



News From

Cheryl Dinolfo

Monroe County Clerk

For Immediate Release

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County Clerk Dinolfo and Finger Lakes Region County Clerks To Respond To State Misinterpretation of NY SAFE Act

Responsibility for Confirming Subject of Mental Health 9.46 Reports Remains With the State

Rochester – Monroe County Clerk Cheryl Dinolfo, Livingston County Clerk Jim Culbertson, Wayne County Clerk Michael Jankowski and Ontario County Clerk Matt Hoose today responded to a misinterpretation of the NY SAFE Act and announced their opposition to any and all claims that the responsibility to conduct investigations to confirm that an individual is in fact the subject of a 9.46 Mental Health report is a County Clerk function.

In a recent news article in the *Buffalo News* (www.buffalonews.com – 4/15/13), it was reported that a high ranking New York State official claimed that *“the county clerk is responsible to carry out an investigation to determine if an individual is a threat to himself or others and should be denied access to guns under the law’s mental health provisions.”*

Under the provisions of the NY SAFE Act, the new law established a procedure by which mental health providers must complete what is known as a 9.46 Mental Health Report to be sent to the Director of Community Services when the provider believes an individual they treated is likely to harm to themselves or others. The Director of Community Services then forwards the information to the New York State Department of Criminal Justice Services (DCJS). Under the law, DCJS then determines if the person named in the report possesses a pistol permit license and then conveys this to the licensing officer to have the individual’s permit revoked or suspended and their firearms removed from the person’s home.

County Clerks take issue with recent claims by the State that the responsibility to conduct an investigation to determine whether the particular individual is in fact the subject of the actual 9.46 report resides with the County Clerks. The NY SAFE Act, created and passed into law by New York State, clearly states that it is the responsibility of the State to conduct the investigation to make this confirmation. The law states that DCJS shall convey such information **whenever it determines** that the person named in the report possess a pistol permit license to the appropriate licensing official who shall issue an order suspending or revoking such license.

A recent situation occurred whereby the pistol permits of two individuals in two separate counties were revoked as a result of information passed down from the State. Both individuals had their firearms taken from them. It was later determined that neither individual was confirmed as the actual subject of the 9.46 report which identified them. This situation never should have happened and the State must take the necessary steps to make sure it does not occur again anywhere in New York State.

Monroe County Clerk Cheryl Dinolfo said, “The law clearly states that it is the responsibility of the State to conduct these investigations. The State passed this new law and they need to make sure they are identifying the right individuals before they request that the pistol permit be revoked or suspended.”

Livingston County Clerk Jim Culbertson said, “The State cannot be serious when they suggest that local County Clerk employees, whose job duties mainly consist of filing documents, go out and conduct these investigations. The State is obviously better equipped to do this type of work.”

Wayne County Clerk Michael Jankowski said, “After what happened in Erie County it is obvious that the State needs to reconsider how they are handling this new provision of this law. Law abiding citizens should not have their rights infringed upon and should never be wrongly identified under any circumstances.”

Ontario County Clerk Matt Hoose said, “This unfortunately is the result of what happens when County Clerks and other officials are not included in the initial discussion. We could have let the State know before they wrote and passed the NY SAFE Act that this posed a problem.”

The County Clerks are calling upon the State to acknowledge, in accordance with the NY SAFE Act, that it is in fact the responsibility of the State to investigate and confirm that the particular individual is in fact the subject of the actual 9.46 report prior to sending the information to the local licensing officer to have the person’s pistol permit revoked or suspended.

Attached is a statement from Cortland County Clerk **Elizabeth Larkin**, President of the New York State Association of County Clerks, supporting this position and the County Clerks in New York State.

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Office of the Monroe County Clerk at 753-1645
See us on the web at www.monroecounty.gov



*New York State
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Statement in Support of Chris Jacobs and County Clerks in NYS

On behalf of the New York State Association of County Clerks, I would like to refute the remarks printed in The Buffalo News and attributed to Superintendent of State Police D'Amico. While no issues are resolved by placing blame on another, the statements reported reflect negatively on the Erie County Clerk, Chris Jacobs and all clerks in NYS. The county clerk's responsibility regarding concealed weapons permits is strictly ministerial as they act as clerks of the county court. County Clerks in NYS have no investigatory authority nor are they granted access to any agency to conduct an investigation regarding pistol permits. The statement reported and attributed to Superintendent D'Amico has either been misreported or shows his ignorance regarding the pistol permit process and the role of the county clerks and the licensing officers who are usually the county judges.

The Governor's Office has appointed a committee to establish procedures, and to discuss and resolve issues related to the implementation of the SafeAct. The issue of identifying the proper individual of a Mental Health 9.46 report is being corrected by the committee so that further instances of this kind will not be repeated. This is the proper way to solve issues, not by placing blame on another agency or office.