



## Jurisdictions with Extreme Risk Laws

Toll Free: (800) 903-0111, prompt 2

Direct: (703) 312-7922

Fax: (703) 312-7966

Email: [ncffc@bwjp.org](mailto:ncffc@bwjp.org)

Web: [www.fullfaithandcredit.org](http://www.fullfaithandcredit.org)

This document is for informational purposes only. Nothing contained in this document is intended as legal advice to any person or entity.

State statutes are constantly changing. Please independently verify the information found in this document.

If you have a correction or update, please contact us at (800) 903-0111, prompt 2 or via email at [ncffc@bwjp.org](mailto:ncffc@bwjp.org).

This matrix was created with the assistance of 2019 Legal Interns, Griffin Pace and Lee Oida

This project is supported by Grant No. 2016-TA-AX-K052 awarded by the Office on Violence Against Women, U.S. Department of Justice.

The opinions, findings, conclusions, and recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Justice, Office on Violence Against Women.

## TABLE OF CONTENTS

NOTE: For your convenience, hyperlinks are located on each page number in this Table of Contents.  
For faster access, please select the page number you would like to view

CALIFORNIA.....	3	MASSACHUSETTS .....	80
COLORADO.....	15	NEW JERSEY.....	87
CONNECTICUT .....	25	NEVADA .....	94
DELAWARE.....	27	NEW YORK.....	101
DISTRICT OF COLUMBIA .....	33	OREGON.....	110
FLORIDA.....	41	*PITTSBURGH, PENNSYLVANIA.....	120
HAWAII .....	49	RHODE ISLAND.....	128
ILLINOIS.....	57	VERMONT .....	138
INDIANA.....	66	WASHINGTON.....	148
MARYLAND.....	69		

\* The Pittsburgh, PA ordinance was determined to be void and unenforceable. See FOAC, et al. v. City of Pittsburgh, et al.

This chart contains dated information, may not be all-inclusive, and is intended for educational and research purposes only. State statutes are constantly changing. Please independently verify the information found in this document. If you have a correction or update, please contact us.

STATE CITATION	HIGHLIGHTED PROVISIONS	STATUTES
<p><b>CALIFORNIA</b></p> <p><b>Types of orders:</b>  <b>Temporary Emergency Gun Violence Restraining Order</b></p> <p><b>Ex Parte Gun Violence Restraining Order</b></p> <p><b>Gun Violence Restraining Order</b></p> <p><b>Citation:</b>  <a href="#">Cal. Penal Code 18100 et. Seq.</a></p>	<p><b>Persons eligible to petition:</b>  Temporary order – law enforcement officer</p> <p>Ex parte order – law enforcement officer, or immediate family member*</p> <p>Final order – law enforcement officer, or immediate family member*</p> <p>* An immediate family member is a “spouse, whether by marriage or not,, parent, child, any person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who, within the prior six months, regularly resided in the household”</p> <p><b>Standard of proof:</b>  Temporary order – Reasonable cause to believe respondent poses immediate and present danger of causing personal injury to himself, herself, or another</p> <p>Ex parte order- Substantial likelihood that respondent poses significant danger in near future</p> <p>Final order – Clear and convincing evidence that respondent poses significant danger</p> <p><b>Evidence required:</b>  1) [Temporary emergency GVRO] There must be a statement of the grounds supporting the issuance of the order.  2) [Ex parte GVRO] The petition may be supported by an affidavit made in writing and signed by the petitioner under oath or an oral statement taken pursuant to paragraph (2) of subdivision (a) of Section 18155, and any additional information provided to the court shows that there is substantial likelihood that both are true: (1) The subject of the petition poses a significant danger, in the near future, of personal injury to himself, herself, or another by</p>	<p><b>§ 18005. Sale or destruction of surrendered weapon</b></p> <p>(a) An officer to whom weapons are surrendered under Section 18000, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention thereof is necessary or proper to the ends of justice, may annually, between the 1st and 10th days of July, in each year, offer the weapons, which the officer in charge of them considers to have value with respect to sporting, recreational, or collection purposes, for sale at public auction to persons licensed pursuant to Sections 26700 to 26915, inclusive, to engage in businesses involving any weapon purchased.</p> <p>(b) If any weapon has been stolen and is thereafter recovered from the thief or the thief’s transferee, or is used in a manner as to constitute a nuisance under Section 19190, 21390, 21590, or 29300, or subdivision (a) of Section 25700 without the prior knowledge of its lawful owner that it would be so used, it shall not be offered for sale under subdivision (a) but shall be restored to the lawful owner, as soon as its use as evidence has been served, upon the lawful owner’s identification of the weapon and proof of ownership, and after the law enforcement agency has complied with Chapter 2 (commencing with Section 33850) of Division 11 of Title 4.</p> <p>(c) If, under this section, a weapon is not of the type that can be sold to the public, generally, or is not sold under subdivision (a), the weapon, in the month of July, next succeeding, or sooner, if necessary to conserve local resources, including space and utilization of personnel who maintain files and security of those weapons, shall be destroyed so that it can no longer be used as a weapon subject to surrender under Section 18000, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention of it is necessary or proper to the ends of justice.</p> <p>(d) No stolen weapon shall be sold or destroyed pursuant to subdivision (a) or (c) unless reasonable notice is given to its lawful owner, if the lawful owner’s identity and address can be reasonably ascertained.</p> <p><b>General Provisions</b></p> <p><b>§ 18100. Purpose of order</b></p> <p>(a) A gun violence restraining order is an order, in writing, signed by the court, prohibiting and enjoining a named person from having in his or her custody or control, owning, purchasing, possessing, or receiving any firearms or ammunition. This division establishes a civil restraining order process to accomplish that purpose.</p> <p>(b) For purposes of this chapter, the term “ammunition” includes a “magazine” as defined in Section 16890.</p>

<p>having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm as determined by considering the factors listed in Section 18155. (2) An ex parte gun violence restraining order is necessary to prevent personal injury to the subject of the petition or another because less restrictive alternatives either have been tried and found to be ineffective, or are inadequate or inappropriate for the circumstances of the subject of the petition.</p> <p>Instead of examining the petitioner and any witness the petitioner may produce, the court will consider the following evidence: (A) A recent threat of violence or act of violence by the subject of the petition directed toward another; (B) A recent threat of violence or act of violence by the subject of the petition directed toward himself or herself; (C) A violation of an emergency protective order issued pursuant to Section 646.91 or Part 3 (commencing with Section 6240) of Division 10 of the Family Code that is in effect at the time the court is considering the petition; (D) A recent violation of an unexpired protective order issued pursuant to Part 4 (commencing with Section 6300) of Division 10 of the Family Code, Section 136.2, Section 527.6 of the Code of Civil Procedure, or Section 213.5 or 15657.03 of the Welfare and Institutions Code; (E) A conviction for any offense listed in Section 29805; (F) A pattern of violent acts or violent threats within the past 12 months, including, but not limited to, threats of violence or acts of violence by the subject of the petition directed toward himself, herself, or another.</p> <p>In determining whether grounds for a gun violence restraining order exist, the court may consider any other evidence of an increased risk for violence</p> <p>3) [Gun violence restraining order after notice and hearing] The court shall consider evidence of the facts identified in paragraph (1) of subdivision (b) of Section 18155 and may consider any other evidence of an increased risk</p>	<p>§ <b>18105. Forms and rules of court by Judicial Council</b></p> <p>The Judicial Council shall prescribe the form of the petitions and orders and any other documents, and shall promulgate any rules of court, necessary to implement this division. These forms, orders, and documents shall refer to any order issued pursuant to this chapter as a gun violence restraining order.</p> <p>§ <b>18107. Specified description of firearms and ammunition in petition</b></p> <p>A petition for a gun violence restraining order shall describe the number, types, and locations of any firearms and ammunition presently believed by the petitioner to be possessed or controlled by the subject of the petition.</p> <p>§ <b>18109. Limitation on interpretation</b></p> <p>Nothing in this division shall be interpreted to require a law enforcement agency or a law enforcement officer to seek a gun violence restraining order in any case, including, but not limited to, in a case in which the agency or officer concludes, after investigation, that the criteria for issuance of a gun violence restraining order are not satisfied.</p> <p>§ <b>18110. Search of available records and databases prior to hearing</b></p> <p>Prior to a hearing on the issuance, renewal, or termination of an order under Chapter 3 (commencing with Section 18150) or Chapter 4 (commencing with Section 18170), the court shall ensure that a search as described in subdivision (a) of Section 6306 of the Family Code is conducted. After issuing its ruling, the court shall provide the advisement described in subdivision (c) of Section 6306 of the Family Code and shall keep information obtained from a search conducted pursuant to this section confidential in accordance with subdivision (d) of Section 6306 of the Family Code.</p> <p>§ <b>18115. Notification to Department of Justice; Proof of service of order</b></p> <p>(a) The court shall notify the Department of Justice when a gun violence restraining order has been issued or renewed under this division no later than one court day after issuing or renewing the order.</p> <p>(b) The court shall notify the Department of Justice when a gun violence restraining order has been dissolved or terminated under this division no later than five court days after dissolving or terminating the order. Upon receipt of either a notice of dissolution or a notice of termination of a gun violence restraining order, the Department of Justice shall, within 15 days, document the updated status of any order issued under this division.</p> <p>(c) The notices required to be submitted to the Department of Justice pursuant to this section shall be submitted in an electronic format, in a manner prescribed by the department.</p> <p>(d) When notifying the Department of Justice pursuant to subdivision (a) or (b), the court shall indicate in the notice whether the person subject to the gun violence restraining order was present in court to be</p>
---	---

	<p>for violence, including, but not limited to, evidence of the facts identified in paragraph (2) of subdivision (b) of Section 18155.</p> <p><b>Duration of order:</b>  Emergency order:  21 days</p> <p>Ex parte order:  Up to 21 days</p> <p>Final order:  One year</p> <p><b>Service procedures:</b>  Emergency order – Served by law enforcement officer. Service only required if restrained person can reasonably be located. When serving the order, a law enforcement officer must verbally ask the restrained person whether they have any firearms or ammunition in their possession or control.</p> <p>Ex parte order –  Served by a law enforcement officer or anyone 18+ years old who is not a party to the action. Service is only required if the restrained person can reasonably be located.  The person serving the order must inform the restrained person of the hearing scheduled under § 18165.  When serving the order, a law enforcement officer must verbally ask the restrained person whether they have any firearms or ammunition in their possession or control.</p> <p>Final order –  If the restrained person was present at the hearing at which the order was issued, no service is required.  If the restrained person was not present when the order was issued, then:</p> <ul style="list-style-type: none"> <li>• The order can be served by a law enforcement officer or anyone 18+</li> </ul>	<p>informed of the contents of the order or if the person failed to appear. The person’s presence in court constitutes proof of service of notice of the terms of the order.</p> <p>(e)</p> <p>(1) Within one business day of service, a law enforcement officer who served a gun violence restraining order shall submit the proof of service directly into the California Restraining and Protective Order System, including his or her name and law enforcement agency, and shall transmit the original proof of service form to the issuing court.</p> <p>(2) Within one business day of receipt of proof of service by a person other than a law enforcement officer, the clerk of the court shall submit the proof of service of a gun violence restraining order directly into the California Restraining and Protective Order System, including the name of the person who served the order. If the court is unable to provide this notification to the Department of Justice by electronic transmission, the court shall, within one business day of receipt, transmit a copy of the proof of service to a local law enforcement agency. The local law enforcement agency shall submit the proof of service directly into the California Restraining and Protective Order System within one business day of receipt from the court.</p> <p><b>§ 18120. Effect of order; Surrender of firearms and ammunition</b></p> <p>(a) A person subject to a gun violence restraining order issued pursuant to this division shall not have in his or her custody or control, own, purchase, possess, or receive any firearms or ammunition while that order is in effect.</p> <p>(b)</p> <p>(1) Upon issuance of a gun violence restraining order issued pursuant to this division, the court shall order the restrained person to surrender all firearms and ammunition in the restrained person’s custody or control, or which the restrained person possesses or owns pursuant to paragraph (2).</p> <p>(2) The surrender ordered pursuant to paragraph (1) shall occur by immediately surrendering all firearms and ammunition in a safe manner, upon request of any law enforcement officer, to the control of the officer, after being served with the restraining order. A law enforcement officer serving a gun violence restraining order that indicates that the restrained person possesses any firearms or ammunition shall request that all firearms and ammunition be immediately surrendered. Alternatively, if no request is made by a law enforcement officer, the surrender shall occur within 24 hours of being served with the order, by surrendering all firearms and ammunition in a safe manner to the control of the local law enforcement agency, selling all firearms and ammunition to a licensed firearms dealer, or transferring all firearms and ammunition to a licensed firearms dealer in accordance with Section 29830. The law enforcement officer or licensed firearms dealer taking possession of any firearms or ammunition pursuant to this subdivision shall issue a receipt to the person surrendering the firearm or firearms or ammunition or both at the time of surrender. A person ordered to surrender all firearms and ammunition pursuant to this subdivision shall, within 48 hours after being served with the order, do both of the following:</p> <p>(A) File with the court that issued the gun violence restraining order the original receipt showing all firearms and ammunition have been surrendered to a local law enforcement agency or sold or</p>
--	--	---

	<p>years old who is not a party to the action.</p> <ul style="list-style-type: none"> <li>• Service is not required if the restrained person cannot reasonably be located.</li> </ul> <p><b>Notification procedures for people at risk:</b> Statute is silent</p> <p><b>Renewal/Termination:</b> Emergency order: None</p> <p>Ex parte order: None</p> <p>Final order: Termination: Respondent may make 1 request for a hearing to show there is no longer cause for the order</p> <p>Renewal: May be requested by a law enforcement officer or an immediate family member of a restrained person</p> <p><b>Filing fees:</b> There is no filing fee for an application, a responsive pleading, or an order to show cause that seeks to obtain, modify, or enforce a gun violence restraining order or other order authorized by this division if the request for the other order is necessary to obtain or give effect to a gun violence restraining order or other order authorized by this division. There is no fee for a subpoena filed in connection with that application, responsive pleading, or order to show cause.</p> <p><b>Firearm prohibitions:</b> A person subject to a gun violence restraining order issued pursuant to this division shall not have in his or her custody or control, own, purchase, possess, or receive any firearms or ammunition while that order is in effect.</p>	<p>transferred to a licensed firearms dealer. Failure to timely file a receipt shall constitute a violation of the restraining order.</p> <p><b>(B)</b> File a copy of the receipt described in subparagraph (A) with the law enforcement agency that served the gun violence restraining order. Failure to timely file a copy of the receipt shall constitute a violation of the restraining order.</p> <p><b>(c)</b></p> <p><b>(1)</b> Except as provided in paragraph (2), any firearms or ammunition surrendered to a law enforcement officer or law enforcement agency pursuant to this section shall be retained by the law enforcement agency until the expiration of any gun violence restraining order that has been issued against the restrained person. Upon expiration of any order, any firearms or ammunition shall be returned to the restrained person in accordance with the provisions of Chapter 2 (commencing with Section 33850) of Division 11 of Title 4. Firearms or ammunition that are not claimed are subject to the requirements of Section 34000.</p> <p><b>(2)</b> A restrained person who owns any firearms or ammunition that are in the custody of a law enforcement agency pursuant to this section is entitled to sell any firearms or ammunition to a licensed firearms dealer or transfer any firearms or ammunition to a licensed firearms dealer in accordance with Section 29830, provided that the firearm or firearms or ammunition are otherwise legal to own or possess and the restrained person otherwise has right to title of the firearm or firearms or ammunition.</p> <p><b>(d)</b> If a person other than the restrained person claims title to any firearms or ammunition surrendered pursuant to this section, and he or she is determined by the law enforcement agency to be the lawful owner of the firearm or firearms or ammunition, the firearm or firearms or ammunition shall be returned to him or her pursuant to Chapter 2 (commencing with Section 33850) of Division 11 of Title 4.</p> <p><b>(e)</b> Within one business day of receiving the receipt referred to in paragraph (2) of subdivision (b), the court that issued the order shall transmit a copy of the receipt to the Department of Justice in a manner and pursuant to a process prescribed by the department.</p> <p><b>§ 18121. Filing fee exemption</b></p> <p>There is no filing fee for an application, a responsive pleading, or an order to show cause that seeks to obtain, modify, or enforce a gun violence restraining order or other order authorized by this division if the request for the other order is necessary to obtain or give effect to a gun violence restraining order or other order authorized by this division. There is no fee for a subpoena filed in connection with that application, responsive pleading, or order to show cause.</p> <p><b>§ 18122. Operative date of division</b></p> <p>This division shall become operative on January 1, 2016.</p> <p><b><u>Temporary Emergency Orders</u></b></p> <p><b>§ 18125. Limitation on ex parte order, Effect of order</b></p>
--	---	--

<p><b>Firearm relinquishment process:</b> Respondent must immediately surrender all firearms and ammunition in a safe manner upon request of a law enforcement officer. If no request is made, within 24 hours respondent must surrender all firearms and ammunition to the local law enforcement agency, or sell or transfer all firearms and ammunition to a licensed firearms dealer.</p> <p>If the order indicates that respondent possesses any firearms or ammunition, the law enforcement officer serving the order must request that the respondent surrender all firearms and ammunition</p> <p><b>Firearm disposal process:</b> Firearms that are surrendered may be sold at public auction to licensed persons pursuant to Sections 26700 to 26915. If the firearm was stolen or used in a manner to constitute a nuisance under Section 19190, 21390, 21590, or 29300 or subdivision (a) of Section 25700 without the prior knowledge of its lawful owner that it would be so used, it may not be offered up for sale but must be restored to the lawful owner. If the firearm cannot be sold, it will be destroyed. No stolen weapon can be sold or destroyed unless reasonable notice is given to the lawful owner, if the lawful owner's identity and address can be reasonably ascertained.</p> <p><b>Limitations on liability for law enforcement:</b> These provisions do not require law enforcement to seek an order in any case. However, any person who files a petition with intent to harass or knowing information in it to be false is guilty of a misdemeanor.</p> <p><b>Return/transfer of firearms:</b> Once respondent is no longer subject to an order, they may request that the law enforcement agency holding their firearm return it. The agency will do so unless respondent is otherwise prohibited from possessing the</p>	<p>(a) A temporary emergency gun violence restraining order may be issued on an ex parte basis only if a law enforcement officer asserts, and a judicial officer finds, that there is reasonable cause to believe both of the following:</p> <p>(1) The subject of the petition poses an immediate and present danger of causing personal injury to himself, herself, or another by having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm or ammunition.</p> <p>(2) A temporary emergency gun violence restraining order is necessary to prevent personal injury to the subject of the petition or another because less restrictive alternatives either have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the circumstances of the subject of the petition.</p> <p>(b) A temporary emergency gun violence restraining order issued pursuant to this chapter shall prohibit the subject of the petition from having in his or her custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or ammunition, and shall expire 21 days from the date the order is issued.</p> <p><b>§ 18130. Validity of Order</b></p> <p>A temporary emergency gun violence restraining order is valid only if it is issued by a judicial officer after making the findings required by Section 18125 and pursuant to a specific request by a law enforcement officer.</p> <p><b>§ 18135. Contents of order</b></p> <p>(a) A temporary emergency gun violence restraining order issued under this chapter shall include all of the following:</p> <p>(1) A statement of the grounds supporting the issuance of the order.</p> <p>(2) The date and time the order expires.</p> <p>(3) The address of the superior court for the county in which the restrained party resides.</p> <p>(4) The following statement:</p> <p>To the restrained person: This order will last until the date and time noted above. You are required to surrender all firearms, ammunition, and magazines that you own or possess in accordance with Section 18120 of the Penal Code and you may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive any firearm, ammunition, or magazine while this order is in effect. However, a more permanent gun violence restraining order may be obtained from the court. You may seek the advice of an attorney as to any matter connected with the order. The attorney should be consulted promptly so that the attorney may assist you in any matter connected with the order.</p> <p>(b) When serving a temporary emergency gun violence restraining order, a law enforcement officer shall verbally ask the restrained person if he or she has any firearm, ammunition, or magazine in his or her possession or under his or her custody or control.</p>
--	--

	<p>firearm or the firearm has been reported as stolen. If respondent does not want to have their firearm returned to them, then at any time they may have it sold to a licensed dealer or another third party not otherwise prohibited from purchasing the firearm.</p> <p><b>Warrant authority:</b> Statute is silent.</p> <p><b>Venue:</b> Statute is silent.</p>	<p><b>§ 18140. Requirements for law enforcement officer seeking order</b></p> <p>A law enforcement officer who requests a temporary emergency gun violence restraining order shall do all of the following:</p> <p>(a) If the request is made orally, sign a declaration under penalty of perjury reciting the oral statements provided to the judicial officer and memorialize the order of the court on the form approved by the Judicial Council.</p> <p>(b) Serve the order on the restrained person, if the restrained person can reasonably be located.</p> <p>(c) File a copy of the order with the court as soon as practicable after issuance.</p> <p>(d) Have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice.</p> <p><b>§ 18145. Petition; Designation of judge to issue orders</b></p> <p>(a)</p> <p>(1) A judicial officer may issue a temporary emergency gun violence restraining order orally based on the statements of a law enforcement officer made in accordance with subdivision (a) of Section 18140.</p> <p>(2) If time and circumstances permit, a temporary emergency gun violence restraining order may be obtained in writing and based on a declaration signed under penalty of perjury.</p> <p>(b) The presiding judge of the superior court of each county shall designate at least one judge, commissioner, or referee who shall be reasonably available to issue temporary emergency gun violence restraining orders when the court is not in session.</p> <p><b>§ 18148. Hearing to determine if gun violence restraining order should be issued</b></p> <p>Within 21 days after the date on the order, the court that issued the order or another court in the same jurisdiction, shall hold a hearing pursuant to Section 18175 to determine if a gun violence restraining order should be issued pursuant to Chapter 4 (commencing with Section 18170) after notice and hearing.</p> <p><b><u>Ex Parte Gun Violence Restraining Order</u></b></p> <p><b>§ 18150. Petition; Grounds for issuance; Supporting affidavit; Issuance or denial on same day petition filed</b></p> <p>(a)</p> <p>(1) An immediate family member of a person or a law enforcement officer may file a petition requesting that the court issue an ex parte gun violence restraining order enjoining the subject of the</p>
--	---	---

		<p>petition from having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm or ammunition.</p> <p><b>(2)</b> For purposes of this subdivision, “immediate family member” has the same meaning as in paragraph (3) of subdivision (b) of Section 422.4.</p> <p><b>(b)</b> A court may issue an ex parte gun violence restraining order if the petition, supported by an affidavit made in writing and signed by the petitioner under oath, or an oral statement taken pursuant to subdivision (a) of Section 18155, and any additional information provided to the court shows that there is a substantial likelihood that both of the following are true:</p> <p><b>(1)</b> The subject of the petition poses a significant danger, in the near future, of causing personal injury to himself, herself, or another by having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm as determined by considering the factors listed in Section 18155.</p> <p><b>(2)</b> An ex parte gun violence restraining order is necessary to prevent personal injury to the subject of the petition or another because less restrictive alternatives either have been tried and found to be ineffective, or are inadequate or inappropriate for the circumstances of the subject of the petition.</p> <p><b>(c)</b> An affidavit supporting a petition for the issuance of an ex parte gun violence restraining order shall set forth the facts tending to establish the grounds of the petition, or the reason for believing that they exist.</p> <p><b>(d)</b> An ex parte order under this chapter shall be issued or denied on the same day that the petition is submitted to the court, unless the petition is filed too late in the day to permit effective review, in which case the order shall be issued or denied on the next day of judicial business in sufficient time for the order to be filed that day with the clerk of the court.</p>
--	--	--

**§ 18155. Examination or affidavit of petitioner and witnesses; Evidence; Effect of order**

**(a)**

**(1)** The court, before issuing an ex parte gun violence restraining order, shall examine on oath, the petitioner and any witness the petitioner may produce.

