1. See *Illinois v. Cervantes*, No. 87229, 1999 WL 1103281 (Ill. Dec. 2, 1999).
2. See *id.* at *1.
3. Frank Main et al., *Advocates Fight for Gun Law*, CHI. SUN-TIMES, Dec. 14, 1999, at 6.
4. See Ray Long, *Philip Plans to Revive Crime Bill in 9 Pieces*, CHI. TRIB., Jan. 13, 2000, at 1.
5. See *Cervantes*, 1999 WL 1103281, at *3.
6. See Main et al., *supra* note 3.
7. See Dave McKinney, *Senate Spurns Gun Bill*, CHI. SUN-TIMES, Dec. 18, 1999, at 1 [hereinafter McKinney, *Senate Spurns*].
8. See Rick Pearson and Ray Long, *Ryan Going After Philip's Loyalists*, CHI. TRIB., Dec. 22, 1999, at 1 [hereinafter *Loyalists*].
9. See *id.*
10. See Long, *supra* note 4.
11. See Dave McKinney, *Philips Skirts Ryan on Guns*, CHI. SUN-TIMES, Jan. 20, 2000, at 18 [hereinafter McKinney, *Philips Skirts*].
12. See *id.*
13. See *id.*
14. See Long, *supra* note 4.

15. See McKinney, *Senate Spurns*, *supra* note 7.
16. See *Loyalists*, *supra* note 8.
17. See Long, *supra* note 4; Terry Wilson and Steve Mills, *Chicago's Violent Crimes Decline; Trend is Attributed to Overturned Law*, CHI. TRIB., Dec. 28, 1999, at 1.
18. See Main et al., *supra* note 3.
19. See Long, *supra* note 4.
20. See McKinney, *Philips Skirts*, *supra* note 11.
21. Long, *supra* note 4.
22. See Ray Long and Rick Pearson, *Gun Bill No Threat, Ryan Tells Hunters; Top Aides Fan Out, Contend Sportsmen Haven't Faced Felony*, CHI. TRIB., Dec. 28, 1999, at 1 [hereinafter *No Threat*].
23. See Main et al., *supra* note 3.
24. See *No Threat*, *supra* note 22.
25. See Main et al., *supra* note 3.
26. See *id.*
27. See McKinney, *supra* note 7.