**(2)** In lieu of examining the petitioner and any witness the petitioner may produce, the court may require the petitioner and any witness to submit a written affidavit signed under oath.

**(b)**

**(1)** In determining whether grounds for a gun violence restraining order exist, the court shall consider all evidence of the following:

**(A)** A recent threat of violence or act of violence by the subject of the petition directed toward another.

**(B)** A recent threat of violence or act of violence by the subject of the petition directed toward himself or herself.

**(C)** A violation of an emergency protective order issued pursuant to Section 646.91 or Part 3 (commencing with Section 6240) of Division 10 of the Family Code that is in effect at the time the court is considering the petition.

**(D)** A recent violation of an unexpired protective order issued pursuant to Part 4 (commencing with Section 6300) of Division 10 of the Family Code, Section 136.2, Section 527.6 of the Code of Civil Procedure, or Section 213.5 or 15657.03 of the Welfare and Institutions Code.

**(E)** A conviction for any offense listed in Section 29805.

**(F)** A pattern of violent acts or violent threats within the past 12 months, including, but not limited to, threats of violence or acts of violence by the subject of the petition directed toward himself, herself, or another.

**(2)** In determining whether grounds for a gun violence restraining order exist, the court may consider any other evidence of an increased risk for violence, including, but not limited to, evidence of any of the following:

**(A)** The unlawful and reckless use, display, or brandishing of a firearm by the subject of the petition.

**(B)** The history of use, attempted use, or threatened use of physical force by the subject of the petition against another person.

**(C)** A prior arrest of the subject of the petition for a felony offense.

**(D)** A history of a violation by the subject of the petition of an emergency protective order issued pursuant to Section 646.91 or Part 3 (commencing with Section 6240) of Division 10 of the Family Code.

	<p>(E) A history of a violation by the subject of the petition of a protective order issued pursuant to Part 4 (commencing with Section 6300) of Division 10 of the Family Code, Section 136.2, Section 527.6 of the Code of Civil Procedure, or Section 213.5 or 15657.03 of the Welfare and Institutions Code.</p> <p>(F) Documentary evidence, including, but not limited to, police reports and records of convictions, of either recent criminal offenses by the subject of the petition that involve controlled substances or alcohol or ongoing abuse of controlled substances or alcohol by the subject of the petition.</p> <p>(G) Evidence of recent acquisition of firearms, ammunition, or other deadly weapons.</p> <p>(3) For the purposes of this subdivision, “recent” means within the six months prior to the date the petition was filed.</p> <p>(c) If the court determines that the grounds to issue an ex parte gun violence restraining order exist, it shall issue an ex parte gun violence restraining order that prohibits the subject of the petition from having in his or her custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or ammunition, and expires no later than 21 days from the date of the order.</p> <p><b>§ 18160. Contents of order; Service</b></p> <p>(a) An ex parte gun violence restraining order issued under this chapter shall include all of the following:</p> <ol style="list-style-type: none"> <li>(1) A statement of the grounds supporting the issuance of the order.</li> <li>(2) The date and time the order expires.</li> <li>(3) The address of the superior court in which any responsive pleading should be filed.</li> <li>(4) The date and time of the scheduled hearing.</li> <li>(5) The following statement:</li> </ol> <p>To the restrained person: This order is valid until the expiration date and time noted above. You are required to surrender all firearms, ammunition, and magazines that you own or possess in accordance with Section 18120 of the Penal Code and you may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive any firearm, ammunition, or magazine while this order is in effect. A hearing will be held on the date and at the time noted above to determine if a more permanent gun violence restraining order should be issued. Failure to appear at that hearing may result in a court making an order against you that is valid for a year. You may seek the advice of an attorney as to any matter connected with the order. The attorney should be consulted promptly so that the attorney may assist you in any matter connected with the order.</p> <p>(b)</p> <ol style="list-style-type: none"> <li>(1) An ex parte gun violence restraining order shall be personally served on the restrained person by a law enforcement officer, or any person who is at least 18 years of age and not a party to the action, as provided in Section 414.10 of the Code of Civil Procedure, if the restrained person can reasonably be located.</li> <li>(2) When serving a gun violence restraining order, a law enforcement officer shall inform the restrained person of the hearing scheduled pursuant to Section 18165.</li> </ol>
--	--

(3) When serving a gun violence restraining order, a law enforcement officer shall verbally ask the restrained person if he or she has any firearm, ammunition, or magazine in his or her possession or under his or her custody or control.

**§ 18165. Hearing after issuance of order**

Within 21 days after the date on the order, before the court that issued the order or another court in the same jurisdiction, the court shall hold a hearing pursuant to Section 18175 to determine if a gun violence restraining order should be issued under Chapter 4 (commencing with Section 18170).

**Gun Violence Restraining Order Issued After Notice and Hearing**

**§ 18170. Petition**

(a) An immediate family member of a person or a law enforcement officer may request that a court, after notice and a hearing, issue a gun violence restraining order enjoining the subject of the petition from having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm or ammunition for a period of one year.

(b) For purposes of this subdivision, “immediate family member” has the same meaning as in paragraph (3) of subdivision (b) of Section 422.4.

**§ 18175. Evidence; Grounds for issuance; Burden of proof; Effect of issuance or denial of order; Duration of order**

(a) In determining whether to issue a gun violence restraining order under this chapter, the court shall consider evidence of the facts identified in paragraph (1) of subdivision (b) of Section 18155 and may consider any other evidence of an increased risk for violence, including, but not limited to, evidence of the facts identified in paragraph (2) of subdivision (b) of Section 18155.

(b) At the hearing, the petitioner shall have the burden of proving, by clear and convincing evidence, that both of the following are true:

(1) The subject of the petition, or a person subject to an ex parte gun violence restraining order, as applicable, poses a significant danger of causing personal injury to himself, herself, or another by having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm or ammunition.

(2) A gun violence restraining order is necessary to prevent personal injury to the subject of the petition, or the person subject to an ex parte gun violence restraining order, as applicable, or another because less restrictive alternatives either have been tried and found to be ineffective, or are inadequate or inappropriate for the circumstances of the subject of the petition, or the person subject to an ex parte gun violence restraining order, as applicable.

		<p>(c)</p> <p>(1) If the court finds that there is clear and convincing evidence to issue a gun violence restraining order, the court shall issue a gun violence restraining order that prohibits the subject of the petition from having in his or her custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or ammunition.</p> <p>(2) If the court finds that there is not clear and convincing evidence to support the issuance of a gun violence restraining order, the court shall dissolve any temporary emergency or ex parte gun violence restraining order then in effect.</p> <p>(d) A gun violence restraining order issued under this chapter has a duration of one year, subject to termination by further order of the court at a hearing held pursuant to Section 18185 and renewal by further order of the court pursuant to Section 18190.</p> <p><b>§ 18180. Contents of order; Form to request hearing to terminate order</b></p> <p>(a) A gun violence restraining order issued pursuant to this chapter shall include all of the following:</p> <p>(1) A statement of the grounds supporting the issuance of the order.</p> <p>(2) The date and time the order expires.</p> <p>(3) The address of the superior court for the county in which the restrained party resides.</p> <p>(4) The following statement:</p> <p>To the restrained person: This order will last until the date and time noted above. If you have not done so already, you must surrender all firearms, ammunition, and magazines that you own or possess in accordance with Section 18120 of the Penal Code. You may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive a firearm, ammunition, or magazine, while this order is in effect. Pursuant to Section 18185, you have the right to request one hearing to terminate this order at any time during its effective period. You may seek the advice of an attorney as to any matter connected with the order.</p> <p>(b) When the court issues a gun violence restraining order under this chapter, the court shall inform the restrained person that he or she is entitled to one hearing to request a termination of the order, pursuant to Section 18185, and shall provide the restrained person with a form to request a hearing.</p> <p><b>§ 18185. Request for hearing to terminate order</b></p> <p>(a) A person subject to a gun violence restraining order issued under this chapter may submit one written request at any time during the effective period of the order for a hearing to terminate the order.</p> <p>(b) If the court finds after the hearing that there is no longer clear and convincing evidence to believe that paragraphs (1) and (2) of subdivision (b) of Section 18175 are true, the court shall terminate the order.</p> <p><b>§ 18190. Renewal of order; Duration of renewed order; Contents of Renewed Order</b></p>
--	--	---

		<p><b>a)</b></p> <p><b>(1)</b> An immediate family member of a restrained person or a law enforcement officer may request a renewal of a gun violence restraining order at any time within the three months before the expiration of a gun violence restraining order.</p> <p><b>(2)</b> For purposes of this subdivision, “immediate family member” has the same meaning as in paragraph (3) of subdivision (b) of Section 422.4.</p> <p><b>(b)</b> A court may, after notice and a hearing, renew a gun violence restraining order issued under this chapter if the petitioner proves, by clear and convincing evidence, that paragraphs (1) and (2) of subdivision (b) of Section 18175 continue to be true.</p> <p><b>(c)</b> In determining whether to renew a gun violence restraining order issued under this chapter, the court shall consider evidence of the facts identified in paragraph (1) of subdivision (b) of Section 18155 and any other evidence of an increased risk for violence, including, but not limited to, evidence of any of the facts identified in paragraph (2) of subdivision (b) of Section 18155.</p> <p><b>(d)</b> At the hearing, the petitioner shall have the burden of proving, by clear and convincing evidence, that paragraphs (1) and (2) of subdivision (b) of Section 18175 are true.</p> <p><b>(e)</b> If the renewal petition is supported by clear and convincing evidence, the court shall renew the gun violence restraining order issued under this chapter.</p> <p><b>(f)</b> The renewal of a gun violence restraining order issued pursuant to this section shall have a duration of one year, subject to termination by further order of the court at a hearing held pursuant to Section 18185 and further renewal by further order of the court pursuant to this section.</p> <p><b>(g)</b> A gun violence restraining order renewed pursuant to this section shall include the information identified in subdivision (a) of Section 18180.</p> <p><b>§ 18195. Continuance of hearing for good cause.</b></p> <p>Any hearing held pursuant to this chapter may be continued upon a showing of good cause. Any existing order issued pursuant to this division shall remain in full force and effect during the period of continuance.</p> <p><b>§ 18197. Service of order</b></p> <p>If a person subject to a gun violence restraining order issued or renewed pursuant to this chapter was not present in court at the time the order was issued or renewed, the gun violence restraining order shall be personally served on the restrained person by a law enforcement officer or any person who is at least 18 years of age and not a party to the action, as provided in Section 414.10 of the Code of Civil Procedure, if the restrained person can reasonably be located.</p> <p><b>§ 18200. Filing petition knowing information false or with intent to harass</b></p> <p>Every person who files a petition for an ex parte gun violence restraining order pursuant to Chapter 3 (commencing with Section 18150) or a gun violence restraining order issued after notice and a hearing</p>
--	--	--

		<p>pursuant to Chapter 4 (commencing with Section 18170), knowing the information in the petition to be false or with the intent to harass, is guilty of a misdemeanor.</p> <p><b>§ 18205. Ownership or possession of firearm or ammunition by person subject to order</b></p> <p>Every person who owns or possesses a firearm or ammunition with knowledge that he or she is prohibited from doing so by a temporary emergency gun violence restraining order issued pursuant to Chapter 2 (commencing with Section 18125), an ex parte gun violence restraining order issued pursuant to Chapter 3 (commencing with Section 18150), or a gun violence restraining order issued after notice and a hearing issued pursuant to Chapter 4 (commencing with Section 18170), is guilty of a misdemeanor and shall be prohibited from having in his or her custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or ammunition for a five-year period, to commence upon the expiration of the existing gun violence restraining order.</p>
<p><b>COLORADO</b></p> <p><b>Types of Orders:</b></p> <p><b>Temporary Extreme Risk Protection Order</b></p> <p><b>Extreme Risk Protection Order</b></p> <p><a href="#">Colo. Rev. Stat. § 13-14.5-101</a></p>	<p><b>Person eligible to petition:</b> Family, household members and law enforcement</p> <p>*Family/Household member: Family/Household member, with respect to respondent, is any: person related by blood, marriage or adoption to the respondent; person who has child in common with the respondent, regardless to whether such person has been married to the respondent or has lived together with the respondent at any time; person who resides or regularly resided with respondent within the last 6 months; domestic partner of the respondent; person who has a biological or legal parent-child relationship with the respondent, including stepparents and stepchildren and grandparents and grandchildren; person who has acted or is acting as the respondent's legal guardian; a person in any other relationship described in § 18-6-800.3(2) with the respondent.</p> <p><b>Standard of proof:</b> Temporary ERPO: Preponderance of the evidence that the respondent poses a significant risk in the near future.</p>	<p><b>ARTICLE 14.5. EXTREME RISK PROTECTION ORDERS</b></p> <p><b>13-14.5-101. Short title</b></p> <p>The short title of this article 14.5 is the "Deputy Zackari Parrish III Violence Prevention Act".</p> <p><b>13-14.5-102. Definitions</b></p> <p>As used in this article 14.5, unless the context otherwise clearly requires:</p> <p>(1) "Extreme risk protection order" means either a temporary order or a continuing order granted pursuant to this article 14.5.</p> <p>(2) "Family or household member" means, with respect to a respondent, any:</p> <p>(a) Person related by blood, marriage, or adoption to the respondent;</p> <p>(b) Person who has a child in common with the respondent, regardless of whether such person has been married to the respondent or has lived together with the respondent at any time;</p> <p>(c) Person who regularly resides or regularly resided with the respondent within the last six months;</p> <p>(d) Domestic partner of the respondent;</p> <p>(e) Person who has a biological or legal parent-child relationship with the respondent, including stepparents and stepchildren and grandparents and grandchildren;</p> <p>(f) Person who is acting or has acted as the respondent's legal guardian; and</p> <p>(g) A person in any other relationship described in section 18-6-800.3 (2) with the respondent.</p> <p>(3) "Firearm" has the same meaning as in section 18-1-901 (3)(h).</p> <p>(4) "Petitioner" means the person who petitions for an extreme risk protection order pursuant to this article 14.5.</p> <p>(5) "Respondent" means the person who is identified as the respondent in a petition filed pursuant to this article 14.5.</p>

	<p>ERPO: Clear and convincing evidence that the respondent poses a significant risk</p> <p><b>Evidence required:</b> Respondent poses a significant risk of causing personal injury to self or others by possessing, controlling, purchasing, or receiving a firearm</p> <p><b>Length of order:</b> Temporary ERPO: Expires on the date and time of the hearing on the extreme risk protection order petition OR withdrawal of petition ERPO: 365 days</p> <p><b>Service on respondent:</b> Respondent must be served by law enforcement officer.</p> <p><b>Notification of persons at risk:</b> If the law enforcement agency cannot complete service within 5 days, the law enforcement agency shall notify the petitioner.</p> <p><b>Renewal/Termination of the order:</b> Termination: Respondent may make up to one request to terminate an order for each one-year period the order is in effect. The court must set up a hearing to terminate the extreme risk protection order ("ERPO") 14 days after filing of request Renewal: Petitioner/family or household member of petitioner/law enforcement officer may motion for request of renewal of the ERPO within 63 calendar days before the expiration of the order.</p> <p><b>Filing fees:</b> A court or public agency shall not charge a fee for filing or service of process to a petitioner seeking relief pursuant to this article 14.5. A petitioner or respondent must be provided the necessary number of certified copies, forms, and instructional brochures free of charge.</p>	<p><b>13-14.5-103. Temporary extreme risk protection orders</b></p> <p>(1) A family or household member of the respondent or a law enforcement officer or agency may request a temporary extreme risk protection order without notice to the respondent by including in the petition for an extreme risk protection order an affidavit, signed under oath and penalty of perjury, supporting the issuance of a temporary extreme risk protection order that sets forth the facts tending to establish the grounds of the petition or the reason for believing they exist and, if the petitioner is a family or household member, attesting that the petitioner is a family or household member. The petition shall comply with the requirements of section 13-14.5-104 (3). If the petitioner is a law enforcement officer or law enforcement agency, the law enforcement officer or law enforcement agency shall concurrently file a sworn affidavit for a search warrant pursuant to section 16-3-301.5 to search for any firearms in the possession or control of the respondent at a location or locations to be named in the warrant. If a petition pursuant to section 27-65-106 is also filed against the respondent, a court of competent jurisdiction can hear that petition at the same time as the hearing for a temporary extreme risk protection order or the hearing for a continuing extreme risk protection order.</p> <p>(2) In considering whether to issue a temporary extreme risk protection order pursuant to this section, the court shall consider all relevant evidence, including the evidence described in section 13-14.5-105 (3).</p> <p>(3) If a court finds by a preponderance of the evidence that, based on the evidence presented pursuant to section 13-14.5-105 (3), the respondent poses a significant risk of causing personal injury to self or others in the near future by having in his or her custody or control a firearm or by purchasing, possessing, or receiving a firearm, the court shall issue a temporary extreme risk protection order.</p> <p>(4) The court shall hold a temporary extreme risk protection order hearing in person or by telephone on the day the petition is filed or on the court day immediately following the day the petition is filed. The court may schedule a hearing by telephone pursuant to local court rule to reasonably accommodate a disability or, in exceptional circumstances, to protect a petitioner from potential harm. The court shall require assurances of the petitioner's identity before conducting a telephonic hearing. A copy of the telephone hearing must be provided to the respondent prior to the hearing for an extreme risk protection order.</p> <p>(5) (a) In accordance with section 13-14.5-105 (1), the court shall schedule a hearing within fourteen days after the issuance of a temporary extreme risk protection order to determine if a three-hundred-sixty-four-day extreme risk protection order should be issued pursuant to this article 14.5. Notice of that hearing date must be included with the temporary extreme risk protection order that is served on the respondent. The court shall provide notice of the hearing date to the petitioner. (b) Any temporary extreme risk protection order issued expires on the date and time of the hearing on the extreme risk protection order petition or the withdrawal of the petition.</p> <p>(6) A temporary extreme risk protection order must include: (a) A statement of the grounds asserted for the order; (b) The date and time the order was issued; (c) The date and time the order expires; (d) The address of the court in which any responsive pleading should be filed; (e) The date and time of the scheduled hearing; (f) The requirements for surrender of firearms pursuant to section 13-14.5-108; and (g) The following statement: To the subject of this temporary extreme risk protection order: This order is valid until the date and time noted above. You may not have in your custody or control a firearm or purchase, possess, receive, or attempt to purchase or receive a firearm while this order is in effect. You must immediately surrender to the (insert name of law enforcement agency in the jurisdiction where the respondent resides) all firearms in your custody, control, or possession, and any concealed carry permit issued to you. A hearing will be held on the date and at the time noted above to determine if an extreme risk protection order should be issued. Failure to appear at that hearing</p>
--	---	--

	<p><b>Firearm prohibitions:</b> Respondent must surrender all firearms. court shall order the respondent to surrender all firearms by:</p> <p>(i) Selling or transferring possession of the firearm to a federally licensed firearms dealer described in 18 u.s.c. sec. 923, as amended; except that this provision must not be interpreted to require any federally licensed firearms dealer to purchase or accept possession of any firearm;</p> <p>(ii) Arranging for the storage of the firearm by a law enforcement agency. The law enforcement agency shall preserve the firearm in a substantially similar condition that the firearm was in when it was surrendered. if the respondent does not choose the option in subsection (1)(a)(i) of this section, a local law enforcement agency shall store the firearm; or</p> <p>(iii) Only for either an antique firearm, as defined in 18 U.S.C. sec. 921 (a)(16), as amended, or a curio or relic, as defined in 27 cfr 478.11, as amended, transferring possession of the antique firearm or curio or relic to a relative who does not live with the respondent after confirming, through a criminal history record check, the relative is currently eligible to own or possess a firearm under federal and state law.</p> <p>(b) The court shall order the respondent to surrender any concealed carry permit to the law enforcement officer serving the extreme risk protection order.</p> <p><b>Firearm relinquishment process:</b> Law enforcement officer serving the ERPO shall immediately request the respondent to surrender all firearms. If not personally served, the respondent must surrender all firearms within 24 hours of service or 24 hours of hearing in which the respondent was present.</p> <p>Law enforcement officer may conduct any search and seizure for any firearm pursuant to other lawful authority.</p> <p><b>Firearm disposal process:</b></p>	<p>may result in a court entering an order against you that is valid for three hundred sixty four days. An attorney will be appointed to represent you, or you may seek the advice of your own attorney at your own expense as to any matter connected with this order.</p> <p>(7) A law enforcement officer shall serve a temporary extreme risk protection order concurrently with the notice of hearing and petition and a notice that includes referrals to appropriate resources, including domestic violence, behavioral health, and counseling resources, in the same manner as provided for in section 13-14.5-105 for service of the notice of hearing where the respondent resides.</p> <p>(8) (a) If the court issues a temporary extreme risk protection order, the court shall state the particular reasons for the court's issuance. (b) If the court declines to issue a temporary extreme risk protection order, the court shall state the particular reasons for the court's denial.</p> <p><b>13-14.5-104. Petition for extreme risk protection order</b></p> <p>(1) A petition for an extreme risk protection order may be filed by a family or household member of the respondent or a law enforcement officer or agency. If the petition is filed by a law enforcement officer or agency, the officer or agency shall be represented in any judicial proceeding by a county or city attorney upon request. If the petition is filed by a family or household member, the petitioner, to the best of his or her ability, shall notify the law enforcement agency in the jurisdiction where the respondent resides of the petition and the hearing date with enough advance notice to allow for participation or attendance. Upon the filing of a petition, the court shall appoint an attorney to represent the respondent, and the court shall include the appointment in the notice of hearing provided to the respondent pursuant to section 13-14.5-105 (1)(a). The respondent may replace the attorney with an attorney of the respondent's own selection at any time at the respondent's own expense. Attorney fees for the attorney appointed for the respondent shall be paid by the court.</p> <p>(2) A petition for an extreme risk protection order must be filed in the county where the respondent resides.</p> <p>(3) A petition must:</p> <p>(a) Allege that the respondent poses a significant risk of causing personal injury to self or others by having in his or her custody or control a firearm or by purchasing, possessing, or receiving a firearm and must be accompanied by an affidavit, signed under oath and penalty of perjury, stating the specific statements, actions, or facts that give rise to a reasonable fear of future dangerous acts by the respondent;</p> <p>(b) Identify the number, types, and locations of any firearms the petitioner believes to be in the respondent's current ownership, possession, custody, or control;</p> <p>(c) Identify whether the respondent is required to possess, carry, or use a firearm as a condition of the respondent's current employment;</p> <p>(d) Identify whether there is a known existing domestic abuse protection order or emergency protection order governing the petitioner or respondent;</p> <p>(e) Identify whether there is a pending lawsuit, complaint, petition, or other action between the parties to the petition; and</p> <p>(f) If the petitioner is not a law enforcement agency, identify whether the petitioner informed a local law enforcement agency regarding the respondent.</p> <p>(4) The court shall verify the terms of any existing order identified pursuant to subsection (3)(d) of this section governing the parties. The court may not delay granting relief because of the existence of a pending action between the parties. A petition for an extreme risk protection order may be granted whether or not there is a pending action between the parties.</p> <p>(5) If the petition states that disclosure of the petitioner's address would risk harm to the petitioner or any member of the petitioner's family or household, the petitioner's address may be omitted from all documents filed with the court. If the petitioner has not disclosed an address pursuant to this section, the petitioner must designate</p>
--	---	---

	<p>Any firearm surrendered by the respondent that remains unclaimed for at least 1 year after an order to vacate the risk protection order will be disposed of according to the law enforcement agency's policies and procedures for the disposal of firearms in police custody.</p> <p><b>Limitations on liability:</b> Article 14.5 does not impose criminal/civil liability on any person or entity for acts/omissions made in good faith related to obtaining an ERPO/temporary ERPO</p> <p><b>Return/Transfer of firearms:</b> If an ERPO/temporary ERPO expires without renewal or is terminated, the law enforcement that has the firearm must return it to respondent within 3 days after confirming through a criminal history record check that the respondent is eligible to own/possess a firearm under federal/state law and after confirming with the court the ERPO was terminated or expired w/o renewal</p> <p><b>Warrant authority:</b> Any court may issue a search warrant to search for and take custody of any firearm in the possession of a named respondent.</p> <p><b>Venue:</b> Must be filed in the county where the respondent resides.</p>	<p>an alternative address at which the respondent may serve notice of any motions. If the petitioner is a law enforcement officer or agency, the address of record must be that of the law enforcement agency.</p> <p>(6) A court or public agency shall not charge a fee for filing or service of process to a petitioner seeking relief pursuant to this article 14.5. A petitioner or respondent must be provided the necessary number of certified copies, forms, and instructional brochures free of charge.</p> <p>(7) A person is not required to post a bond to obtain relief in any proceeding pursuant to this section.</p> <p>(8) The district and county courts of the state of Colorado have jurisdiction over proceedings pursuant to this article 14.5.</p> <p><b>13-14.5-105. Hearings on petition - grounds for order issuance</b></p> <p>(1) (a) Upon filing of the petition, the court shall order a hearing to be held and provide a notice of hearing to the respondent. The court must provide the notice of the hearing not later than one court day after the date of the extreme risk protection order petition. The court may schedule a hearing by telephone pursuant to local court rule to reasonably accommodate a disability or, in exceptional circumstances, to protect a petitioner from potential harm. The court shall require assurances of the petitioner's identity before conducting a telephonic hearing.</p> <p>(b) Before the next court day, the court clerk shall forward a copy of the notice of hearing and petition to the law enforcement agency in the jurisdiction where the respondent resides for service upon the respondent.</p> <p>(c) A copy of the notice of hearing and petition must be served upon the respondent in accordance with the rules for service of process as provided in rule 4 of the Colorado rules of civil procedure or rule 304 of the Colorado rules of county court civil procedure. Service issued pursuant to this section takes precedence over the service of other documents, unless the other documents are of a similar emergency nature.</p> <p>(d) The court may, as provided in section 13-14.5-103, issue a temporary extreme risk protection order pending the hearing ordered pursuant to subsection (1)(a) of this section. The temporary extreme risk protection order must be served concurrently with the notice of hearing and petition.</p> <p>(2) Upon hearing the matter, if the court finds by clear and convincing evidence, based on the evidence presented pursuant to subsection (3) of this section, that the respondent poses a significant risk of causing personal injury to self or others by having in his or her custody or control a firearm or by purchasing, possessing, or receiving a firearm, the court shall issue an extreme risk protection order for a period of three hundred sixty-four days.</p> <p>(3) In determining whether grounds for an extreme risk protection order exist, the court may consider any relevant evidence, including but not limited to any of the following:</p> <p>(a) A recent act or credible threat of violence by the respondent against self or others, whether or not such violence or credible threat of violence involves a firearm;</p> <p>(b) A pattern of acts or credible threats of violence by the respondent within the past year, including but not limited to acts or credible threats of violence by the respondent against self or others;</p> <p>(c) A violation by the respondent of a civil protection order issued pursuant to article 14 of this title 13;</p> <p>(d) A previous or existing extreme risk protection order issued against the respondent and a violation of a previous or existing extreme risk protection order;</p> <p>(e) A conviction of the respondent for a crime that included an underlying factual basis of domestic violence as defined in section 18-6-800.3 (1);</p> <p>(f) The respondent's ownership, access to, or intent to possess a firearm;</p> <p>(g) A credible threat of or the unlawful or reckless use of a firearm by the respondent;</p> <p>(h) The history of use, attempted use, or threatened use of unlawful physical force by the respondent against another person, or the respondent's history of stalking another person as described in section 18-3-602;</p> <p>(i) Any prior arrest of the respondent for a crime listed in section 24-4.1-302 (1) or section 18-9-202;</p> <p>(j) Evidence of the abuse of controlled substances or alcohol by the respondent;</p>
--	--	--

	<p>(k) Whether the respondent is required to possess, carry, or use a firearm as a condition of the respondent's current employment; and</p> <p>(l) Evidence of recent acquisition of a firearm or ammunition by the respondent.</p> <p>(4) The court may:</p> <p>(a) Examine under oath the petitioner, the respondent, and any witnesses they may produce, or, in lieu of examination, consider sworn affidavits of the petitioner, the respondent, and any witnesses they may produce; and</p> <p>(b) Request that the Colorado bureau of investigation conduct a criminal history record check related to the respondent and provide the results to the court under seal.</p> <p>(5) The court shall allow the petitioner and respondent to present evidence and cross-examine witnesses and be represented by an attorney at the hearing.</p> <p>(6) In a hearing pursuant to this article 14.5, the rules of evidence apply to the same extent as in a civil protection order proceeding pursuant to article 14 of this title 13.</p> <p>(7) During the hearing, the court shall consider any available mental health evaluation or chemical dependency evaluation provided to the court.</p> <p>(8) (a) Before issuing an extreme risk protection order, the court shall consider whether the respondent meets the standard for a court-ordered evaluation for persons with mental health disorders pursuant to section 27-65-106. If the court determines that the respondent meets the standard, then, in addition to issuing an extreme risk protection order, the court shall order mental health treatment and evaluation authorized pursuant to section 27-65-106 (6).</p> <p>(b) Before issuing an extreme risk protection order, the court shall consider whether the respondent meets the standard for an emergency commitment pursuant to section 27-81-111 or 27-82-107. If the court determines that the respondent meets the standard, then, in addition to issuing an extreme risk protection order, the court shall order an emergency commitment pursuant to section 27-81-111 or 27-82-107.</p> <p>(9) An extreme risk protection order must include:</p> <p>(a) A statement of the grounds supporting the issuance of the order;</p> <p>(b) The date and time the order was issued;</p> <p>(c) The date and time the order expires;</p> <p>(d) The address of the court in which any responsive pleading should be filed;</p> <p>(e) The requirements for relinquishment of a firearm and concealed carry permit pursuant to section 13-14.5-108; and</p> <p>(f) The following statement: To the subject of this extreme risk protection order: This order will last until the date and time noted above. If you have not done so already, you must immediately surrender any firearms in your custody, control, or possession and any concealed carry permit issued to you. You may not have in your custody or control a firearm or purchase, possess, receive, or attempt to purchase or receive a firearm while this order is in effect. You have the right to request one hearing to terminate this order during the period that this order is in effect, starting from the date of this order and continuing through any renewals. You may seek the advice of an attorney as to any matter connected with this order.</p> <p>(10) When the court issues an extreme risk protection order, the court shall inform the respondent that he or she is entitled to request termination of the order in the manner prescribed by section 13-14.5-107. The court shall provide the respondent with a form to request a termination hearing.</p> <p>(11) (a) If the court issues an extreme risk protection order, the court shall state the particular reasons for the court's issuance.</p> <p>(b) If the court denies the issuance of an extreme risk protection order, the court shall state the particular reasons for the court's denial.</p>
--	--

(12) If the court denies the issuance of an extreme risk protection order but ordered a temporary extreme risk protection order and a law enforcement agency took custody of the respondent's concealed carry permit or the respondent surrendered his or her concealed carry permit as a result of the temporary extreme risk protection order, the sheriff who issued the concealed carry permit shall reissue the concealed carry permit to the respondent within three days, at no charge to the respondent.

(13) If the court issues an extreme risk protection order and the petitioner is a law enforcement officer or agency, the petitioner shall make a good-faith effort to provide notice of the order to a family or household member of the respondent and to any known third party who may be at direct risk of violence. The notice must include referrals to appropriate resources, including domestic violence, behavioral health, and counseling resources.

**13-14.5-106. Service of protection orders**

(1) An extreme risk protection order issued pursuant to section 13-14.5-105 must be served personally upon the respondent, except as otherwise provided in this article 14.5.

(2) The law enforcement agency in the jurisdiction where the respondent resides shall serve the respondent personally.

(3) The court clerk shall forward a copy of the extreme risk protection order issued pursuant to this article 14.5 on or before the next court day to the law enforcement agency specified in the order for service. Service of an order issued pursuant to this article 14.5 takes precedence over the service of other documents, unless the other documents are of a similar emergency nature.

(4) If the law enforcement agency cannot complete service upon the respondent within five days, the law enforcement agency shall notify the petitioner. The petitioner shall then provide any additional information regarding the respondent's whereabouts to the law enforcement agency to effect service. The law enforcement agency may request additional time to allow for the proper and safe planning and execution of the court order.

(5) If an extreme risk protection order entered by the court states that the respondent appeared in person before the court, the necessity for further service is waived, and proof of service of that order is not necessary.

(6) Returns of service pursuant to this article 14.5 must be made in accordance with the applicable court rules.

(7) If the respondent is a veteran and there are any criminal charges against the respondent that result from the service or enforcement of the extreme risk protection order, the judge shall refer the case to a veterans court if the jurisdiction has a veterans court and the charges are veterans court eligible.

**13-14.5-107. Termination or renewal of protection orders**

(1) Termination. (a) The respondent may submit one written request for a hearing to terminate an extreme risk protection order issued pursuant to this article 14.5 for the period that the order is in effect. Upon receipt of the request for a hearing to terminate an extreme risk protection order, the court shall set a date for a hearing. Notice of the request and date of hearing must be served on the petitioner in accordance with the Colorado rules of civil procedure or Colorado rules of county court civil procedure. The court shall set the hearing fourteen days after the filing of the request for a hearing to terminate an extreme risk protection order. The court shall terminate the extreme risk protection order if the respondent establishes by clear and convincing evidence that he or she no longer poses a significant risk of causing personal injury to self or others by having in his or her custody or control a firearm or by purchasing, possessing, or receiving a firearm. The court may consider any relevant evidence, including evidence of the considerations listed in section 13-14.5-105 (3).

(b) The court may continue the hearing if the court determines that it cannot enter a termination order at the hearing but determines that there is a strong possibility that the court could enter a termination order at a future date before the expiration of the extreme risk protection order. If the court continues the hearing, the court shall set the date for the next hearing prior to the date for the expiration of the extreme risk protection order.

(2) Renewal. (a) The court shall notify the petitioner of the impending expiration of an extreme risk protection order sixty-three calendar days before the date that the order expires.

(b) A petitioner, a family or household member of a respondent, or a law enforcement officer or agency may, by motion, request a renewal of an extreme risk protection order at any time within sixty-three calendar days before the expiration of the order.

(c) Upon receipt of the motion to renew, the court shall order that a hearing be held not later than fourteen days after the filing of the motion to renew. The court may schedule a hearing by telephone in the manner prescribed by section 13-14.5-105 (1)(a). The respondent must be personally served in the same manner prescribed by section 13-14.5-105 (1)(b) and (1)(c).

(d) In determining whether to renew an extreme risk protection order issued pursuant to this section, the court shall consider all relevant evidence and follow the same procedure as provided in section 13-14.5-105.

(e) If the court finds by clear and convincing evidence that, based on the evidence presented pursuant to section 13-14.5-105 (3), the respondent continues to pose a significant risk of causing personal injury to self or others by having in his or her custody or control a firearm or by purchasing, possessing, or receiving a firearm, the court shall renew the order for a period of time the court deems appropriate, not to exceed one year. In the order, the court shall set a return date to review the order no later than thirty-five days prior to the expiration of the order. However, if, after notice, the motion for renewal is uncontested and the petitioner seeks no modification of the order, the order may be renewed on the basis of the petitioner's motion or affidavit, signed under oath and penalty of perjury, stating that there has been no material change in relevant circumstances since the entry of the order and stating the reason for the requested renewal.

(3) If an extreme risk protection order is terminated or not renewed for any reason, the law enforcement agency storing the respondent's firearms shall provide notice to the respondent regarding the process for the return of the firearms.

**13-14.5-108. Surrender of a firearm**

(I) (a) Upon issuance of an extreme risk protection order pursuant to this article 14.5, including a temporary extreme risk protection order, the court shall order the respondent to surrender all firearms by:

(I) Selling or transferring possession of the firearm to a federally licensed firearms dealer described in 18 U.S.C. sec. 923, as amended; except that this provision must not be interpreted to require any federally licensed firearms dealer to purchase or accept possession of any firearm;

(II) Arranging for the storage of the firearm by a law enforcement agency. The law enforcement agency shall preserve the firearm in a substantially similar condition that the firearm was in when it was surrendered. If the respondent does not choose the option in subsection (1)(a)(I) of this section, a local law enforcement agency shall store the firearm.

(III) Only for either an antique firearm, as defined in 18 U.S.C. sec. 921 (a)(16), as amended, or a curio or relic, as defined in 27 CFR 478.11, as amended, transferring possession of the antique firearm or curio or relic to a relative who does not live with the respondent after confirming, through a criminal history record check, the relative is currently eligible to own or possess a firearm under federal and state law.

(b) The court shall order the respondent to surrender any concealed carry permit to the law enforcement officer serving the extreme risk protection order.

(2) (a) The law enforcement agency serving any extreme risk protection order pursuant to this article 14.5, including a temporary extreme risk protection order in which the petitioner was not a law enforcement agency or officer, shall request that the respondent immediately surrender all firearms in his or her custody, control, or possession and any concealed carry permit issued to the respondent and conduct any search permitted by law for such firearms or permit. After the law enforcement agency or officer has custody of the firearms, the respondent may inform the law enforcement officer of his or her preference for sale, transfer, or storage of the firearms as specified in subsection (1) of this section. If the respondent elects to sell or transfer the firearms to a federally licensed firearms dealer described in 18 U.S.C. sec. 923, as amended, the law enforcement officer or agency shall maintain custody of the firearms until they are sold or transferred pursuant to subsection (1)(a)(I) of this

section. The law enforcement officer shall take possession of all firearms and any such permit belonging to the respondent that are surrendered, in plain sight, or discovered pursuant to a lawful search. Alternatively, if personal service by the law enforcement agency is not possible, or not required because the respondent was present at the extreme risk protection order hearing, the respondent shall surrender the firearms and any concealed carry permit within twenty-four hours after being served with the order by alternate service or within twenty-four hours after the hearing at which the respondent was present.

**(b)** If the petitioner for an extreme risk protection order is a law enforcement agency or officer, the law enforcement officer serving the extreme risk protection order shall take custody of the respondent's firearms pursuant to the search warrant for firearms possessed by a respondent in an extreme risk protection order, as described in section 16-3-301.5, if a warrant was obtained. After the law enforcement agency or officer has custody of the firearms, the respondent may inform the law enforcement officer of his or her preference for sale, transfer, or storage of the firearms as specified in section 13-14-105.5 (2)(c). The law enforcement officer shall request that the respondent immediately surrender any concealed carry permit issued to the respondent and conduct any search permitted by law for the permit.

**(3)** At the time of surrender or taking custody pursuant to section 16-3-301.5, a law enforcement officer taking possession of a firearm or a concealed carry permit shall issue a receipt identifying all firearms and any permit that have been surrendered or taken custody of and provide a copy of the receipt to the respondent. Within seventy-two hours after service of the order, the officer serving the order shall file the original receipt with the court and shall ensure that his or her law enforcement agency retains a copy of the receipt, or, if the officer did not take custody of any firearms, shall file a statement to that effect with the court.

**(4)** Upon the sworn statement or testimony of the petitioner or of any law enforcement officer alleging that there is probable cause to believe the respondent has failed to comply with the surrender of firearms or a concealed carry permit as required by an order issued pursuant to this article 14.5, the court shall determine whether probable cause exists to believe that the respondent has failed to surrender all firearms or a concealed carry permit in his or her custody, control, or possession. If probable cause exists, the court shall issue a search warrant that states with particularity the places to be searched and the items to be taken into custody.

**(5)** If a person other than the respondent claims title to any firearms surrendered or taken custody of pursuant to section 16-3-301.5 pursuant to this section and he or she is determined by the law enforcement agency to be the lawful owner of the firearm, the firearm shall be returned to him or her if:

**(a)** The firearm is removed from the respondent's custody, control, or possession, and the lawful owner agrees to store the firearm so that the respondent does not have access to or control of the firearm; and

**(b)** The firearm is not otherwise unlawfully possessed by the lawful owner.

**(6)** (a) Within forty-eight hours after the issuance of an extreme risk protection order, a respondent subject to the order may either:

**(I)** File with the court that issued the order one or more proofs of relinquishment or removal showing that all firearms previously in the respondent's custody, control, or possession, and any concealed carry permit issued to the respondent, were relinquished to or removed by a law enforcement agency, and attest to the court that the respondent does not currently have any firearms in the respondent's custody, control, or possession, and does not currently have a concealed carry permit; or

**(II)** Attest to the court that:

**(A)** At the time the order was issued, the respondent did not have any firearms in the respondent's custody, control, or possession and did not have a concealed carry permit; and

**(B)** The respondent does not currently have any firearms in the respondent's custody, control, or possession and does not currently have a concealed carry permit.

**(b)** If two full court days have elapsed since the issuance of an extreme risk protection order and the respondent has made neither the filing and attestation pursuant to subsection (6)(a)(I) of this section nor the attestations

pursuant to subsection (6)(a)(II) of this section, the clerk of the court for the court that issued the order shall inform the local law enforcement agency in the county in which the court is located that the respondent has not filed the filing and attestation pursuant to subsection (6)(a)(I) of this section or the attestations pursuant to subsection (6)(a)(II) of this section.

(c) A local law enforcement agency that receives a notification pursuant to subsection (6)(b) of this section shall make a good faith effort to determine whether there is evidence that the respondent has failed to relinquish any firearm in the respondent's custody, control, or possession or a concealed carry permit issued to the respondent.

(7) The peace officers standards and training board shall develop model policies and procedures by December 1, 2019, regarding the acceptance, storage, and return of firearms required to be surrendered pursuant to this article 14.5 or taken custody of pursuant to section 16-3-301.5 and shall provide those model policies and procedures to all law enforcement agencies. Each law enforcement agency shall adopt the model policies and procedures or adopt their own policies and procedures by January 1, 2020.

**13-14.5-109. Firearms - return - disposal**

(1) If an extreme risk protection order or temporary extreme risk protection order is terminated or expires without renewal, a law enforcement agency holding any firearm that has been surrendered pursuant to section 13-14.5-108 or taken custody of pursuant to section 16-3-301.5, or a federally licensed firearms dealer described in 18 U.S.C. sec. 923, as amended, with custody of a firearm, or a relative with custody of an antique firearm or curio or relic pursuant to section 13-14.5-108 (1)(a)(III), must return the firearm requested by a respondent within three days only after confirming, through a criminal history record check performed pursuant to section 24-33.5-424, that the respondent is currently eligible to own or possess a firearm under federal and state law and after confirming with the court that the extreme risk protection order has terminated or has expired without renewal.

(2) Any firearm surrendered by a respondent pursuant to section 13-14.5-108 or taken custody of pursuant to section 16-3-301.5 that remains unclaimed by the lawful owner for at least one year from the date the temporary extreme risk protection order or extreme risk protection order expired, whichever is later, shall be disposed of in accordance with the law enforcement agency's policies and procedures for the disposal of firearms in police custody.

**13-14.5-110. Reporting of extreme risk protection orders**

(1) The court clerk shall enter any extreme risk protection order or temporary extreme risk protection order issued pursuant to this article 14.5 into a statewide judicial information system on the same day the order is issued.

(2) The court clerk shall forward a copy of an extreme risk protection order or temporary extreme risk protection order issued pursuant to this article 14.5 the same day the order is issued to the Colorado bureau of investigation and the law enforcement agency specified in the order. Upon receipt of the copy of the order, the Colorado bureau of investigation shall enter the order into the national instant criminal background check system, any other federal or state computer-based systems used by law enforcement agencies or others to identify prohibited purchasers of firearms, and any computer-based criminal intelligence information system available in this state used by law enforcement agencies. The order must remain in each system for the period stated in the order, and the law enforcement agency shall only expunge orders from the systems that have expired or terminated and shall promptly remove the expired or terminated orders. Entry into the computer-based criminal intelligence information system is notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(3) The issuing court shall, within three court days after issuance of an extreme risk protection order or a temporary extreme risk protection order, forward all identifying information the court has regarding the

respondent, along with the date the order is issued, to the county sheriff in the jurisdiction where the respondent resides. Upon receipt of the information, the county sheriff shall determine if the respondent has a concealed carry permit. If the respondent does have a concealed carry permit, the issuing county sheriff shall immediately revoke the permit. The respondent may reapply for a concealed carry permit after the temporary extreme risk protection order and extreme risk protection order, if ordered, are no longer in effect.

(4) If an extreme risk protection order is terminated before its expiration date, the court clerk shall forward, on the same day as the termination order, a copy of the termination order to the Colorado bureau of investigation and the appropriate law enforcement agency specified in the termination order. Upon receipt of the order, the Colorado bureau of investigation and the law enforcement agency shall promptly remove the order from any computer-based system in which it was entered pursuant to subsection (2) of this section.

(5) Upon the expiration of a temporary extreme risk protection order or extreme risk protection order, the Colorado bureau of investigation and the law enforcement agency specified in the order shall promptly remove the order from any computer-based system in which it was entered pursuant to subsection (2) of this section.

(6) An extreme risk protection order does not constitute a finding that a respondent is a prohibited person pursuant to 18 U.S.C. sec. 922 (d)(4) or (g)(4). This subsection (6) does not alter a temporary extreme risk protection order or an extreme risk protection order, and a respondent subject to a temporary extreme risk protection order or an extreme risk protection order is prohibited from possessing a firearm under state law. This subsection (6) does not change the duty to enter a temporary extreme risk protection order or extreme risk protection order into the appropriate databases pursuant to this section.

**13-14.5-111. Penalties**

Any person who has in his or her custody or control a firearm or purchases, possesses, or receives a firearm with knowledge that he or she is prohibited from doing so by an extreme risk protection order or temporary extreme risk protection order issued pursuant to this article 14.5 is guilty of a class 2 misdemeanor.

**13-14.5-112. Other authority retained**

This article 14.5 does not affect the ability of a law enforcement officer to remove a firearm or concealed carry permit from a person or conduct a search and seizure for any firearm pursuant to other lawful authority.

**13-14.5-113. Liability**

(1) Except as provided in section 13-14.5-111, this article 14.5 does not impose criminal or civil liability on any person or entity for acts or omissions made in good faith related to obtaining an extreme risk protection order or a temporary extreme risk protection order, including but not limited to reporting, declining to report, investigating, declining to investigate, filing, or declining to file a petition pursuant to this article 14.5.

(2) A person who files a malicious or false petition for a temporary extreme risk protection order or an extreme risk protection order may be subject to criminal prosecution for those acts.

**13-14.5-114. Instructional and informational material - definition**

(1) (a) The state court administrator shall develop standard petitions and extreme risk protection order forms and temporary extreme risk protection order forms in more than one language consistent with state judicial department practices. The standard petition and order forms must be used after January 1, 2020, for all petitions filed and orders issued pursuant to this article 14.5. The state court administrator may consult with interested parties in developing the petitions and forms. The materials must be available online consistent with state judicial department practices.

(b) The extreme risk protection order form must include, in a conspicuous location, notice of criminal penalties resulting from violation of the order and the following statement:

		<p>You have the sole responsibility to avoid or refrain from violating this extreme risk protection order's provisions. Only the court can change the order and only upon written motion.</p> <p>(2) A court clerk for each judicial district shall create a community resource list of crisis intervention, mental health, substance abuse, interpreter, counseling, and other relevant resources serving the county in which the court is located. The court shall make the community resource list available as part of or in addition to the informational brochures described in subsection (1) of this section.</p> <p>(3) The state court administrator shall distribute a master copy of the standard petition and extreme risk protection order forms to all court clerks and all district and county courts.</p> <p>(4) Courts shall accept petitions pursuant to sections 13-14.5-103 and 13-14.5-104 beginning on January 1, 2020.</p>
<p><b>CONNECTICUT</b></p> <p><b>Type of Warrant:</b></p> <p><b>Risk Warrant</b></p> <p><a href="#">Conn. Gen. Stat. § 29-38c</a></p>	<p><b>Persons eligible to petition:</b> Any state's attorney/assistant state's attorney or two police officers</p> <p><b>Standard of proof:</b> Before hearing: Probable cause During hearing: Clear and convincing evidence</p> <p><b>Evidence required:</b> (1) a person poses a risk of imminent personal injury to himself or herself or to other individuals, (2) such person possesses one or more firearms, and (3) such firearm or firearms are in a place at which the judge is empowered to order a search warrant</p> <p><b>Length of order:</b> Not more than one year</p> <p><b>Service procedures:</b> Copy of the warrant shall be given to the person named on the warrant.</p> <p><b>Notification procedures for persons at risk:</b> Statute is silent</p> <p><b>Evidence required/ Warrant denial:</b> The warrant will not be permitted if the judge finds there is no grounds for the warrant.</p> <p>During the hearing, if the government fails to prove by clear and convincing evidence the</p>	<p><b>Sec. 29-38c. Seizure of firearms and ammunition from person posing risk of imminent personal injury to self or others.</b></p> <p>(a) Upon complaint on oath by any state's attorney or assistant state's attorney or by any two police officers, to any judge of the Superior Court, that such state's attorney or police officers have probable cause to believe that (1) a person poses a risk of imminent personal injury to himself or herself or to other individuals, (2) such person possesses one or more firearms, and (3) such firearm or firearms are within or upon any place, thing or person, such judge may issue a warrant commanding a proper officer to enter into or upon such place or thing, search the same or the person and take into such officer's custody any and all firearms and ammunition. Such state's attorney or police officers shall not make such complaint unless such state's attorney or police officers have conducted an independent investigation and have determined that such probable cause exists and that there is no reasonable alternative available to prevent such person from causing imminent personal injury to himself or herself or to others with such firearm.</p> <p>(b) A warrant may issue only on affidavit sworn to by the complainant or complainants before the judge and establishing the grounds for issuing the warrant, which affidavit shall be part of the seizure file. In determining whether grounds for the application exist or whether there is probable cause to believe they exist, the judge shall consider: (1) Recent threats or acts of violence by such person directed toward other persons; (2) recent threats or acts of violence by such person directed toward himself or herself; and (3) recent acts of cruelty to animals as provided in subsection (b) of section 53-247 by such person. In evaluating whether such recent threats or acts of violence constitute probable cause to believe that such person poses a risk of imminent personal injury to himself or herself or to others, the judge may consider other factors including, but not limited to (A) the reckless use, display or brandishing of a firearm by such person, (B) a history of the use, attempted use or threatened use of physical force by such person against other persons, (C) prior involuntary confinement of such person in a hospital for persons with psychiatric disabilities, and (D) the illegal use of controlled substances or abuse of alcohol by such person. If the judge is satisfied that the grounds for the application exist or that there is probable cause to believe that they exist, such judge shall issue a warrant naming or describing the person, place or thing to be searched. The warrant shall be directed to any police officer of a regularly organized police department or any state police officer. It shall state the grounds or probable cause for its issuance and it shall command the officer to search within a reasonable time the</p>

<p>material facts, the court will order the firearms/ammunition seized to be returned to the person named in the warrant.</p> <p><b>Filing fees:</b> Statute is silent</p> <p><b>Firearm prohibitions:</b> Named individual must allow law enforcement to seize all firearms and ammunition pursuant to the warrant.</p> <p><b>Firearm relinquishment process:</b> Pursuant to the warrant, law enforcement may take custody of all firearms/ammunition pursuant to the warrant.</p> <p>Pursuant to the warrant, law enforcement may take custody of all firearms/ammunition pursuant to the warrant</p> <p><b>Firearm disposal process:</b> Statute is silent</p> <p><b>Limitations on liability:</b> Statute is silent</p> <p><b>Return/Transfer of firearms:</b> Seized firearms may be held for up to one year, at which point they must be returned.</p> <p>Any person whose firearm was seized pursuant to subsection (d) of this section, or such person's legal representative, may transfer such firearms and ammunition to any person eligible to possess such firearms.</p> <p><b>Warrant Authority:</b> Built into the statute</p> <p><b>Venue:</b> Applicant of warrant must file a copy of the application for the warrant and all affidavits upon which the warrant is based with the clerk of the court for the geographical area within which the search will be conducted.</p>	<p>person, place or thing named for any and all firearms and ammunition. A copy of the warrant shall be given to the person named therein together with a notice informing the person that such person has the right to a hearing under this section and the right to be represented by counsel at such hearing.</p> <p>(c) The applicant for the warrant shall file a copy of the application for the warrant and all affidavits upon which the warrant is based with the clerk of the court for the geographical area within which the search will be conducted no later than the next business day following the execution of the warrant. Prior to the execution and return of the warrant, the clerk of the court shall not disclose any information pertaining to the application for the warrant or any affidavits upon which the warrant is based. The warrant shall be executed and returned with reasonable promptness consistent with due process of law and shall be accompanied by a written inventory of all firearms and ammunition seized.</p> <p>(d) Not later than fourteen days after the execution of a warrant under this section, the court for the geographical area where the person named in the warrant resides shall hold a hearing to determine whether the firearm or firearms and any ammunition seized should be returned to the person named in the warrant or should continue to be held by the state. At such hearing the state shall have the burden of proving all material facts by clear and convincing evidence. If, after such hearing, the court finds by clear and convincing evidence that the person poses a risk of imminent personal injury to himself or herself or to other individuals, the court may order that the firearm or firearms and any ammunition seized pursuant to the warrant issued under subsection (a) of this section continue to be held by the state for a period not to exceed one year, otherwise the court shall order the firearm or firearms and any ammunition seized to be returned to the person named in the warrant. If the court finds that the person poses a risk of imminent personal injury to himself or herself or to other individuals, the court shall give notice to the Department of Mental Health and Addiction Services which may take such action pursuant to chapter 319i as it deems appropriate.</p> <p>(e) Any person whose firearm or firearms and ammunition have been ordered seized pursuant to subsection (d) of this section, or such person's legal representative, may transfer such firearm or firearms and ammunition in accordance with the provisions of section 29-33 or other applicable state or federal law, to any person eligible to possess such firearm or firearms and ammunition. Upon notification in writing by such person, or such person's legal representative, and the transferee, the head of the state agency holding such seized firearm or firearms and ammunition shall within ten days deliver such firearm or firearms and ammunition to the transferee.</p> <p>(f) For the purposes of this section, "ammunition" means a loaded cartridge, consisting of a primed case, propellant or projectile, designed for use in any firearm.</p>
--	---

<p style="text-align: center;"><b>DELAWARE</b></p> <p><b>Types of Orders:</b>  <b>Emergency Lethal Violence Protection Order</b>  <b>(“Emergency LVPO”)</b></p> <p style="text-align: center;"><b>Lethal Violence Protection Order</b>  <b>(“LVPO”)</b></p> <p><a href="#"><u>Del. Code Ann.tit. 10, 7701 et. seq.</u></a></p>	<p><b>Persons eligible to petition:</b>  LVPO:</p> <p>Law enforcement officer*</p> <p>Family member, including: spouses; a couple cohabitating in a home in which there is a child of either or both; custodian and child; or any group of persons related by blood or marriage who are residing in 1 home under 1 head or where 1 is related to the other by any of the following degrees of relationship, both parties being residents of this State:</p> <ol style="list-style-type: none"> <li>a. Mother;</li> <li>b. Father;</li> <li>c. Mother-in-law;</li> <li>d. Father-in-law;</li> <li>e. Brother;</li> <li>f. Sister;</li> <li>g. Brother-in-law;</li> <li>h. Sister-in-law;</li> <li>i. Son;</li> <li>j. Daughter;</li> <li>k. Son-in-law;</li> <li>l. Daughter-in-law;</li> <li>m. Grandfather;</li> <li>n. Grandmother;</li> <li>o. Grandson;</li> <li>p. Granddaughter;</li> <li>q. Stepfather;</li> <li>r. Stepmother;</li> <li>s. Stepson;</li> <li>t. Stepdaughter.</li> </ol> <p>The relationships referred to in this definition include blood relationships without regard to legitimacy and relationships by adoption.</p> <p>Emergency LVPO: Law enforcement officer*</p> <p>*Law enforcement officers include: police officers, the Attorney General and the Attorney General’s deputies, agents of the State Division of Alcohol and Tobacco Enforcement, agents</p>	<p><b>§ 7701. Definitions</b></p> <p>As used in this section:</p> <ol style="list-style-type: none"> <li>(1) “Firearm” means as defined in § 222 of Title 11.</li> <li>(2) “Law-enforcement officer” means as defined in § 222 of Title 11.*</li> </ol> <p>*police officers, the Attorney General and the Attorney General’s deputies, agents of the State Division of Alcohol and Tobacco Enforcement, agents employed by a state, county or municipal law-enforcement agency engaged in monitoring sex offenders, correctional officers, probation and parole officers, state fire marshals, municipal fire marshals that are graduates of a Delaware Police Academy which is accredited/authorized by the Council on Police Training, sworn members of the City of Wilmington Fire Department who have graduated from a Delaware Police Academy which is authorized/accredited by the Council on Police Training, environmental protection officers, enforcement agents of the Department of Natural Resources and Environmental Control, and constables. A sheriff or deputy sheriff shall be considered a “law-enforcement officer” when acting upon a specific order of a judge or commissioner of Superior Court. Sheriffs and deputy sheriffs shall not have any arrest authority. However, sheriffs and deputy sheriffs may take into custody and transport a person when specifically so ordered by a judge or commissioner of Superior Court.</p> <ol style="list-style-type: none"> <li>(3) “Lethal violence protective order” means an order issued by the Justice of the Peace Court or Superior Court prohibiting and enjoining a person from controlling, owning, purchasing, possessing, having access to, or receiving a firearm.</li> <li>(4) “Petitioner” means either of the following: <ol style="list-style-type: none"> <li>a. A family member of the respondent as defined in § 901 of this title or a member of the class defined in § 1041(2)b. of this title.</li> <li>b. A law-enforcement officer who files a petition alleging that the respondent poses a danger of causing physical injury to self or others by controlling, owning, purchasing, possessing, having access to or receiving a firearm.</li> </ol> </li> <li>(5) “Physical injury” means as defined in § 222 of Title 11.</li> <li>(6) “Respondent” means the individual who is alleged to pose a danger of causing physical injury to self or others by controlling, owning, purchasing, possessing, having access to or receiving a firearm.</li> </ol> <p><b>§ 7702. Commencement of action; procedure.</b></p> <ol style="list-style-type: none"> <li>(a) A petitioner may request relief under § 7703 or § 7704 of this title by filing an affidavit or verified petition.</li> <li>(b) A petition for a lethal violence protective order must be filed in the county where the respondent resides.</li> <li>(c) Forms and instructions for initiating a proceeding under this section must be available from the Justice of the Peace Court’s office and the Superior Court Prothonotary’s office.</li> </ol>
--	---	--

	<p>employed by a state, county or municipal law-enforcement agency engaged in monitoring sex offenders, correctional officers, probation and parole officers, state fire marshals, municipal fire marshals that are graduates of a Delaware Police Academy which is accredited/authorized by the Council on Police Training, sworn members of the City of Wilmington Fire Department who have graduated from a Delaware Police Academy which is authorized/accredited by the Council on Police Training, environmental protection officers, enforcement agents of the Department of Natural Resources and Environmental Control, and constables. A sheriff or deputy sheriff shall be considered a “law-enforcement officer” when acting upon a specific order of a judge or commissioner of Superior Court. Sheriffs and deputy sheriffs shall not have any arrest authority. However, sheriffs and deputy sheriffs may take into custody and transport a person when specifically so ordered by a judge or commissioner of Superior Court.</p> <p><b>Standard of proof:</b> LVPO: Petitioner has the burden by clear and convincing evidence that the respondent poses a danger of causing physical injury to self or others by controlling, owning, purchasing, possessing, having access to, or receiving a firearm.</p> <p>Emergency LVPO: Law enforcement officer has burden of preponderance of the evidence that the respondent poses an immediate and present danger of causing physical injury to himself or others by owning, possessing, controlling, purchasing, having access to, or receiving a firearm.</p> <p><b>Evidence required:</b> LVPO: Petitioner must demonstrate clear and convincing evidence that the respondent poses an immediate and present danger of causing physical injury to himself or others by owning,</p>	<p>(d) All forms and instructions developed for use by the parties to a proceeding under this chapter must contain simple, understandable language.</p> <p><b>§ 7703. Emergency hearings.</b></p> <p>(a) A law-enforcement officer may request an emergency lethal violence protective order by filing an affidavit or verified petition in Justice of the Peace Court that does both of the following:</p> <p>(1) Alleges that respondent poses an immediate and present danger of causing physical injury to self or others by controlling, purchasing, owning, possessing, controlling, purchasing, having access to, or receiving a firearm.</p> <p>(2) Identifies the location of any firearms it is believed that the respondent currently owns, possesses, has access to, or controls.</p> <p>(b) The following procedures govern an emergency proceeding:</p> <p>(1) The Justice of the Peace Court shall hear a request for an order under this section within 24 hours of the filing of the affidavit or verified petition.</p> <p>(2) The law-enforcement officer has the burden of demonstrating by a preponderance of the evidence that a respondent poses an immediate and present danger of causing physical injury to self or others by owning, possessing, controlling, purchasing, having access to, or receiving a firearm.</p> <p>(3) The respondent does not have the right to be heard or to notice that the law-enforcement officer has sought an order under this section.</p> <p>(c) The Justice of the Peace Court may adopt additional rules governing proceedings under this section.</p> <p>(d) If the Justice of the Peace Court finds by a preponderance of the evidence that the respondent poses an immediate and present danger of causing physical injury to self or others by owning, possessing, controlling, purchasing, having access to, or receiving a firearm, the Court shall issue an emergency lethal violence protective order requiring the respondent to relinquish to a law-enforcement agency receiving the Court’s order any firearms or ammunition owned, possess, or controlled by the respondent. The Court may also do any of the following through its order:</p> <p>(1) Prohibit the respondent from residing with another individual who owns, possesses, or controls firearms or ammunition. Nothing in this section may be construed to impair the rights, under the Second Amendment to the United States Constitution or Article I, § 20 of the Delaware Constitution, of an individual who is not subject to the Court’s order.</p> <p>(2) Direct a law-enforcement agency having jurisdiction where the respondent resides or the firearms or ammunition are located to immediately search for and seize any firearms or ammunition owned, possessed, or controlled by the respondent.</p> <p>(e) The Justice of the Peace Court shall direct that an emergency lethal violence protective order issued under this section be served immediately upon the respondent by personal service, any form of mail, or in any manner directed by the Court, including publication, if other methods of service have failed or</p>
--	---	---

<p>possessing, controlling, purchasing, having access to, or receiving a firearm.</p> <p>Emergency LVPO: Law-enforcement officer must demonstrate by a preponderance of evidence that the respondent poses an immediate and present danger of causing physical injury to himself or others by owning, possessing, controlling, purchasing, having access to, or receiving a firearm.</p> <p><b>Length of order:</b> LVPO: Fixed period of time not to exceed 1 year. Emergency LVPO: May not exceed 45 days</p> <p><b>Service on respondent:</b> LVPO: If respondent is not present at the hearing, the Superior Court will direct that a lethal violence protective order be immediately served on the respondent by personal service, any form of mail, or any manner directed by the court (including publication) if other methods of service have failed.</p> <p>Note: If a hearing is held, the respondent has a right to notice of the hearing. If a lethal violence protective order is issued, the respondent must be served immediately.</p> <p>Emergency LVPO: The Superior Court will direct that a lethal violence protective order be immediately served on the respondent by personal service, any form of mail, or any manner directed by the court (including publication) if other methods of service have failed.</p> <p>Note: Emergency LVPO: If an emergency lethal violence protective order is issued, the respondent must be served immediately.</p> <p><b>Notification procedures for persons at risk:</b></p>	<p>deemed to have been inadequate. The Court shall give a certified copy of the order to the law-enforcement officer after the hearing and before the petitioner leaves the courthouse.</p> <p>(f) If the Justice of the Peace Court issues an emergency lethal violence protective order under this section, the Superior Court must hold a full hearing in compliance with § 7704 of this title within 15 days. The Justice of the Peace Court or the Superior Court may extend an emergency order as needed to effectuate service of the order or where necessary to ensure the protection of the respondent or others, but the duration of the order may not exceed 45 days.</p> <p><b>§ 7704. Nonemergency hearings.</b></p> <p>(a) A petitioner may request a lethal violence protective order by filing an affidavit or verified petition in the Superior Court that does both of the following:</p> <p>(1) Alleges that the respondent poses a danger of causing physical injury to self or others by controlling, owning, purchasing, possessing, having access to, or receiving a firearm.</p> <p>(2) Identifies the location of any firearms it is believed that the respondent currently owns, possesses, has access to, or controls.</p> <p>(b) The following procedures govern a nonemergency proceeding:</p> <p>(1) The respondent has the right to be heard.</p> <p>(2) If a hearing is requested, it must be held within 15 days of the filing of an affidavit or verified petition under subsection (a) of this section, unless extended by the Court for good cause shown.</p> <p>(3) If a hearing is held, the respondent has the right to notice of the hearing, to present evidence, and to cross-examine adverse witnesses.</p> <p>(4) The petitioner has the burden of proving by clear and convincing evidence that the respondent poses a danger of causing physical injury to self or others by controlling, owning, purchasing, possessing, having access to, or receiving a firearm.</p> <p>(c) The Superior Court may adopt additional rules governing proceedings under this section.</p> <p>(d) If the Superior Court finds by a clear and convincing evidence that the respondent poses an immediate and present danger of causing physical injury to self or others by owning, possessing, controlling, purchasing, having access to, or receiving a firearm, the Court shall issue an emergency lethal violence protective order requiring the respondent to relinquish to a law-enforcement agency receiving the Court’s order any firearms or ammunition owned, possess, or controlled by the respondent. The Court may also do any of the following through its order:</p> <p>(1) Allow the respondent to voluntarily relinquish to a law-enforcement agency receiving the Court’s order any firearms or ammunition owned, possessed, or controlled by the respondent.</p> <p>(2) Allow the respondent to relinquish firearms or ammunition owned, possessed, or controlled by the respondent to a designee of the respondent. A designee of the respondent must not reside with the respondent and must not be a person prohibited under § 1448 of Title 11. The designee must affirm to</p>
---	---

	<p>Statute is silent.</p> <p><b>Renewal/Termination of the order:</b>  LVPO: Respondent is entitled to 1 hearing to request a termination of the order (If the respondent can prove by clear and convincing evidence that the respondent does not pose a danger to causing physical injury to self or others by controlling, owning, purchasing, possessing, having access to, or receiving a firearm, the court will terminate the order).  Petitioner may request a renewal of the lethal violence protective order at any time within 3 months before the expiration of a lethal violence protective order issued under § 7704 of this title or this subsection.  Emergency LVPO: Justice of the Peace Court or the Superior Court may extend an emergency order as needed to effectuate service of the order or where necessary to ensure protection of the respondent or others</p> <p><b>Filing fees:</b>  Statute is silent</p> <p><b>Firearm prohibitions:</b>  Respondent must relinquish to a law enforcement officer receiving the court's order any firearm or ammunition owned, possessed, or controlled by the respondent.</p> <p><b>Firearm relinquishment process:</b>  LVPO: Respondent may voluntary relinquish to a law enforcement officer receiving the court's order any firearm or ammunition owned, possessed, or controlled by the respondent.  Respondent may relinquish any firearms to a designee of the respondent (designee must not reside with the respondent and must not be a person prohibited under § 1448 of Title 11).  Emergency LVPO: The order requires that the respondent must relinquish to a law enforcement officer any firearms or ammunition owned, possessed, or controlled by the respondent.</p>	<p>the Court and the Court must find that the designee of the respondent will keep firearms or ammunition owned, possessed, or controlled by the respondent out of the possession of the respondent.</p> <p>(3) Prohibit the respondent from residing with another individual who owns, possesses, or controls firearms or ammunition. Nothing in this section may be construed to impair the rights, under the Second Amendment to the United States Constitution or Article I, § 20 of the Delaware Constitution, of an individual who is not subject to the Court's order.</p> <p>(4) Direct a law-enforcement agency having jurisdiction where the respondent resides or the firearms or ammunition are located to immediately search for and seize any firearms or ammunition owned, possessed, or controlled by the respondent.</p> <p>(5) Prohibit the respondent from residing with another individual who owns, possesses, or controls firearms or ammunition. Nothing in this section may be construed to impair or limit the rights, under the Second Amendment to the United States Constitution or Article I, § 20 of the Delaware Constitution, of an individual who is not subject to the Court's order.</p> <p>(6) Direct a law-enforcement agency having jurisdiction where the respondent resides or the firearms or ammunition are located to immediately search for and seize any firearms or ammunition owned, possessed, or controlled by the respondent,</p> <p>(e) If the Superior Court finds that there is not clear and convincing evidence to support the issuance of a lethal violence protective order, the Court shall not issue a lethal violence protective order, and shall vacate any emergency lethal violence protective order then in effect.</p> <p>(f) If the Superior Court issues a lethal violence protective order under this section, the Court shall inform the respondent that the respondent is entitled to 1 hearing to request a termination of the order under § 7705 of this title, and shall provide the respondent with a form to request such a hearing.</p> <p>(g) If a respondent is not present for a hearing under this section, the Superior Court shall direct that a lethal violence protective order issued be served immediately upon the respondent by personal service, any form of mail, or in any manner directed by the Court, including publication if other methods of service have failed or deemed to have failed or deemed to have been inadequate.</p> <p>(h) The Superior Court shall give a certified copy of the order to the petitioner and respondent after the hearing and before the petitioner and respondent leave the courthouse.</p> <p>(i) Any party in interest aggrieved by a decision of the Superior Court under this section may appeal the decision to the Supreme Court.</p> <p>(j) Relief granted under this section shall be for a fixed period of time not to exceed 1 year.</p> <p><b>§ 7705. Termination and renewal.</b></p> <p>(a) A respondent subject to a lethal violence protective order issued under § 7704 of this title, or renewed under subsection (b) of this section, may submit 1 written request at any time during the effective period of the order for a hearing to terminate the order.</p> <p>(1) The Superior Court must provide notice to all parties and a hearing before the Court may terminate the order.</p>
--	---	---

	<p>The court may direct a law-enforcement agency having jurisdiction where the respondent resides or the firearms and ammunition are located to immediately search for and seize any firearms or ammunition, owned, possessed, or controlled by the respondent.</p> <p><b>Firearm disposal process:</b> Statute is silent</p> <p><b>Limitations on liability:</b> A law enforcement officer, who in good faith does not seek a lethal violence protective order, is immune from civil liability. A law enforcement officer is also immune from civil or criminal liability for any damage or deterioration of firearms stored or transported under this section (does not apply if the damage or deterioration occurred as a result of recklessness, gross negligence, or intentional misconduct by the law-enforcement officer or federally-licensed firearms dealer).</p> <p><b>Return/transfer of firearms:</b> If the order is vacated under § 7704(e), terminated under § 7705(a), or expired and not renewed, the law-enforcement agency will return to the respondent any firearms or ammunition taken from the respondent unless otherwise prohibited under § 1441 of Title 11.</p> <p><b>Warrant Authority:</b> The court may direct a law-enforcement agency having jurisdiction where the respondent resides or the firearms and ammunition are located to immediately search for and seize any firearms or ammunition, owned, possessed, or controlled by the respondent.</p> <p><b>Venue:</b> Must be filed in the county where the respondent resides</p>	<p>(2) The respondent must prove by clear and convincing evidence that the respondent does not pose a danger of causing physical injury to self or others by controlling, owning, purchasing, possessing, having access to, or receiving a firearm.</p> <p>(3) If the Superior Court finds after a hearing that the respondent has met the burden imposed by paragraph (a)(2) of this section, the Court shall terminate the order.</p> <p>(b) A petitioner may request a renewal of a lethal violence protective order at any time within 3 months before the expiration of a lethal violence protective order issued under § 7704 of this title or this subsection.</p> <p>(1) The Superior Court must provide notice to all parties and a hearing before the Court may renew an order issued under § 7704 of this title or this subsection.</p> <p>(2) The petitioner must prove by clear and convincing evidence that the respondent continues to pose a danger of causing physical injury to self or others in the near future by controlling, owning, purchasing, possessing, having access to, or receiving a firearm.</p> <p>(3) If the Superior Court finds after a hearing that the respondent has met the burden imposed by paragraph (b)(2) of this section, the Court shall renew the lethal violence protective order.</p> <p>(4) The Superior Court is to set the duration of the renewed lethal violence protective order, up to 1 year. The order remains in effect unless terminated under subsection (a) of this section, renewed under this subsection, or expired and not renewed.</p> <p><b>§ 7706. Return and disposal of firearms.</b> If an order issued under this chapter is vacated under § 7704 (e) of this title, terminated under § 7705(a) of this title, or expired and is not renewed, the law-enforcement agency shall return to the respondent any firearms or ammunition taken from the respondent under this chapter unless otherwise prohibited under § 1448 of Title 11.</p> <p><b>§ 7707. Limitation on liability.</b></p> <p>(a) Nothing in this chapter precludes a petitioner or law-enforcement officer from removing firearms under other authority or filing criminal charges when probable cause exists.</p> <p>(b) A law-enforcement officer, who in good faith does not seek a lethal violence protective order under this chapter, is immune from civil liability.</p> <p>(c) A law-enforcement agency is immune from civil or criminal liability for any damage or deterioration of firearms stored or transported under this section. This subsection does not apply if the damage or deterioration occurred as a result of recklessness, gross negligence, or intentional misconduct by the law-enforcement agency or federally-licensed firearms dealer.</p>
--	---	---

**§ 7708. Sanctions.**

(a) Any person who violates a lethal violence protection order may be guilty of criminal contempt under § 1271A of Title 11.

(b) Any person who swears falsely, as defined by § 1224 of Title 11, in an affidavit or verified pleading under § 7702, § 7703, or § 7704 of this title, a written request to terminate or renew a lethal violence protective order under § 7705 of this title, or in any court hearing under § 7703, § 7704, or § 7705 may be guilty of perjury under § 1221, § 1222 or § 1223 of Title 11.

**§ 1041. Definitions.**

(2) “Domestic violence” means abuse perpetrated by 1 member against another member of the following protected classes:

a. Family, as that term is defined in § 901(12) of this title, regardless, however, of state of residence of the parties, or whether parental rights have been terminated; or

b. Former spouses; persons cohabitating together who are holding themselves out as a couple, with or without a child in common; persons living separate and apart with a child in common; or persons in a current or former substantive dating relationship. For purposes of this paragraph, neither a casual acquaintanceship nor ordinary fraternization between 2 individuals in business or social contexts shall be deemed to constitute a substantive dating relationship. Factors to consider for a substantive dating relationship may include the length of the relationship, or the type of relationship, or the frequency of interaction between the parties.

**§ 901. Definitions.**

(12) “Family” means spouses; a couple cohabitating in a home in which there is a child of either or both; custodian and child; or any group of persons related by blood or marriage who are residing in 1 home under 1 head or where 1 is related to the other by any of the following degrees of relationship, both parties being residents of this State:

- a. Mother;
- b. Father;
- c. Mother-in-law;
- d. Father-in-law;
- e. Brother;
- f. Sister;
- g. Brother-in-law;
- h. Sister-in-law;
- i. Son;
- j. Daughter;

		<p>k. Son-in-law;  l. Daughter-in-law;  m. Grandfather;  n. Grandmother;  o. Grandson;  p. Granddaughter;  q. Stepfather;  r. Stepmother;  s. Stepson;  t. Stepdaughter.</p> <p>The relationships referred to in this definition include blood relationships without regard to legitimacy and relationships by adoption.</p>
<p><b>DISTRICT OF COLUMBIA</b></p> <p><b>Types of Orders:</b>  <b>Ex parte extreme risk protection order</b></p> <p><b>Final extreme risk protection order</b></p> <p><u><a href="#">D.C. Code § 7-2510.01</a></u> et al.</p>	<p><b>Persons eligible to petition:</b>  Related to the respondent by blood, adoption, guardianship, marriage, domestic partnership, having a child in common, cohabitating, or maintaining a romantic, dating, or sexual relationship rendering the application of this title appropriate</p> <p>A sworn member of the Metropolitan Police Department</p> <p>A mental health professional, including: a person licensed to practice medicine, psychology, or social work; a professional marriage, family, or child counselor; a rape crisis or sexual abuse counselor who has undergone at least 40 hours of training and is under the supervision of a licensed social worker, nurse, psychiatrist, psychologist, or psychotherapist; a licensed nurse who is a</p>	<p><b>§ 7-2510.01. Definitions.</b>  For the purposes of this subchapter, the term:</p> <p>(1) “Extreme risk protection order” means an order issued, pursuant to this subchapter, by a judge of the Superior Court of the District of Columbia prohibiting a respondent from having possession or control of, purchasing, or receiving any firearm, ammunition, registration certificate, license to carry a concealed pistol, or dealer’s license.</p> <p>(2) “Petitioner” means a person who petitions the Superior Court of the District of Columbia for an extreme risk protection order under this subchapter and is:</p> <p>(A) Related to the respondent by blood, adoption, guardianship, marriage, domestic partnership, having a child in common, cohabitating, or maintaining a romantic, dating, or sexual relationship rendering the application of this subchapter appropriate;</p> <p>(B) A sworn member of the Metropolitan Police Department; or</p> <p>(C) A mental health professional, as that term is defined in § 7-1201.01(11).</p> <p>(3) “Respondent” means a person against whom an extreme risk protection order is sought.</p> <p><b>§ 7-2510.02. Petitions for extreme risk protection orders.</b>  (a) A petitioner may petition the Superior Court for the District of Columbia for a final extreme risk protection order. A petition filed under this section shall:</p>

<p>professional psychiatric nurse; any person reasonably believed by their client to fit one of the above definitions</p> <p><b>Standard of proof:</b> Ex parte ERPO: probable cause</p> <p>Final ERPO: preponderance of the evidence</p> <p><b>Evidence required:</b> Respondent poses a significant danger of causing bodily injury to self or others by having possession or control of, purchasing, or receiving any firearm or ammunition</p> <p><b>Length of order:</b> Ex parte ERPO: 10 days</p> <p>Final ERPO: 1 year</p> <p><b>Service on respondent:</b> Must be personally served by a sworn member of the Metropolitan Police Department. If the respondent was personally served in the court when the motion to terminate an extreme risk protection order was granted, personal service requirement will be waived.</p> <p><b>Notification of persons at risk:</b> At least 120 days before the expiration of the final extreme risk protection order, the court must notify the petitioner of the date that the order is to expire and advise the petitioner of the procedures to renew the order.</p> <p><b>Renewal/Termination of the order:</b> Termination: Once per period the order is in effect, respondent may file a motion to the Superior Court requesting that the order be terminated, upon which the Court will set a date for a hearing. The Court will terminate a final extreme risk protection order of the respondent, by a preponderance of the evidence, does not pose a significant danger of causing bodily injury to self or others by having possession or</p>	<p>(1) Be in writing;</p> <p>(2) State facts in support of the claim that the respondent poses a significant danger of causing bodily injury to self or others by having possession or control of, purchasing, or receiving any firearm or ammunition;</p> <p>(3) To the best of the petitioner’s knowledge, identify the number, types, and locations of any firearms or ammunition the petitioner believes to be in the respondent’s possession, control, or ownership;</p> <p>(4) Be accompanied by any appropriate exhibits, affidavits, and supporting documents; and</p> <p>(5) Be served on the Office of the Attorney General.</p> <p>(b) A petitioner may file a petition under this section regardless of whether there is any other pending suit, complaint, petition, or other action between the parties.</p> <p>(c) The Office of Attorney General may provide individual legal representation to a petitioner. If the Office of Attorney General decides to provide individual legal representation to a petitioner, the representation shall continue until the earliest of:</p> <p>(1) The court denies the petition for a final extreme risk protection order pursuant to § 7-2510.03.</p> <p>(2) The court denies the petition for a final extreme risk protection order pursuant to § 7-2510.08.</p> <p>(3) The Office of the Attorney General withdraws from representation.</p> <p>(d) At the request of the petitioner or respondent, the court may place any record or part of a proceeding related to the issuance, renewal, or termination of an extreme risk protection order under seal while the petition is pending.</p> <p><b>§ 7-2510.03. Final extreme risk protection orders.</b></p> <p>(a)</p> <p>(1) Upon receipt of a petition filed pursuant § 7-2510.02, the court shall order that a hearing be held to determine whether to issue a final extreme risk protection order against the respondent.</p> <p>(2) The hearing shall be held within 10 days after the date the petition was filed.</p> <p>(b)</p> <p>(1) Personal service of the notice of hearing and petition shall be made upon the respondent by a Metropolitan Police Department officer not fewer than 5 business days before the hearing.</p> <p>(2) If the respondent is unable to be personally served, the court shall set a new hearing date and require additional attempts to accomplish personal service.</p> <p>(c) If the court issues an ex parte extreme risk protection order pursuant to § 7-2510.04, the ex parte extreme risk protection order shall be served concurrently with the notice of hearing and petition described in subsection (b)(1) of this section.</p> <p>(d) Before the hearing for a final extreme risk protection order, the court shall order that the Office of the Attorney General:</p> <p>(1) Conduct a reasonable search of all available records to determine whether the respondent owns any firearms or ammunition;</p> <p>(2) Conduct a reasonable search of all available records of the petitioner’s mental health;</p> <p>(3) Perform a national criminal history background check; and</p> <p>(4) Submit its findings under this subsection to the court.</p> <p>(e) In determining whether to issue a final extreme risk protection order pursuant to this section, the court shall consider all relevant evidence, including:</p> <p>(1) Any history or pattern of threats of violence, or acts of violence, by the respondent directed toward themselves or others;</p>
--	--

	<p>control of, purchasing, or receiving any firearm or ammunition.</p> <p>Renewal: petitioner may request a renewal up to 120 days before it expires.</p> <p>Extension: the court may extend a renewed risk protection order in 14 day increments for good cause shown.</p> <p><b>Filing fees:</b> The Metropolitan Police Department may charge the respondent a fee not to exceed the actual costs incurred by the Metropolitan Police Department for storing any firearms or ammunition surrendered or removed pursuant to this section for the duration of the extreme risk protection order, including a renewal of the extreme risk protection order, and up to 6 months after the date the order expires or is terminated.</p> <p><b>Firearm prohibitions:</b> Prohibits the respondent from having possession of, control of, purchasing, or receiving any firearm, ammunition, registration certificate, license to carry a concealed pistol, or dealer's license</p> <p><b>Firearm relinquishment process:</b> If the court issues an extreme risk protection order, a Metropolitan police officer serving an extreme risk protection order shall request for the surrender of all firearms, ammunition, registration certificates, licenses to carry a concealed pistol, and dealer's license.</p> <p>The court may issue a warrant that authorizes the seizure of any firearms, ammunition, registration certificates, licenses to carry a concealed pistol, and dealer's licenses discovered pursuant to such a search.</p>	<p>(2) Any recent threats of violence, or acts of violence, by the respondent directed toward themselves or others;</p> <p>(3) The respondent's acquisition of any firearms, ammunition, or other deadly or dangerous weapons within one year before the filing of the petition;</p> <p>(4) The unlawful or reckless use, display, or brandishing of a firearm or other weapon by the respondent;</p> <p>(5) Respondent's criminal history;</p> <p>(6) Respondent's violation of a court order;</p> <p>(7) Evidence of the respondent experiencing a mental health crisis, or other dangerous mental health issues; and</p> <p>(8) Respondent's use of a controlled substance, as that term is defined in § 48-901.02(4).</p> <p>(f) The court shall, before issuing a final extreme risk protection order, examine any witnesses under oath.</p> <p>(g) The court shall issue a final extreme risk protection order if the petitioner establishes by a preponderance of the evidence that the respondent poses a significant danger of causing bodily injury to self or others by having possession or control of, purchasing, or receiving any firearm or ammunition.</p> <p>(h) A final extreme risk protection order issued under this section shall state:</p> <p>(1) That the respondent is prohibited from having possession or control of, purchasing, or receiving any firearm, ammunition, registration certificate, license to carry a concealed pistol, or dealer's license for one year after the date and time the order was issued;</p> <p>(2) The date and time the order was issued;</p> <p>(3) The date and time the order will expire;</p> <p>(4) The grounds upon which the order was issued;</p> <p>(5) The procedures for the:</p> <p>(A) Renewal of a final extreme risk protection order pursuant to § 7-2510.06;</p> <p>(B) Surrender of firearms, ammunition, registration certificates, licenses to carry a concealed pistol, or dealer's licenses in the respondent's possession, control, or ownership pursuant to § 7-2510.07; and</p> <p>(C) Termination of a final extreme risk protection order pursuant to § 7-2510.08; and</p> <p>(6) That the respondent may seek the advice of an attorney as to any matter connected with a petition filed under this subchapter.</p> <p>(i) A final extreme risk protection order issued pursuant to this section shall expire one year after the issuance of the order, unless the order is terminated pursuant to § 7-2510.08 before its expiration.</p> <p><b>§ 7-2510.04. Ex parte extreme risk protection orders.</b></p> <p>(a) When filing a petition for a final extreme risk protection order, a petitioner may also request that an ex parte extreme risk protection order be issued without notice to the respondent.</p> <p>(b) The court may hold a hearing on any request for an ex parte extreme risk protection order filed under this section.</p> <p>(c) In determining whether to issue an ex parte extreme risk protection order pursuant to this section, the court shall consider all relevant evidence, including:</p> <p>(1) Any history or pattern of threats of violence, or acts of violence, by the respondent directed toward themselves or others;</p> <p>(2) Any recent threats of violence, or acts of violence, by the respondent directed toward themselves or others;</p> <p>(3) The respondent's acquisition of any firearms, ammunition, or other deadly or dangerous weapons within one year before the filing of the petition;</p>
--	--	--

	<p><b>Firearm disposal process:</b> If the respondent who lawfully possessed the firearm does not wish to have the firearm returned, or the respondent is no longer eligible to own or possess firearms or ammunition, the respondent may transfer the title or sell the firearm or ammunition in accordance with applicable law. If the respondent does not request the return of the firearm or ammunition, or sell or transfer the firearm or ammunition from the respondent to dealer, the Metropolitan Police Department will treat the firearm or ammunition as surrendered and it will be subject to § 705(b).</p> <p><b>Limitations on liability:</b> Statute is silent</p> <p><b>Return/transfer of firearms:</b> If the extreme risk protection order is terminated, expires without renewal, the Metropolitan police must notify the respondent that he or she may request the return of the firearm or ammunition removed (provided that the firearm or ammunition was lawfully possessed). Metropolitan police, before returning the firearm or ammunition, must confirm that the respondent is eligible to own or possess the firearms and ammunition, the firearm was lawfully possessed, and the respondent has paid any applicable fee charged against the respondent by the Metropolitan Police Department pursuant to subsection 1007(e).</p> <p><b>Warrant authority:</b> If the court issues or renews an extreme risk protection order, the court may issue a search warrant that describes the number and types of firearms and ammunition to be seized, describes any registration certificates, licenses to carry a concealed pistol, and dealer's licenses are believed to be located, and authorizes the seizure of any firearm, ammunition, registration certificates, licenses to carry a concealed pistol,</p>	<p>(4) The unlawful or reckless use, display, or brandishing of a firearm by the respondent;  (5) Respondent's criminal history;  (6) Respondent's violation of a court order;  (7) Evidence of the respondent experiencing a mental health crisis, or other dangerous mental health issues; and  (8) Respondent's use of a controlled substance, as that term is defined in § 48-901.02.</p> <p>(d) The court may grant a request under this section based solely on an affidavit or sworn testimony of the petitioner.</p> <p>(e) The court shall issue an ex parte extreme risk protection order if the petitioner establishes that there is probable cause to believe that the respondent poses a significant danger of causing bodily injury to self or others by having possession or control of, purchasing, or receiving any firearm or ammunition.</p> <p>(f) If the petitioner requests that the court issue an ex parte extreme risk protection order pursuant to section, the court shall grant or deny the request on the same day that the request was made, unless the request is filed too late in the day to permit effective review, in which case the court shall grant or deny the request the next day the court is open.</p> <p>(g) An ex parte extreme risk protection order shall state:</p> <p>(1) That the respondent is prohibited from having possession or control of, purchasing, or receiving any firearm, ammunition, registration certificate, license to carry a concealed pistol, or dealer's license while the order is in effect;  (2) The date and time the order was issued;  (3) That the ex parte extreme risk protection order will be in effect until the court rules on whether to issue a final extreme risk protection order;  (4) The grounds upon which the order was issued;  (5) The time and place of the hearing to determine whether to issue a final extreme risk protection order;  (6) That following the hearing, the court may issue a final extreme risk protection order that will be in effect for up to one year;  (7) The procedures for the:  (A) Renewal of a final extreme risk protection order pursuant to § 7-2510.06;  (B) Surrender of firearms, ammunition, registration certificates, licenses to carry a concealed pistol, or dealer's licenses in the respondent's possession, control, or ownership pursuant to § 7-2510.07; and  (C) Termination of a final extreme risk protection order pursuant to § 7-2510.08; and  (8) That the respondent may seek the advice of an attorney as to any matter connected with this subchapter, and that the attorney should be consulted promptly so that the attorney may assist the respondent in any matter connected with the ex parte extreme risk protection order.</p> <p>(h) An ex parte extreme risk protection order issued pursuant to this section shall expire 10 days after the date and time the order was issued, unless the court set a new hearing date pursuant to § 7-2510.03(b)(2), in which case, the court may extend the duration of the ex parte extreme risk protection order to not exceed 15 days.</p> <p>(i) The court shall terminate an ex parte extreme risk protection order in effect against the respondent at the time the court grants or denies the petition for a final extreme risk protection order.</p> <p><b>§ 7-2510.05. Service of extreme risk protection orders.</b></p> <p>(a)</p>
--	--	--

	<p>and dealer's licenses discovered pursuant to such a search.</p> <p><b>Venue</b> Superior Court for the District of Columbia</p>	<p>(1) Except as provided in subsection (b) of this section, an extreme risk protection order issued pursuant to § 7-2510.03 or § 7-2510.04, or renewed pursuant to § 7-2510.06, shall be personally served upon the respondent by a sworn member of the Metropolitan Police Department.</p> <p>(2) The court shall submit a copy of extreme risk protection order to the Metropolitan Police Department on or before the next business day after the issuance of the order for service upon the respondent. Service of an extreme risk protection order shall take precedence over the service of other documents, unless the other documents are of a similar emergency nature.</p> <p>(3) If the Metropolitan Police Department cannot complete personal service upon the respondent within 5 business days after receiving an order from the court under paragraph (2) of this subsection, the Metropolitan Police Department shall notify the petitioner.</p> <p>(4) Within one business day after service, the Metropolitan Police Department shall submit proof of service to the court.</p> <p>(b) If the respondent was personally served in court when the extreme risk protection order was issued, the requirements of subsection (a) of this section shall be waived.</p> <p><b>§ 7-2510.06. Renewal of final extreme risk protection orders.</b></p> <p>(a) At least 120 days before the expiration of a final extreme risk protection order, the court shall notify the petitioner of the date that the order is set to expire and advise the petitioner of the procedures for seeking a renewal of the order.</p> <p>(b) A petitioner may request a renewal of a final extreme risk protection order, including an order previously renewed under this section, at any time within the 120-day period immediately preceding the expiration of the order.</p> <p>(c) Personal service of the notice of hearing and request for renewal shall be made upon the respondent by a Metropolitan Police Department officer not fewer than 15 business days before the hearing.</p> <p>(d) In determining whether to renew an extreme risk protection order pursuant to this section, the court shall consider all relevant evidence, including:</p> <ol style="list-style-type: none"> <li>(1) Any history or pattern of threats of violence, or acts of violence, by the respondent directed toward themselves or others;</li> <li>(2) Any recent threats of violence, or acts of violence, by the respondent directed toward themselves or others;</li> <li>(3) The respondent's acquisition of any firearms, ammunition, or other deadly or dangerous weapons within one year before the filing of the petition;</li> <li>(4) The unlawful or reckless use, display, or brandishing of a firearm by the respondent;</li> <li>(5) Respondent's criminal history;</li> <li>(6) Respondent's violation of a court order;</li> <li>(7) Evidence of the respondent experiencing a mental health crisis, or other dangerous mental health issues; and</li> <li>(8) Respondent's use of a controlled substance, as that term is defined in § 48-901.02.</li> </ol> <p>(e) The court shall, before renewing a final extreme risk protection order, examine any witnesses under oath.</p> <p>(f) The court shall, after notice and a hearing, renew a final extreme risk protection order if the court finds, by a preponderance of the evidence, that the respondent continues to pose a significant danger of causing bodily injury to self or others by having possession or control of, purchasing, or receiving any firearm or ammunition.</p> <p>(g) A final extreme risk protection order renewed pursuant to this section, shall state:</p>
--	--	--

		<p>(1) That the respondent is prohibited from having possession or control of, purchasing, or receiving any firearm, ammunition, registration certificate, license to carry a concealed pistol, or dealer's license for one year after the date and time the order was renewed;</p> <p>(2) The date and time the order was renewed;</p> <p>(3) The date and time the order will expire;</p> <p>(4) The grounds upon which the order was renewed;</p> <p>(5) The procedures for the:</p> <p>(A) Renewal of a final extreme risk protection order pursuant to this section;</p> <p>(B) Surrender of firearms, ammunition, registration certificates, licenses to carry a concealed pistol, or dealer's licenses in the respondent's possession, control, or ownership pursuant to § 7-2510.07; and</p> <p>(C) Termination of a final extreme risk protection order pursuant to § 7-2510.08; and</p> <p>(6) That the petitioner may seek the advice of an attorney as to any matter connected with this subchapter.</p> <p>(h) An extreme risk protection order renewed pursuant to this section shall expire one year after the issuance of the order, unless that order is terminated pursuant to § 7-2510.08 before its expiration.</p> <p><b>§ 7-2510.07. Surrender of firearms, ammunition, registration certificates, licenses to carry a concealed pistol, and dealer's licenses.</b></p> <p>(a) For the purposes of this subchapter, the term:</p> <p>(1) If the court issues a final extreme risk protection order pursuant to § 7-2510.03, issues an ex parte extreme risk protection order pursuant to § 7-2510.04, or renews a final extreme risk protection order pursuant to § 7-2510.06, the court may issue a search warrant that:</p> <p>(2) Describes any registration certificates, licenses to carry a concealed pistol, and dealer's licenses to be seized;</p> <p>(3) Describes the location where the firearms, ammunition, registration certificates, licenses to carry a concealed pistol, and dealer's licenses are believed to be located; and</p> <p>(4) Authorizes the seizure of any firearms, ammunition, registration certificates, licenses to carry a concealed pistol, and dealer's licenses discovered pursuant to such a search.</p> <p>(b) A Metropolitan Police Department officer serving an extreme risk protection order shall:</p> <p>(1) Request that all firearms, ammunition, registration certificates, licenses to carry a concealed pistol, and dealer's licenses be immediately surrendered; and</p> <p>(2) Take possession of all firearms, ammunition, registration certificates, licenses to carry a concealed pistol, and dealer's licenses in the respondent's possession, control, or ownership that are surrendered or discovered pursuant to a lawful search.</p> <p>(c) A Metropolitan Police Department officer serving an extreme risk protection order shall:</p> <p>(1) At the time of surrender or removal, the Metropolitan Police Department officer taking possession of a firearm, ammunition, registration certificate, license to carry a concealed pistol, or dealer's license pursuant to an extreme risk protection order shall make a record identifying all firearms, ammunition, registration certificates, licenses to carry a concealed pistol, and dealer's licenses that have been surrendered or removed and provide a receipt to the respondent.</p> <p>(2) Within 72 hours after serving an extreme risk protection order, the officer shall file a copy of the receipt provided to the respondent pursuant to paragraph (1) of this subsection with the court and the Chief of Police.</p> <p>(d) If a person other than the respondent claims title to any firearm or ammunition surrendered or removed pursuant to this section, and he or she is determined by the Metropolitan Police Department to</p>
--	--	--

		<p>be the lawful owner of the firearm or ammunition, the firearm or ammunition shall be returned to him or her; provided, that the firearm or ammunition is removed from the respondent's possession or control, and the lawful owner agrees to store the firearm or ammunition in a manner such that the respondent does not have possession or control of the firearm or ammunition.</p> <p>(e) The Metropolitan Police Department may charge the respondent a fee not to exceed the actual costs incurred by the Metropolitan Police Department for storing any firearms or ammunition surrendered or removed pursuant to this section for the duration of the extreme risk protection order, including a renewal of the extreme risk protection order, and up to 6 months after the date the order expires or is terminated.</p> <p>(f) A Metropolitan Police Department officer serving an extreme risk protection order shall:</p> <p>(1) At the time of surrender or removal, the Metropolitan Police Department officer taking possession of a firearm, ammunition, registration certificate, license to carry a concealed pistol, or dealer's license pursuant to an extreme risk protection order shall make a record identifying all firearms, ammunition, registration certificates, licenses to carry a concealed pistol, and dealer's licenses that have been surrendered or removed and provide a receipt to the respondent. If a respondent peaceably surrenders any firearms or ammunition pursuant to this section, such surrender shall preclude the arrest and prosecution of the respondent for violating, with respect to the firearms or ammunition surrendered:</p> <p>(A) Section 7-2506.01; and</p> <p>(B) Sections 22-4503 and 22-4504(a) and (a-1).</p> <p>(2) The surrender of any firearm or ammunition pursuant to this section shall not constitute a voluntary surrender for the purposes § 7-2507.05.</p> <p><b>§ 7-2510.08. Termination of extreme risk protection orders.</b></p> <p>(a) Any respondent against whom a final extreme risk protection order, including a renewal of the extreme risk protection order, was issued may, on one occasion during the one-year period the order is in effect, submit a written motion to the Superior Court for the District of Columbia requesting that the order be terminated.</p> <p>(b) Upon receipt of the motion for termination, the court shall set a date for a hearing, and notice of the request shall be served on the petitioner. The hearing shall occur at least 14 days after the date of service of the motion upon the petitioner.</p> <p>(c) In determining whether terminate a final extreme risk protection order pursuant to this section, the court shall consider all relevant evidence, including:</p> <p>(1) Any history or pattern of threats of violence, or acts of violence, by the respondent directed toward themselves or others;</p> <p>(2) Any recent threats of violence, or acts of violence, by the respondent directed toward themselves or others;</p> <p>(3) The respondent's acquisition of any firearms, ammunition, or other deadly or dangerous weapons within one year before the filing of the petition;</p> <p>(4) The unlawful or reckless use, display, or brandishing of a firearm by the respondent;</p> <p>(5) Respondent's criminal history;</p> <p>(6) Respondent's violation of a court order;</p> <p>(7) Evidence of the respondent experiencing a mental health crisis, or other dangerous mental health issues; and</p> <p>(8) Respondent's use of a controlled substance, as that term is defined in § 48-901.02.</p> <p>(d) The court shall, before terminating a final extreme risk protection order, examine any witnesses under oath.</p>
--	--	---

		<p>(e) The court shall terminate a final extreme risk protection order if the respondent establishes by a preponderance of the evidence that the respondent does not pose a significant danger of causing bodily injury to self or others by having possession or control of, purchasing, or receiving any firearm or ammunition.</p> <p>(f)</p> <ol style="list-style-type: none"> <li>(1) If the court grants a motion to terminate pursuant to this section, notice of the termination shall be personally served upon the petitioner by a sworn member of the Metropolitan Police Department and sent to the petitioner by electronic mail.</li> <li>(2) The court shall submit a copy of the order issued under this section to the Metropolitan Police Department on or before the next business day for service upon the respondent. Service of a notice of termination shall take precedence over the service of other documents, unless the other documents are of a similar emergency nature.</li> <li>(3) If the Metropolitan Police Department cannot complete personal service upon the petitioner within 5 business days after receiving an order from the court under paragraph (2) of this subsection, the Metropolitan Police Department shall notify the court.</li> <li>(4) Within one business day after service, the Metropolitan Police Department shall submit proof of service to the court.</li> </ol> <p><b>§ 7-2510.09. Return or disposal of firearms or ammunition.</b></p> <p>(a)</p> <ol style="list-style-type: none"> <li>(1) If an extreme risk protection order is terminated, or expires and is not renewed, the Metropolitan Police Department shall notify the respondent that he or she may request the return of any firearm or ammunition surrendered or removed if that firearm or ammunition had been lawfully possessed.</li> <li>(2) The Metropolitan Police Department shall return any surrendered or removed firearm or ammunition requested by a respondent only after confirming that: <ol style="list-style-type: none"> <li>(A) The respondent is eligible to own or possess the firearms and ammunition;</li> <li>(B) The firearm or ammunition was lawfully possessed; and</li> <li>(C) The respondent has paid any applicable fee charged against the respondent by the Metropolitan Police Department pursuant to § 7-2510.07(e).</li> </ol> </li> </ol> <p>(b)</p> <ol style="list-style-type: none"> <li>(1) If a respondent who lawfully possessed a firearm or ammunition does not wish to have the firearm or ammunition returned, or the respondent is no longer eligible to own or possess firearms or ammunition, the respondent may sell or transfer title of the firearm or ammunition in accordance with applicable law.</li> <li>(2) The Metropolitan Police Department shall transfer possession of a firearm or ammunition through a licensed firearm dealer to a purchaser or recipient, but only after the licensed firearms dealer has displayed written proof of the sale or transfer of the firearm or ammunition from the respondent to the dealer, and the Metropolitan Police Department has verified the transfer with the respondent.</li> </ol> <p>(c) If the respondent does not request return of a firearm or ammunition under subsection (a) of this section, or sell or transfer a firearm or ammunition under subsection (b) of this section, within 6 months after the date the extreme risk protection order is terminated, or expires and is not renewed, the Metropolitan Police Department shall treat the firearm or ammunition as surrendered and the firearm or ammunition shall be subject to § 7-2507.05(b).</p> <p><b>§ 7-2510.10. Recording requirements.</b></p> <p>(a) The Metropolitan Police Department shall:</p>
--	--	---

		<p>(1) Maintain a searchable database of extreme risk protection orders issued, terminated, and renewed pursuant to this subchapter; and</p> <p>(2) Make the information maintained in paragraph (1) of this subsection available to any other relevant law enforcement, pretrial, corrections, or community supervision agency upon request.</p> <p>(b) The Superior Court of the District of Columbia shall immediately submit information about extreme risk protection orders issued, renewed, or terminated pursuant to this subchapter to the National Instant Criminal Background Check System for the purposes of firearm purchaser background checks.</p> <p><b>§ 7-2510.011. Violation of an extreme risk protection order.</b></p> <p>(a) A person violates an extreme risk protection order if, after receiving actual notice of being subject to an extreme risk protection order, the person knowingly has possession or control of, purchases, or receives a firearm or ammunition.</p> <p>(b) A person convicted of violating an extreme risk protection order shall be:</p> <p>(1) Fined no more than the amount set forth in § 22-3571.01, or incarcerated for no more than 180 days, or both; and</p> <p>(2) Prohibited from having possession or control of, purchasing, or receiving a firearm or ammunition for a period of 5 years after the date of conviction.</p> <p>(c) A violation of an extreme risk protection order shall not be considered a:</p> <p>(1) Weapons offense; or</p> <p>(2) Gun offense, as that term is defined in § 7-2508.01(3).</p> <p><b>§ 7-2510.12. Law enforcement to retain other authority.</b></p> <p>Nothing in this subchapter shall be construed to affect the ability of a law enforcement officer, as that term is defined in § 7-2509.01(3), to remove firearms or ammunition from any person pursuant to other lawful authority.</p>
<p><b>FLORIDA</b></p> <p><b>Types of orders:</b></p> <p><b>Temporary ex parte risk protection order</b></p> <p><b>Risk protection order</b></p> <p><a href="#">Fla. Stat. 790.401</a></p>	<p><b>Persons eligible to petition:</b> Law enforcement officer or agency</p> <p><b>Standard of proof:</b> Risk protection order: clear and convincing evidence</p> <p>Temporary ex parte order: reasonable cause</p> <p><b>Evidence required:</b></p>	<p><b>(1) Definitions.</b> — As used in this section, the term:</p> <p>(a) “Petitioner” means a law enforcement officer or a law enforcement agency that petitions a court for a risk protection order under this section.</p> <p>(b) “Respondent” means the individual who is identified as the respondent in a petition filed under this section.</p> <p>(c) “Risk protection order” means a temporary ex parte order or a final order granted under this section.</p> <p><b>(2) Petition for a risk protection order.</b> — There is created an action known as a petition for a risk protection order.</p> <p>(a) A petition for a risk protection order may be filed by a law enforcement officer or law enforcement agency.</p>

	<p>Respondent poses a significant danger of causing personal injury to himself or herself or others by having in his or her custody or control, or by purchasing, possessing, or receiving, a firearm or any ammunition</p> <p><b>Length of order:</b> Risk protection order: up to 12 months, as chosen by the court</p> <p>Temporary ex parte order: until a hearing</p> <p><b>Service on respondent:</b> Respondent can be served by the local sheriff or another law enforcement agent if authorized by the circuit court. Service must be completed as soon as possible, and it can be performed at any time of day or night.</p> <p><b>Notification of persons at risk:</b> Petitioner must make a good faith effort to provide notice to a family or household member of the respondent and to any known 3rd party who may be at risk of violence.</p> <p>The court must notify the petitioner of the impending end of a risk protection order (at least 30 days before the date the order ends).</p> <p><b>Renewal/Termination of the order:</b> Termination: respondent may submit one written request for a hearing to vacate a risk protection order. Respondent must prove clear and convincing evidence that he or she does not pose a significant danger of causing personal injury to himself or herself or others by having in his or her custody or control, purchasing, possessing, or receiving a firearm or ammunition.</p> <p>Extension: petitioner may motion to request an extension of a risk protection order at any time within 30 days before the end of the order.</p>	<p>(b) An action under this section must be filed in the county where the petitioner’s law enforcement office is located or the county where the respondent resides.</p> <p>(c) Such petition for a risk protection order does not require either party to be represented by an attorney.</p> <p>(d) Notwithstanding any other law, attorney fees may not be awarded in any proceeding under this section.</p> <p>(e) A petition must:</p> <ol style="list-style-type: none"> <li>1. Allege that the respondent poses a significant danger of causing personal injury to himself or herself or others by having a firearm or any ammunition in his or her custody or control or by purchasing, possessing, or receiving a firearm or any ammunition, and must be accompanied by an affidavit made under oath stating the specific statements, actions, or facts that give rise to a reasonable fear of significant dangerous acts by the respondent;</li> <li>2. Identify the quantities, types, and locations of all firearms and ammunition the petitioner believes to be in the respondent’s current ownership, possession, custody, or control; and</li> <li>3. Identify whether there is a known existing protection order governing the respondent under <u>s. 741.30</u>, <u>s. 784.046</u>, or <u>s. 784.0485</u> or under any other applicable statute.</li> </ol> <p>(f) The petitioner must make a good faith effort to provide notice to a family or household member of the respondent and to any known third party who may be at risk of violence. The notice must state that the petitioner intends to petition the court for a risk protection order or has already done so and must include referrals to appropriate resources, including mental health, domestic violence, and counseling resources. The petitioner must attest in the petition to having provided such notice or must attest to the steps that will be taken to provide such notice.</p> <p>(g) The petitioner must list the address of record on the petition as being where the appropriate law enforcement agency is located.</p> <p>(h) A court or a public agency may not charge fees for filing or for service of process to a petitioner seeking relief under this section and must provide the necessary number of certified copies, forms, and instructional brochures free of charge.</p> <p>(i) A person is not required to post a bond to obtain relief in any proceeding under this section.</p> <p>(j) The circuit courts of this state have jurisdiction over proceedings under this section.</p> <p><b>(3) Risk protection order hearings and issuance. —</b></p> <p>(a) Upon receipt of a petition, the court must order a hearing to be held no later than 14 days after the date of the order and must issue a notice of hearing to the respondent for the same.</p> <ol style="list-style-type: none"> <li>1. The clerk of the court shall cause a copy of the notice of hearing and petition to be forwarded on or before the next business day to the appropriate law enforcement agency for service upon the respondent as provided in subsection (5).</li> <li>2. The court may, as provided in subsection (4), issue a temporary ex parte risk protection order pending the hearing ordered under this subsection. Such temporary ex parte order must be served concurrently with the notice of hearing and petition as provided in subsection (5).</li> <li>3. The court may conduct a hearing by telephone pursuant to a local court rule to reasonably accommodate a disability or exceptional circumstances. The court must receive assurances of the petitioner’s identity before conducting a telephonic hearing.</li> </ol> <p>(b) Upon notice and a hearing on the matter, if the court finds by clear and convincing evidence that the respondent poses a significant danger of causing personal injury to himself or herself or others by having in his or her custody or control, or by purchasing, possessing, or receiving, a firearm or any ammunition, the court must issue a risk protection order for a period that it deems appropriate, up to and including but not exceeding 12 months.</p> <p>(c) In determining whether grounds for a risk protection order exist, the court may consider any relevant evidence, including, but not limited to, any of the following:</p>
--	--	---

	<p><b>Filing fees:</b> A court or a public agency may not charge fees for filing or for service of process to a petitioner seeking relief under this section and must provide the necessary number of certified copies, forms, and instructional brochures free of charge.</p> <p><b>Firearm prohibitions:</b> Respondent may not have in their custody or control, or purchase, possess, receive, or attempt to purchase or receive, a firearm or ammunition.</p> <p><b>Firearm relinquishment process:</b> The respondent must comply with the court's order to surrender to the local law enforcement agency all firearms and ammunition owned by the respondent in the respondent's custody, control, or possession except as provided in subsection (9), and any license to carry a concealed weapon or firearm issued to the respondent under s. 790.06.</p> <p>Law enforcement may seek a search warrant from a court of competent jurisdiction to conduct a search for firearms or ammunition owned by the respondent if the officer has probable cause to believe that there are firearms or ammunition owned by the respondent in the respondent's custody, control, or possession which have not been surrendered.</p> <p><b>Firearm disposal process:</b> Any firearm surrendered by the respondent that remains unclaimed for 1 year after an order to vacate the risk protection order will be disposed of according to the law enforcement agency's policies and procedures for the disposal of firearms in police custody.</p> <p><b>Limitations on liability:</b> This section does not impose criminal or civil liability on any persons or entity for acts or omissions related to obtaining a risk protection order or temporary risk protection order (except</p>	<ol style="list-style-type: none"> <li>1. A recent act or threat of violence by the respondent against himself or herself or others, whether or not such violence or threat of violence involves a firearm.</li> <li>2. An act or threat of violence by the respondent within the past 12 months, including, but not limited to, acts or threats of violence by the respondent against himself or herself or others.</li> <li>3. Evidence of the respondent being seriously mentally ill or having recurring mental health issues.</li> <li>4. A violation by the respondent of a risk protection order or a no contact order issued under <u>s. 741.30</u>, <u>s. 784.046</u>, or <u>s. 784.0485</u>.</li> <li>5. A previous or existing risk protection order issued against the respondent.</li> <li>6. A violation of a previous or existing risk protection order issued against the respondent.</li> <li>7. Whether the respondent, in this state or any other state, has been convicted of, had adjudication withheld on, or pled nolo contendere to a crime that constitutes domestic violence as defined in s. 741.28.</li> <li>8. Whether the respondent has used, or has threatened to use, against himself or herself or others any weapons.</li> <li>9. The unlawful or reckless use, display, or brandishing of a firearm by the respondent.</li> <li>10. The recurring use of, or threat to use, physical force by the respondent against another person or the respondent stalking another person.</li> <li>11. Whether the respondent, in this state or any other state, has been arrested for, convicted of, had adjudication withheld on, or pled nolo contendere to a crime involving violence or a threat of violence.</li> <li>12. Corroborated evidence of the abuse of controlled substances or alcohol by the respondent.</li> <li>13. Evidence of recent acquisition of firearms or ammunition by the respondent.</li> <li>14. Any relevant information from family and household members concerning the respondent.</li> <li>15. Witness testimony, taken while the witness is under oath, relating to the matter before the court.</li> </ol> <p>(d) A person, including an officer of the court, who offers evidence or recommendations relating to the cause of action either must present the evidence or recommendations in writing to the court with copies to each party and his or her attorney, if one is retained, or must present the evidence under oath at a hearing at which all parties are present.</p> <p>(e) In a hearing under this section, the rules of evidence apply to the same extent as in a domestic violence injunction proceeding under s. 741.30.</p> <p>(f) During the hearing, the court must consider whether a mental health evaluation or chemical dependency evaluation is appropriate and, if such determination is made, may order such evaluations, if appropriate.</p> <p>(g) A risk protection order must include all of the following:</p> <ol style="list-style-type: none"> <li>1. A statement of the grounds supporting the issuance of the order;</li> <li>2. The date the order was issued;</li> <li>3. The date the order ends;</li> <li>4. Whether a mental health evaluation or chemical dependency evaluation of the respondent is required;</li> <li>5. The address of the court in which any responsive pleading should be filed;</li> <li>6. A description of the requirements for the surrender of all firearms and ammunition that the respondent owns, under subsection (7); and</li> <li>7. The following statement:        "To the subject of this protection order: This order will last until the date noted above. If you have not done so already, you must surrender immediately to the (insert name of local law enforcement agency) all firearms and ammunition that you own in your custody, control, or possession and any license to carry a concealed weapon or firearm issued to you under s. <u>790.06, Florida Statutes</u>. You may not have in your custody or control, or purchase, possess, receive, or attempt to purchase or receive, a firearm or ammunition while this order is in effect. You have the right to request one</li> </ol>
--	--	---

	<p>as provided in subsection (8) and subsection (11).</p> <p><b>Return/transfer of firearms:</b> Return: if the risk protection order is vacated or ends without extension, the firearm/ammunition owned by the respondent or license to carry a concealed weapon/firearm that was surrendered or seized must be returned as requested by respondent. The law enforcement agency must confirm with the court that the risk protection order has vacated or ended without extension and that the respondent is eligible to own or possess firearms and ammunition under federal and state law.</p> <p>Transfer: Respondent may elect to transfer all firearms and ammunition owned by the respondent that has been surrendered and seized to another person to receive the firearms and ammunition. The local law enforcement agency may allow the transfer only if the recipient is currently eligible to own or possess firearms and ammunition under federal and state law through a background check, attests to storing the firearms and ammunition in a manner in which the respondent does not have access to the firearms and ammunition for the duration of the risk protection order, and the recipient attests not to transfer the firearms or ammunition back to the respondent for the duration of the risk protection order.</p> <p><b>Warrant authority:</b> Law enforcement may seek a search warrant from a court of competent jurisdiction to conduct a search for firearms or ammunition owned by the respondent if the officer has probable cause to believe that there are firearms or ammunition owned by the respondent in the respondent's custody, control, or possession which have not been surrendered.</p> <p><b>Venue:</b> An action for a risk protection order must be filed in the county where the petitioner's law</p>	<p>hearing to vacate this order, starting after the date of the issuance of this order, and to request another hearing after every extension of the order, if any. You may seek the advice of an attorney as to any matter connected with this order.”</p> <p>(h) If the court issues a risk protection order, the court must inform the respondent that he or she is entitled to request a hearing to vacate the order in the manner provided by subsection (6). The court shall provide the respondent with a form to request a hearing to vacate.</p> <p>(i) If the court denies the petitioner’s request for a risk protection order, the court must state the particular reasons for the denial.</p> <p><b>(4) Temporary ex parte risk protection orders. —</b></p> <p>(a) A petitioner may request that a temporary ex parte risk protection order be issued before a hearing for a risk protection order, without notice to the respondent, by including in the petition detailed allegations based on personal knowledge that the respondent poses a significant danger of causing personal injury to himself or herself or others in the near future by having in his or her custody or control, or by purchasing, possessing, or receiving, a firearm or ammunition.</p> <p>(b) In considering whether to issue a temporary ex parte risk protection order under this section, the court shall consider all relevant evidence, including the evidence described in paragraph (3)(c).</p> <p>(c) If a court finds there is reasonable cause to believe that the respondent poses a significant danger of causing personal injury to himself or herself or others in the near future by having in his or her custody or control, or by purchasing, possessing, or receiving, a firearm or ammunition, the court must issue a temporary ex parte risk protection order.</p> <p>(d) The court must hold a temporary ex parte risk protection order hearing in person or by telephone on the day the petition is filed or on the business day immediately following the day the petition is filed.</p> <p>(e) A temporary ex parte risk protection order must include all of the following:</p> <ol style="list-style-type: none"> <li>1. A statement of the grounds asserted for the order;</li> <li>2. The date the order was issued;</li> <li>3. The address of the court in which any responsive pleading may be filed;</li> <li>4. The date and time of the scheduled hearing;</li> <li>5. A description of the requirements for the surrender of all firearms and ammunition that the respondent owns, under subsection (7); and</li> <li>6. The following statement: “To the subject of this protection order: This order is valid until the date noted above. You are required to surrender all firearms and ammunition that you own in your custody, control, or possession. You may not have in your custody or control, or purchase, possess, receive, or attempt to purchase or receive, a firearm or ammunition while this order is in effect. You must surrender immediately to the (insert name of local law enforcement agency) all firearms and ammunition in your custody, control, or possession and any license to carry a concealed weapon or firearm issued to you under s. <u>790.06, Florida Statutes</u>. A hearing will be held on the date and at the time noted above to determine if a risk protection order should be issued. Failure to appear at that hearing may result in a court issuing an order against you which is valid for 1 year. You may seek the advice of an attorney as to any matter connected with this order.”</li> </ol> <p>(f) A temporary ex parte risk protection order ends upon the hearing on the risk protection order.</p> <p>(g) A temporary ex parte risk protection order must be served by a law enforcement officer in the same manner as provided for in subsection (5) for service of the notice of hearing and petition and must be served concurrently with the notice of hearing and petition.</p> <p>(h) If the court denies the petitioner’s request for a temporary ex parte risk protection order, the court must state the particular reasons for the denial.</p>
--	--	---

	<p>enforcement office is located or the county where the respondent resides.</p>	<p><b>(5) Service. —</b></p> <p>(a) The clerk of the court shall furnish a copy of the notice of hearing, petition, and temporary ex parte risk protection order or risk protection order, as applicable, to the sheriff of the county where the respondent resides or can be found, who shall serve it upon the respondent as soon thereafter as possible on any day of the week and at any time of the day or night. When requested by the sheriff, the clerk of the court may transmit a facsimile copy of a temporary ex parte risk protection order or a risk protection order that has been certified by the clerk of the court, and this facsimile copy may be served in the same manner as a certified copy. Upon receiving a facsimile copy, the sheriff must verify receipt with the sender before attempting to serve it upon the respondent. The clerk of the court shall be responsible for furnishing to the sheriff information on the respondent’s physical description and location. Notwithstanding any other provision of law to the contrary, the chief judge of each circuit, in consultation with the appropriate sheriff, may authorize a law enforcement agency within the jurisdiction to effect service. A law enforcement agency effecting service pursuant to this section shall use service and verification procedures consistent with those of the sheriff. Service under this section takes precedence over the service of other documents, unless the other documents are of a similar emergency nature.</p> <p>(b) All orders issued, changed, continued, extended, or vacated after the original service of documents specified in paragraph (a) must be certified by the clerk of the court and delivered to the parties at the time of the entry of the order. The parties may acknowledge receipt of such order in writing on the face of the original order. If a party fails or refuses to acknowledge the receipt of a certified copy of an order, the clerk shall note on the original order that service was effected. If delivery at the hearing is not possible, the clerk shall mail certified copies of the order to the parties at the last known address of each party. Service by mail is complete upon mailing. When an order is served pursuant to this subsection, the clerk shall prepare a written certification to be placed in the court file specifying the time, date, and method of service and shall notify the sheriff.</p> <p><b>(6) Termination and extension of orders. —</b></p> <p>(a) The respondent may submit one written request for a hearing to vacate a risk protection order issued under this section, starting after the date of the issuance of the order, and may request another hearing after every extension of the order, if any.</p> <ol style="list-style-type: none"> <li>1. Upon receipt of the request for a hearing to vacate a risk protection order, the court shall set a date for a hearing. Notice of the request must be served on the petitioner in accordance with subsection (5). The hearing must occur no sooner than 14 days and no later than 30 days after the date of service of the request upon the petitioner.</li> <li>2. The respondent shall have the burden of proving by clear and convincing evidence that the respondent does not pose a significant danger of causing personal injury to himself or herself or others by having in his or her custody or control, purchasing, possessing, or receiving a firearm or ammunition. The court may consider any relevant evidence, including evidence of the considerations listed in paragraph (3)(c).</li> <li>3. If the court finds after the hearing that the respondent has met his or her burden of proof, the court must vacate the order.</li> <li>4. The law enforcement agency holding any firearm or ammunition or license to carry a concealed weapon or firearm that has been surrendered pursuant to this section shall be notified of the court order to vacate the risk protection order.</li> </ol> <p>(b) The court must notify the petitioner of the impending end of a risk protection order. Notice must be received by the petitioner at least 30 days before the date the order ends.</p> <p>(c) The petitioner may, by motion, request an extension of a risk protection order at any time within 30 days before the end of the order.</p>
--	--	--

		<p>1. Upon receipt of the motion to extend, the court shall order that a hearing be held no later than 14 days after the date the order is issued and shall schedule such hearing.</p> <p>a. The court may schedule a hearing by telephone in the manner provided by subparagraph (3)(a)3.</p> <p>b. The respondent must be personally serviced in the same manner provided by subsection (5).</p> <p>2. In determining whether to extend a risk protection order issued under this section, the court may consider all relevant evidence, including evidence of the considerations listed in paragraph (3)(c).</p> <p>3. If the court finds by clear and convincing evidence that the requirements for issuance of a risk protection order as provided in subsection (3) continue to be met, the court must extend the order. However, if, after notice, the motion for extension is uncontested and no modification of the order is sought, the order may be extended on the basis of a motion or affidavit stating that there has been no material change in relevant circumstances since entry of the order and stating the reason for the requested extension.</p> <p>4. The court may extend a risk protection order for a period that it deems appropriate, up to and including but not exceeding 12 months, subject to an order to vacate as provided in paragraph (a) or to another extension order by the court.</p> <p><b>(7) Surrender of firearms and ammunition. —</b></p> <p>(a) Upon issuance of a risk protection order under this section, including a temporary ex parte risk protection order, the court shall order the respondent to surrender to the local law enforcement agency all firearms and ammunition owned by the respondent in the respondent’s custody, control, or possession except as provided in subsection (9), and any license to carry a concealed weapon or firearm issued under <u>s. 790.06</u>, held by the respondent.</p> <p>(b) The law enforcement officer serving a risk protection order under this section, including a temporary ex parte risk protection order, shall request that the respondent immediately surrender all firearms and ammunition owned by the respondent in his or her custody, control, or possession and any license to carry a concealed weapon or firearm issued under <u>s. 790.06</u>, held by the respondent. The law enforcement officer shall take possession of all firearms and ammunition owned by the respondent and any license to carry a concealed weapon or firearm issued under <u>s. 790.06</u>, held by the respondent, which are surrendered. Alternatively, if personal service by a law enforcement officer is not possible or is not required because the respondent was present at the risk protection order hearing, the respondent must surrender any firearms and ammunition owned by the respondent and any license to carry a concealed weapon or firearm issued under <u>s. 790.06</u>, held by the respondent, in a safe manner to the control of the local law enforcement agency immediately after being served with the order by service or immediately after the hearing at which the respondent was present. Notwithstanding <u>ss. 933.02</u> and <u>933.18</u>, a law enforcement officer may seek a search warrant from a court of competent jurisdiction to conduct a search for firearms or ammunition owned by the respondent if the officer has probable cause to believe that there are firearms or ammunition owned by the respondent in the respondent’s custody, control, or possession which have not been surrendered.</p> <p>(c) At the time of surrender, a law enforcement officer taking possession of any firearm or ammunition owned by the respondent, or a license to carry a concealed weapon or firearm issued under <u>s. 790.06</u>, held by the respondent shall issue a receipt identifying all firearms and the quantity and type of ammunition that have been surrendered, and any license surrendered and shall provide a copy of the receipt to the respondent. Within 72 hours after service of the order, the law enforcement officer serving the order shall file the original receipt with the court and shall ensure that his or her law enforcement agency retains a copy of the receipt.</p> <p>(d) Notwithstanding <u>ss. 933.02</u> and <u>933.18</u>, upon the sworn statement or testimony of any person alleging that the respondent has failed to comply with the surrender of firearms or ammunition owned by the respondent, as required by an order issued under this section, the court shall determine whether probable</p>
--	--	--

		<p>cause exists to believe that the respondent has failed to surrender all firearms or ammunition owned by the respondent in the respondent’s custody, control, or possession. If the court finds that probable cause exists, the court must issue a warrant describing the firearms or ammunition owned by the respondent and authorizing a search of the locations where the firearms or ammunition owned by the respondent are reasonably believed to be found and the seizure of any firearms or ammunition owned by the respondent discovered pursuant to such search.</p> <p>(e) If a person other than the respondent claims title to any firearms or ammunition surrendered pursuant to this section and he or she is determined by the law enforcement agency to be the lawful owner of the firearm or ammunition, the firearm or ammunition shall be returned to him or her, if:</p> <ol style="list-style-type: none"> <li>1. The lawful owner agrees to store the firearm or ammunition in a manner such that the respondent does not have access to or control of the firearm or ammunition.</li> <li>2. The firearm or ammunition is not otherwise unlawfully possessed by the owner.</li> </ol> <p>(f) Upon the issuance of a risk protection order, the court shall order a new hearing date and require the respondent to appear no later than 3 business days after the issuance of the order. The court shall require proof that the respondent has surrendered any firearms or ammunition owned by the respondent in the respondent’s custody, control, or possession. The court may cancel the hearing upon a satisfactory showing that the respondent is in compliance with the order.</p> <p>(g) All law enforcement agencies must develop policies and procedures regarding the acceptance, storage, and return of firearms, ammunition, or licenses required to be surrendered under this section.</p> <p><b>(8) Return and disposal of firearms and ammunition. —</b></p> <p>(a) If a risk protection order is vacated or ends without extension, a law enforcement agency holding a firearm or any ammunition owned by the respondent or a license to carry a concealed weapon or firearm issued under s. 790.06, held by the respondent, that has been surrendered or seized pursuant to this section must return such surrendered firearm, ammunition, or license to carry a concealed weapon or firearm issued under s. 790.06, as requested by a respondent only after confirming through a background check that the respondent is currently eligible to own or possess firearms and ammunition under federal and state law and after confirming with the court that the risk protection order has been vacated or has ended without extension.</p> <p>(b) If a risk protection order is vacated or ends without extension, the Department of Agriculture and Consumer Services, if it has suspended a license to carry a concealed weapon or firearm pursuant to this section, must reinstate such license only after confirming that the respondent is currently eligible to have a license to carry a concealed weapon or firearm pursuant to s. 790.06.</p> <p>(c) A law enforcement agency must provide notice to any family or household members of the respondent before the return of any surrendered firearm and ammunition owned by the respondent.</p> <p>(d) Any firearm and ammunition surrendered by a respondent pursuant to subsection (7) which remains unclaimed for 1 year by the lawful owner after an order to vacate the risk protection order shall be disposed of in accordance with the law enforcement agency’s policies and procedures for the disposal of firearms in police custody.</p> <p><b>(9) Transfer of firearms and ammunition. —</b> A respondent may elect to transfer all firearms and ammunition owned by the respondent that have been surrendered to or seized by a local law enforcement agency pursuant to subsection (7) to another person who is willing to receive the respondent’s firearms and ammunition. The law enforcement agency must allow such a transfer only if it is determined that the chosen recipient:</p> <ol style="list-style-type: none"> <li>(a) Currently is eligible to own or possess a firearm and ammunition under federal and state law after confirmation through a background check;</li> </ol>
--	--	--

		<p>(b) Attests to storing the firearms and ammunition in a manner such that the respondent does not have access to or control of the firearms and ammunition until the risk protection order against the respondent is vacated or ends without extension; and</p> <p>(c) Attests not to transfer the firearms or ammunition back to the respondent until the risk protection order against the respondent is vacated or ends without extension.</p> <p><b>(10) Reporting of orders. —</b></p> <p>(a) Within 24 hours after issuance, the clerk of the court shall enter any risk protection order or temporary ex parte risk protection order issued under this section into the uniform case reporting system.</p> <p>(b) Within 24 hours after issuance, the clerk of the court shall forward a copy of an order issued under this section to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order, the law enforcement agency shall enter the order into the Florida Crime Information Center and National Crime Information Center. The order must remain in each system for the period stated in the order, and the law enforcement agency may only remove an order from the systems which has ended or been vacated. Entry of the order into the Florida Crime Information Center and National Crime Information Center constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in this state.</p> <p>(c) The issuing court shall, within 3 business days after issuance of a risk protection order or temporary ex parte risk protection order, forward all available identifying information concerning the respondent, along with the date of order issuance, to the Department of Agriculture and Consumer Services. Upon receipt of the information, the department shall determine if the respondent has a license to carry a concealed weapon or firearm. If the respondent does have a license to carry a concealed weapon or firearm, the department must immediately suspend the license.</p> <p>(d) If a risk protection order is vacated before its end date, the clerk of the court shall, on the day of the order to vacate, forward a copy of the order to the Department of Agriculture and Consumer Services and the appropriate law enforcement agency specified in the order to vacate. Upon receipt of the order, the law enforcement agency shall promptly remove the order from any computer-based system in which it was entered pursuant to paragraph (b).</p> <p><b>(11) Penalties. —</b></p> <p>(a) A person who makes a false statement, which he or she does not believe to be true, under oath in a hearing under this section in regard to any material matter commits a felony of the third degree, punishable as provided in <u>s. 775.082</u>, <u>s. 775.083</u>, or <u>s. 775.084</u>.</p> <p>(b) A person who has in his or her custody or control a firearm or any ammunition or who purchases, possesses, or receives a firearm or any ammunition with knowledge that he or she is prohibited from doing so by an order issued under this section commits a felony of the third degree, punishable as provided in <u>s. 775.082</u>, <u>s. 775.083</u>, or <u>s. 775.084</u>.</p> <p><b>(12) Law enforcement retains other authority. —</b> This section does not affect the ability of a law enforcement officer to remove a firearm or ammunition or license to carry a concealed weapon or concealed firearm from any person or to conduct any search and seizure for firearms or ammunition pursuant to other lawful authority.</p> <p><b>(13) Liability. —</b> Except as provided in subsection (8) or subsection (11), this section does not impose criminal or civil liability on any person or entity for acts or omissions related to obtaining a risk protection order or temporary ex parte risk protection order, including, but not limited to, providing notice to the petitioner, a family or household member of the respondent, and any known third party who may be at risk of violence or failure to provide such notice, or reporting, declining to report, investigating, declining to investigate, filing, or declining to file, a petition under this section.</p> <p><b>(14) Instructional and informational material. —</b></p>
--	--	--

		<p>(a) The Office of the State Courts Administrator shall develop and prepare instructions and informational brochures, standard petitions and risk protection order forms, and a court staff handbook on the risk protection order process. The standard petition and order forms must be used after January 1, 2019, for all petitions filed and orders issued pursuant to this section. The office shall determine the significant non-English-speaking or limited English-speaking populations in the state and prepare the instructions and informational brochures and standard petitions and risk protection order forms in such languages. The instructions, brochures, forms, and handbook must be prepared in consultation with interested persons, including representatives of gun violence prevention groups, judges, and law enforcement personnel. Materials must be based on best practices and must be available online to the public.</p> <ol style="list-style-type: none"> <li>1. The instructions must be designed to assist petitioners in completing the petition and must include a sample of a standard petition and order for protection forms.</li> <li>2. The instructions and standard petition must include a means for the petitioner to identify, with only layman’s knowledge, the firearms or ammunition the respondent may own, possess, receive, or have in his or her custody or control. The instructions must provide pictures of types of firearms and ammunition that the petitioner may choose from to identify the relevant firearms or ammunition, or must provide an equivalent means to allow petitioners to identify firearms or ammunition without requiring specific or technical knowledge regarding the firearms or ammunition.</li> <li>3. The informational brochure must describe the use of and the process for obtaining, extending, and vacating a risk protection order under this section and must provide relevant forms.</li> <li>4. The risk protection order form must include, in a conspicuous location, notice of criminal penalties resulting from violation of the order and the following statement: “You have the sole responsibility to avoid or refrain from violating this order’s provisions. Only the court can change the order and only upon written request.”</li> <li>5. The court staff handbook must allow for the addition of a community resource list by the clerk of the court.</li> </ol> <p>(b) Any clerk of court may create a community resource list of crisis intervention, mental health, substance abuse, interpreter, counseling, and other relevant resources serving the county in which the court is located. The court may make the community resource list available as part of or in addition to the informational brochures described in paragraph (a).</p> <p>(c) The Office of the State Courts Administrator shall distribute a master copy of the petition and order forms, instructions, and informational brochures to the clerks of court. Distribution of all documents shall, at a minimum, be in an electronic format or formats accessible to all courts and clerks of court in the state.</p> <p>(d) Within 90 days after receipt of the master copy from the Office of the State Courts Administrator, the clerk of the court shall make available the standardized forms, instructions, and informational brochures required by this subsection.</p> <p>(e) The Office of the State Courts Administrator shall update the instructions, brochures, standard petition and risk protection order forms, and court staff handbook as necessary, including when changes in the law make an update necessary.</p>
<p><b>HAWAII</b> <a href="#">HRS Div. 1, Title 10, Ch. 134, Pt. IV</a></p>	<p><b>Persons eligible to petition:</b> “Petitioner” means a law enforcement officer, family or household member of the respondent, medical professional, educator, or colleague</p>	<p><b>Part IV. Gun Violence Protective Orders [Effective January 1, 2020]</b> <b>§ 134-61. Definitions.</b> For the purposes of this part: “Bodily injury” has the same meaning as in section 707-700.</p>

<p><b>Types of Orders:</b> <b>Ex parte gun violence restraining order</b></p> <p><b>Gun Violence Restraining Order</b></p>	<p>“Family or household member” means any spouse or reciprocal beneficiary, former spouse or former reciprocal beneficiary, person with whom the respondent has a child in common, parent, child, person related by consanguinity, person related by adoption, person jointly residing or who formerly jointly resided with a respondent in the same dwelling unit as the respondent, person who has or has had a dating relationship, or person who is or has acted as the respondent’s legal guardian. “Family or household member” includes a person who is an adult roommate or a co-habitant of a respondent.</p> <p>“Medical professional” means a licensed physician, advanced practice registered nurse, psychologist, or psychiatrist who has examined the respondent.</p> <p>“Colleague” means a person employed or working at the same place of business or employment as the respondent.</p> <p>“Educator” means a person employed at an institution of learning at which the respondent may have a connection.</p> <p><b>Standard of proof:</b> <b>Ex parte:</b> Probable cause to believe that the respondent poses an imminent danger of causing bodily injury to the respondent’s self or another person by owning, purchasing, possessing, receiving, or having in the respondent’s custody or control any firearm or ammunition.</p> <p><b>Gun Violence Protective Order:</b> Preponderance of the evidence that the respondent poses a significant danger of causing bodily injury to the respondent’s self or another person by owning, purchasing, possessing, receiving, or having in the respondent’s custody or control any firearm or ammunition</p>	<p>“Business day” has the same meaning as in section 709-906.</p> <p>“Colleague” means a person employed or working at the same place of business or employment as the respondent.</p> <p>“Educator” means a person employed at an institution of learning at which the respondent may have a connection.</p> <p>“Ex parte gun violence protective order” means an order issued by the family court, pursuant to section 134-64, prohibiting the respondent from owning, purchasing, possessing, receiving, or having in the respondent’s custody or control any firearm or ammunition until the court-scheduled hearing for a one-year gun violence protective order.</p> <p>“Family or household member” means any spouse or reciprocal beneficiary, former spouse or former reciprocal beneficiary, person with whom the respondent has a child in common, parent, child, person related by consanguinity, person related by adoption, person jointly residing or who formerly jointly resided with a respondent in the same dwelling unit as the respondent, person who has or has had a dating relationship, or person who is or has acted as the respondent’s legal guardian. “Family or household member” includes a person who is an adult roommate or a co-habitant of a respondent.</p> <p>“Medical professional” means a licensed physician, advanced practice registered nurse, psychologist, or psychiatrist who has examined the respondent.</p> <p>“One-year gun violence protective order” means an order issued by the family court, pursuant to section 134-65, prohibiting the respondent from owning, purchasing, possessing, receiving, or having in the respondent’s custody or control any firearm or ammunition for a period of one year.</p> <p>“Petitioner” means a law enforcement officer, family or household member of the respondent, medical professional, educator, or colleague, who files a petition pursuant to section 134-64 or section 134-65.</p> <p>“Respondent” means the person identified in the petition filed pursuant to section 134-64 or section 134-65.</p> <p><b>§ 134-62. Court jurisdiction.</b> A petition for relief under this part may be filed in any family court in the circuit in which the petitioner resides. A petition under this part shall be given docket priority by the court.</p> <p><b>§ 134-63. Commencement of action; forms.</b> <b>(a)</b> In order to seek an ex parte gun violence protective order or a one-year gun violence protective order, the petitioner shall file a written petition for relief on forms provided by the court. The court shall designate an employee or appropriate non-judicial agency to assist the petitioner in completing the petition. <b>(b)</b> The petition shall allege, under penalty of perjury, the grounds for issuance of the order and shall be accompanied by an affidavit made under oath or a statement made under penalty of perjury containing detailed allegations based on personal knowledge that the respondent poses a danger of causing bodily injury to the respondent’s self or another person by owning, purchasing, possessing, receiving, or having in the respondent’s custody or control any firearm or ammunition, and specific facts and circumstances in support thereof, as well as the number, types, and locations of any firearms or ammunition presently believed by the petitioner to be possessed or controlled by the respondent. The petition shall also state, if known to the petitioner, whether there is an existing restraining order or protective order in effect governing the respondent and whether there is any pending lawsuit, complaint, petition, or other action between the parties under the laws of this State. The judiciary shall verify the terms of any existing order governing the parties. The court shall not delay granting relief because of the existence of a pending action between the parties or the necessity of verifying the terms of an existing order. A petition for an ex parte gun violence protective order or a one-year gun violence protective order may be granted regardless of whether there is a pending action between the parties.</p>
--	---	--

	<p><b>Evidence required:</b>  <b>Ex parte:</b> determining whether sufficient grounds for an ex parte gun violence protective order exist, the court shall consider all relevant evidence presented by the petitioner, and may also consider other relevant evidence, including evidence of facts relating to the respondent's:</p> <ul style="list-style-type: none"> <li>(1) Unlawful, reckless, or negligent use, display, storage, possession, or brandishing of a firearm;</li> <li>(2) Act or threat of violence against the respondent's self or another person, regardless of whether the violence involves a firearm;</li> <li>(3) Violation of a protective order or restraining order issued pursuant to chapter 586 or section 604-10.5, or a similar law in another state;</li> <li>(4) Abuse of controlled substances or alcohol or commission of any criminal offense that involves controlled substances or alcohol; and</li> <li>(5) Recent acquisition of any firearms, ammunition, or other deadly weapons.</li> </ul> <p>(e) The court shall also consider the time that has elapsed since the events described in subsection (d).  (f) If the court finds probable cause to believe that the respondent poses an imminent danger of causing bodily injury to the respondent's self or another person by owning, purchasing, possessing, receiving, or having in the respondent's custody or control any firearm or ammunition, the court shall issue an ex parte gun violence protective order.</p> <p><b>One-year Gun Violence Protective Order:</b>  A petitioner requesting a one-year gun violence protective order shall include in the petition detailed allegations based on personal knowledge that the respondent poses a significant danger of causing a self-inflicted bodily injury or an injury to another person by owning, purchasing, possessing, receiving, or</p>	<p>(c) All health records and other health information provided in a petition or considered as evidence in a proceeding under this part shall be sealed by the court, except that the identities of the petitioner and respondent may be provided to law enforcement agencies as set forth in section 134-69. Aggregate statistical data about the numbers of ex parte gun violence protective orders and one-year gun violence protective orders issued, renewed, denied, dissolved, or terminated shall be made available to the public upon request.</p> <p>(d) Upon receipt of the petition, the court shall set a date for hearing on the petition within fourteen days, regardless of whether the court issues an ex parte gun violence protective order pursuant to section 134-64. If the court issues an ex parte gun violence protective order pursuant to section 134-64, notice of the hearing shall be served on the respondent with the ex parte order. Notice of the hearing shall be personally served on the respondent by an officer of the appropriate county police department.</p> <p><b>§ 134-64. Ex parte gun violence protective order.</b></p> <p>(a) A petitioner may request that an ex parte gun violence protective order be issued before a hearing for a one-year gun violence protective order, without notice to the respondent.  (b) The court shall issue or deny an ex parte gun violence protective order on the same day that the petition is submitted to the court, unless the petition is filed too late in the day to permit effective adjudication, in which case the order shall be issued or denied on the next business day.  (c) Before issuing an ex parte gun violence protective order, the court may examine under oath the petitioner and any witnesses the petitioner may produce.  (d) In determining whether sufficient grounds for an ex parte gun violence protective order exist, the court shall consider all relevant evidence presented by the petitioner, and may also consider other relevant evidence, including evidence of facts relating to the respondent's:</p> <ul style="list-style-type: none"> <li>(1) Unlawful, reckless, or negligent use, display, storage, possession, or brandishing of a firearm;</li> <li>(2) Act or threat of violence against the respondent's self or another person, regardless of whether the violence involves a firearm;</li> <li>(3) Violation of a protective order or restraining order issued pursuant to chapter 586 or section 604-10.5, or a similar law in another state;</li> <li>(4) Abuse of controlled substances or alcohol or commission of any criminal offense that involves controlled substances or alcohol; and</li> <li>(5) Recent acquisition of any firearms, ammunition, or other deadly weapons.</li> </ul> <p>(e) The court shall also consider the time that has elapsed since the events described in subsection (d).  (f) If the court finds probable cause to believe that the respondent poses an imminent danger of causing bodily injury to the respondent's self or another person by owning, purchasing, possessing, receiving, or having in the respondent's custody or control any firearm or ammunition, the court shall issue an ex parte gun violence protective order.  (g) An ex parte gun violence protective order issued pursuant to this section shall include:</p> <ul style="list-style-type: none"> <li>(1) A statement that the respondent shall not own, purchase, possess, receive, transfer ownership of, or have in the respondent's custody or control, or attempt to purchase, receive, or transfer ownership of, any firearm or ammunition while the order is in effect;</li> <li>(2) A description of the requirements for relinquishment of firearms and ammunition under section 134-67;</li> <li>(3) A statement of the grounds asserted for the order;</li> <li>(4) A notice of the hearing under section 134-63(d) to determine whether to issue a one-year gun violence protective order, including the address of the court and the date and time when the hearing is scheduled;</li> <li>(5) A statement that at the hearing, the court may extend the order for one year; and</li> </ul>
--	--	---

<p>having in the respondent’s custody or control any firearm or ammunition.</p> <p><b>(b)</b> In determining whether to issue a one-year gun violence protective order under this section, the court shall consider all relevant evidence presented by the petitioner and the respondent, and may also consider other relevant evidence, including but not limited to evidence of the facts identified in section 134-D(d).</p> <p><b>Duration of order:</b> Ex parte: In accordance with section 134-C(d), the court shall schedule a hearing within fourteen days of the granting of the petition for an ex parte gun violence protective order to determine if a one-year gun violence protective order shall be issued. A respondent may seek an extension of time before the hearing. The court shall dissolve any ex parte gun violence protective order in effect against the respondent if the court subsequently holds the hearing and issues or denies a one-year gun violence protective order.</p> <p>Gun violence protection order: One-year gun violence protective order issued after notice and hearing.</p> <p><b>Service procedures:</b> <b>Ex parte:</b> An ex parte gun violence protective order issued pursuant to this section shall be personally served on the respondent by an officer of the appropriate county police department. The officer shall file the proof of service with the court within one business day of service. Notice of the hearing shall be personally served on the respondent by an officer of the appropriate county police department.</p> <p><b>One-year Gun Violence restraining order-</b> A statement that the respondent’s presence in court shall constitute proof of service of notice of the terms of the order.</p>	<p><b>(6)</b> A statement that the respondent may seek the advice of an attorney as to any matter connected with the order, and that the attorney should be consulted promptly so that the attorney may assist the respondent in any matter connected with the order.</p> <p><b>(h)</b> An ex parte gun violence protective order issued pursuant to this section shall be personally served on the respondent by an officer of the appropriate county police department. The officer shall file the proof of service with the court within one business day of service.</p> <p><b>(i)</b> In accordance with section 134-63(d), the court shall schedule a hearing within fourteen days of the granting of the petition for an ex parte gun violence protective order to determine if a one-year gun violence protective order shall be issued. A respondent may seek an extension of time before the hearing. The court shall dissolve any ex parte gun violence protective order in effect against the respondent if the court subsequently holds the hearing and issues or denies a one-year gun violence protective order.</p> <p><b>§ 134-65. One-year gun violence protective order issued after notice and hearing.</b></p> <p><b>(a)</b> A petitioner requesting a one-year gun violence protective order shall include in the petition detailed allegations based on personal knowledge that the respondent poses a significant danger of causing a self-inflicted bodily injury or an injury to another person by owning, purchasing, possessing, receiving, or having in the respondent’s custody or control any firearm or ammunition.</p> <p><b>(b)</b> In determining whether to issue a one-year gun violence protective order under this section, the court shall consider all relevant evidence presented by the petitioner and the respondent, and may also consider other relevant evidence, including but not limited to evidence of the facts identified in section 134-64(d).</p> <p><b>(c)</b> If the court finds by a preponderance of the evidence at the hearing that the respondent poses a significant danger of causing bodily injury to the respondent’s self or another person by owning, purchasing, possessing, receiving, or having in the respondent’s custody or control any firearm or ammunition, the court shall issue a one-year gun violence protective order.</p> <p><b>(d)</b> A one-year gun violence protective order issued pursuant to this section shall include all of the following:</p> <p><b>(1)</b> A statement that the respondent shall not own, purchase, possess, receive, transfer ownership of, or have in the respondent’s custody or control, or attempt to purchase, receive, or transfer ownership of, any firearm or ammunition while the order is in effect;</p> <p><b>(2)</b> A description of the requirements for relinquishment of firearms and ammunition under section 134-67;</p> <p><b>(3)</b> A statement of the grounds supporting the issuance of the order;</p> <p><b>(4)</b> The date and time the order expires;</p> <p><b>(5)</b> The address of the court that issued the order;</p> <p><b>(6)</b> A statement that the respondent may request a hearing to terminate the order at any time during its effective period;</p> <p><b>(7)</b> A statement that the respondent may seek the advice of an attorney as to any matter connected to the order;</p> <p><b>(8)</b> A statement of whether the respondent was present in court to be advised of the contents of the order or whether the respondent failed to appear; and</p> <p><b>(9)</b> A statement that if the respondent was present in court, the respondent’s presence shall constitute proof of service of notice of the terms of the order.</p> <p><b>(e)</b> If the respondent fails to appear at the hearing, a one-year gun violence protective order issued pursuant to this section shall be personally served on the respondent by an officer of the appropriate county police department. The officer shall file the proof of service with the court within one business day of service.</p>
--	--

<p>If the respondent fails to appear at the hearing, a one-year gun violence protective order shall be personally served on the respondent by an officer of the appropriate county police department. The officer shall file the proof of service with the court within one business day of service</p> <p><b>Notification procedures for people at risk:</b> [silent].</p> <p><b>Renewal/Termination of the order:</b> The respondent named in a one-year gun violence protective order issued under section 134-E may submit a written request at any time during the effective period of the order for a hearing to terminate the order.</p> <p>The respondent seeking termination of the order shall have the burden of proving by a preponderance of the evidence that the respondent does not pose a significant danger of causing bodily injury to the respondent's self or another person by owning, purchasing, possessing, receiving, or having in the respondent's custody or control any firearm or ammunition.</p> <p>If the court finds after the hearing that the respondent has met the respondent's burden, the court shall terminate the order.</p> <p>A petitioner may submit a written request for a renewal of a one-year gun violence protective order within three months prior to the expiration of the order. Upon receipt of the written request for renewal, the court:</p> <p>(1) In determining whether to renew a one-year gun violence protective order, after notice to the respondent, shall consider all relevant evidence presented by the petitioner and the respondent and may also consider other relevant evidence, including</p>	<p><b>§ 134-66. Termination and renewal.</b></p> <p>(a) The respondent named in a one-year gun violence protective order issued under section 134-E may submit a written request at any time during the effective period of the order for a hearing to terminate the order. Upon receipt of the written request for termination:</p> <p>(1) The court shall set a date for a hearing. Notice of the request shall be personally served on the petitioner by any person authorized by section 634-21. The hearing shall occur no sooner than fourteen days from the date of service of the request upon the petitioner; and</p> <p>(2) The respondent seeking termination of the order shall have the burden of proving by a preponderance of the evidence that the respondent does not pose a significant danger of causing bodily injury to the respondent's self or another person by owning, purchasing, possessing, receiving, or having in the respondent's custody or control any firearm or ammunition.</p> <p>If the court finds after the hearing that the respondent has met the respondent's burden, the court shall terminate the order.</p> <p>(b) A petitioner may submit a written request for a renewal of a one-year gun violence protective order within three months prior to the expiration of the order. Upon receipt of the written request for renewal, the court:</p> <p>(1) In determining whether to renew a one-year gun violence protective order, after notice to the respondent, shall consider all relevant evidence presented by the petitioner and the respondent and may also consider other relevant evidence, including evidence of the facts identified in section 134-64(d); and</p> <p>(2) May renew a one-year gun violence protective order if the court finds by a preponderance of the evidence that the respondent continues to pose a significant danger of causing bodily injury to the respondent's self or another person by owning, purchasing, possessing, receiving, or having in the respondent's custody or control any firearm or ammunition.</p> <p>A one-year gun violence protective order renewed pursuant to this section shall expire after one year, subject to termination by further order of the court at a hearing held pursuant to subsection (a) and further renewal by order of the court pursuant to this subsection.</p> <p><b>§ 134-67. Relinquishment of firearms and ammunition.</b></p> <p>(a) Upon issuance of an ex parte gun violence protective order, a one-year gun violence protective order, or a domestic abuse protective order, the court shall order the respondent to voluntarily surrender or dispose of all firearms and ammunition that the respondent owns or possesses, or has in the respondent's custody or control, in accordance with section 134-7.3(b).</p> <p>(b) At the time of serving notice of a petition, an ex parte gun violence protective order, a one-year gun violence protective order, or a domestic abuse protective order, a police officer shall take custody of any and all firearms and ammunition in accordance with the procedure described in section 134-7(f). Alternatively, if personal service by a police officer is not possible, the respondent shall surrender the firearms and ammunition in a safe manner to the control of the chief of police where the respondent resides within forty-eight hours of being served with the order.</p> <p><b>§ 134-68. Return and disposal of firearms or ammunition.</b></p> <p>(a)</p>
--	---

	<p>evidence of the facts identified in section 134-D(d); and</p> <p>(2) May renew a one-year gun violence protective order if the court finds by a preponderance of the evidence that the respondent continues to pose a significant danger of causing bodily injury to the respondent's self or another person by owning, purchasing, possessing, receiving, or having in the respondent's custody or control any firearm or ammunition. A one-year gun violence protective order renewed pursuant to this section shall expire after one year, subject to termination by further order of the court at a hearing held pursuant to subsection (a) and further renewal by order of the court pursuant to this subsection.</p> <p><b>Filing fees:</b> Statute silent on filing fees. However, the appropriate county police department may charge the respondent a fee not to exceed the reasonable and actual costs incurred by the department for storing a firearm or ammunition surrendered or removed pursuant for the duration of the ex parte gun violence protective order, one-year gun violence protective order, and any additional periods necessary.</p> <p><b>Firearm prohibitions:</b> Respondent shall not own, purchase, possess, receive, transfer ownership of, or have in the respondent's custody or control, or attempt to purchase, receive, or transfer ownership of, any firearm or ammunition while the order is in effect</p> <p><b>Firearms relinquishment process:</b> The court shall order the respondent to voluntarily surrender or dispose of all firearms and ammunition that the respondent owns or</p>	<p>A county police department shall return any surrendered or removed firearm or ammunition requested by a respondent only after confirming, through a criminal history background check, that the respondent is currently eligible to own or possess firearms and ammunition.</p> <p>(b) A respondent who has surrendered or had removed any firearm or ammunition to or by a county police department pursuant to section 134-68 and who does not wish to have the firearm or ammunition returned, or who is no longer eligible to own or possess firearms or ammunition, may sell or transfer title of the firearm or ammunition to a firearms dealer licensed under section 134-31. The department shall transfer possession of the firearm or ammunition to a firearms dealer licensed under section 134-31 only after the dealer has provided written proof of transfer of the firearm or ammunition from the respondent to the dealer and the department has verified the transfer with the respondent.</p> <p>(c) If a person other than the respondent claims title to any firearm or ammunition surrendered or removed pursuant to section 134-68, and that person is determined by the appropriate county police department to be the lawful owner of the firearm or ammunition, the firearm or ammunition shall be returned to the lawful owner.</p> <p>(d) A county police department holding any firearm or ammunition that was surrendered by or removed from a respondent pursuant to section 134-68 may dispose of the firearm or ammunition only after six months from the date of proper notice to the respondent of the department's intent to dispose of the firearm or ammunition, unless the firearm or ammunition has been claimed by the lawful owner. If the firearm or ammunition remain unclaimed after six months from the date of notice, then no party shall thereafter have the right to assert ownership thereof and the department may dispose of the firearm or ammunition.</p> <p>(e) For the purposes of this section, "dispose" means selling the firearm or ammunition to a firearms dealer licensed under section 134-31, or destroying the firearm or ammunition.</p> <p><b>§ 134-69. Reporting of order to Hawaii criminal justice data center.</b></p> <p>(a) The court shall notify the Hawaii criminal justice data center no later than one business day after issuing, serving, renewing, dissolving, or terminating an ex parte gun violence protective order or a one-year gun violence protective order under this part and after receiving notice of such an order.</p> <p>(b) The information required to be submitted to the Hawaii criminal justice data center pursuant to this section shall include identifying information about the petitioner and respondent and the date the order was issued, served, renewed, dissolved, or terminated. In the case of a one-year gun violence protective order, the court shall include the date the order is set to expire.</p> <p>(c) The Hawaii criminal justice data center shall maintain a searchable database of the information it receives under this section and make the information available to law enforcement agencies upon request.</p> <p>(d) The Hawaii criminal justice data center shall within one business day make information about an ex parte gun violence protective order or a one-year gun violence protective order issued, served, renewed, dissolved, or terminated pursuant to this part available to the National Instant Criminal Background Check System for the purposes of firearm purchaser background checks.</p> <p><b>§ 134-70. Penalties</b></p> <p>A person who files a petition for an ex parte gun violence protective order or a one-year gun violence protective order under this part, knowing the information in the petition to be materially false or with an intent to harass the respondent, is guilty of a misdemeanor.</p> <p><b>§ 134-71. Law enforcement to retain other authority.</b></p>
--	--	---

	<p>possesses, or has in the respondent’s custody or control, in accordance with section 134-7.3(b).</p> <p>At the time of serving notice of a petition, an ex parte gun violence protective order, a one-year gun violence protective order, or a domestic abuse protective order, a police officer shall take custody of any and all firearms and ammunition in accordance with the procedure described in section 134-7(f). Alternatively, if personal service by a police officer is not possible, the respondent shall surrender the firearms and ammunition in a safe manner to the control of the chief of police where the respondent resides within forty-eight hours of being served with the order.</p> <p>At the time of surrender or removal, a police officer taking possession of a firearm or ammunition pursuant to an ex parte gun violence protective order, a one-year gun violence protective order, or domestic abuse protective order shall issue a receipt identifying all firearms and ammunition that have been surrendered or removed and provide a copy of the receipt to the respondent. Within seventy-two hours after being served with the order, the officer serving the order shall file the original receipt with the court that issued the ex parte gun violence protective order or one-year gun violence protective order, and shall ensure that the appropriate county police department retains a copy of the receipt.</p> <p><b>Firearms disposal process:</b> A county police department holding any firearm or ammunition that was surrendered by or removed from a respondent pursuant to section 134-G may dispose of the firearm or ammunition only after six months from the date of proper notice to the respondent of the department’s intent to dispose of the firearm or ammunition, unless the firearm or ammunition has been claimed by the lawful owner. If the firearm or ammunition remain unclaimed after six months from the date of notice, then no</p>	<p>The provisions of this part shall not affect the ability of a law enforcement officer to remove firearms or ammunition from any person pursuant to other lawful authority.</p> <p>§ <b>134-72. Lack of liability for failure to seek order.</b></p> <p>This part shall not be construed to impose criminal or civil liability on any person who chooses not to seek an ex parte gun violence protective order or a one-year gun violence protective order pursuant to this part.</p>
--	---	---

	<p>party shall thereafter have the right to assert ownership thereof and the department may dispose of the firearm or ammunition.</p> <p><b>Limitations on liability:</b> No criminal or civil liability on any person who chooses not to seek an ex parte gun violence protective order or a one-year gun violence protective order</p> <p><b>Return/Transfer of firearms:</b></p> <p>A county police department shall return any surrendered or removed firearm or ammunition requested by a respondent only after confirming, through a criminal history background check, that the respondent is currently eligible to own or possess firearms and ammunition.</p> <p>A respondent who has surrendered or had removed any firearm or ammunition to or by a county police department who does not wish to have the firearm or ammunition returned, or who is no longer eligible to own or possess firearms or ammunition, may sell or transfer title of the firearm or ammunition to a firearms dealer licensed. The department shall transfer possession of the firearm or ammunition to a firearms dealer licensed only after the dealer has provided written proof of transfer of the firearm or ammunition from the respondent to the dealer and the department has verified the transfer with the respondent.</p> <p>If a person other than the respondent claims title to any firearm or ammunition surrendered or removed and that person is determined by the appropriate county police department to be the lawful owner of the firearm or ammunition, the firearm or ammunition shall be returned to the lawful owner.</p>	
--	---	--

	<p><b>Warrant authority:</b> A court that has probable cause to believe a respondent to a protective order owns, possesses, or has in the respondent’s custody or control any firearms or ammunition that the respondent has failed to surrender or has received or purchased a firearm or ammunition while subject to the order, shall issue a warrant describing the firearm or ammunition and authorizing a search of any location where the firearm or ammunition is reasonably believed to be and the seizure of any firearm or ammunition discovered pursuant to the search.</p> <p><b>Venue:</b> [statute silent]</p>	
<p><b>ILLINOIS</b></p> <p><b>Types of order:</b> Ex Parte Firearms Restraining Order</p> <p>Firearms Restraining Order</p> <p><a href="#">430 Ill. Comp. Stat. Ann. 67/1, et seq.</a></p>	<p><b>Persons eligible to petition:</b> Law enforcement officer</p> <p>Spouse, parent, child, or step-child of the respondent, any other person related by blood or present marriage to the respondent, or a person who shares a common dwelling with the respondent</p> <p><b>Standard of proof:</b> Ex parte firearms restraining order: probable cause</p> <p>Firearms restraining order: clear and convincing evidence</p> <p><b>Evidence required:</b> Ex parte firearms restraining order: respondent poses an immediate and present danger of causing personal injury to himself, herself, or another by having in his or her custody or control, purchasing, possessing, or receiving a firearm.</p> <p>Firearms restraining order: respondent poses a significant danger of personal injury to himself, herself, or another by having his or her custody</p>	<p><b>430 ILCS 67/1 Short title.</b></p> <p>This Act may be cited as the Firearms Restraining Order Act.</p> <p><b>430 ILCS 67/5 Definitions</b></p> <p>As used in this Act:</p> <p>“Family member of the respondent” means a spouse, parent, child, or step-child of the respondent, any other person related by blood or present marriage to the respondent, or a person who shares a common dwelling with the respondent.</p> <p>“Firearms restraining order” means an order issued by the court, prohibiting and enjoining a named person from having in his or her custody or control, purchasing, possessing, or receiving any firearms.</p> <p>“Intimate partner” means a spouse, former spouse, a person with whom the respondent has or allegedly has a child in common, or a person with whom the respondent has or has had a dating or engagement relationship.</p> <p>“Petitioner” means:</p> <p>(1) a family member of the respondent as defined in this Act; or</p> <p>(2) a law enforcement officer, who files a petition alleging that the respondent poses a danger of causing personal injury to himself, herself, or another by having in his or her custody or control, purchasing, possessing, or receiving a firearm.</p> <p>“Respondent” means the person alleged in the petition to pose a danger of causing personal injury to himself, herself, or another by having in his or her custody or control, purchasing, possessing, or receiving a firearm.</p>

	<p>or control, purchasing, possessing, or receiving a firearm.</p> <p><b>Length of order:</b> Ex parte firearms restraining order: up to 14 days, until there is a hearing</p> <p>Firearms restraining order: 6 months</p> <p><b>Service on respondent:</b> Respondent may be served electronically. If the court specifies a different form of service or if extraordinary circumstances prevent timely electronic service, respondent may be served personally or by mail.</p> <p><b>Notification of persons at risk:</b> If the respondent is alleged to pose an immediate and present danger of causing personal injury to an intimate partner (spouse, former spouse, a person whom the respondent has or allegedly has a child in common, or a person with whom the respondent has or has had a dating or engagement relationship), petitioner shall make a good faith effort to provide notice to any and all intimate partners of the respondent.</p> <p><b>Renewal/Termination of the order:</b> Termination: Respondent may submit up to one written request for a hearing to terminate the order. The respondent must prove by a preponderance of the evidence that the respondent does not pose a danger of causing personal injury to himself/herself or another in the near future by having in his/her custody or control, purchasing, possessing, or receiving a firearm, then the court. If the respondent satisfies this burden, the court will terminate the order.</p> <p>Renewal: petitioner may request a renewal of the order at any time within 3 months before the expiration of the firearms restraining order. Petitioner must prove with clear and convincing</p>	<p><b>430 ILCS 67/10 Commencement of action; procedure.</b></p> <p>(a) Actions for a firearms restraining order are commenced by filing a verified petition for a firearms restraining order in any circuit court.</p> <p>(b) A petition for a firearms restraining order may be filed in any county where the respondent resides.</p> <p>(c) No fee shall be charged by the clerk for filing, amending, vacating, certifying, or photocopying petitions or orders; or for issuing alias summons; or for any related filing service. No fee shall be charged by the sheriff or other law enforcement for service by the sheriff or other law enforcement of a petition, rule, motion, or order in an action commenced under this Section.</p> <p>(d) The court shall provide, through the office of the clerk of the court, simplified forms and clerical assistance to help with the writing and filing of a petition under this Section by any person not represented by counsel. In addition, that assistance may be provided by the State’s Attorney.</p> <p><b>430 ILCS 67/15 Subject matter jurisdiction.</b></p> <p>Each of the circuit courts shall have the power to issue firearms restraining orders.</p> <p><b>430 ILCS 67/20 Jurisdiction over persons</b></p> <p>The circuit courts of this State have jurisdiction to bind (1) State residents and (2) non-residents having minimum contacts with this State, to the extent permitted by Section 2-209 of the Code of Civil Procedure [735 ILCS 5/2-209].</p> <p><b>430 ILCS 67/25 Process</b></p> <p>The summons shall be in the form prescribed by Supreme Court Rule 101(d), except that it shall require respondent to answer or appear within 7 days. Attachments to the summons or notice shall include the petition for the firearms restraining order and supporting affidavits, if any, and any emergency firearms restraining order that has been issued. The enforcement of an order under Section 35 [430 ILCS 67/35] shall not be affected by the lack of service, delivery, or notice, provided the requirements of subsection (f) of that Section are otherwise met.</p> <p><b>430 ILCS 67/30 Service of notice of hearings</b></p> <p>Service of notice of hearings. Except as provided in Section 25 [430 ILCS 67/25], notice of hearings on petitions or motions shall be served in accordance with Supreme Court Rules 11 and 12, unless notice is excused by Section 35 of this Act [430 ILCS 67/35], or by the Code of Civil Procedure, Supreme Court Rules, or local rules.</p> <p><b>430 ILCS 67/35 Ex parte orders and emergency hearings.</b></p>
--	---	---

	<p>evidence that the respondent continues to pose a danger.</p> <p><b>Filing fees:</b> No fee shall be charged by the clerk for filing, amending, vacating, certifying, or photocopying petitions or orders; or for issuing alias summons; or for any related filing service. No fee shall be charged by the sheriff or other law enforcement for service by the sheriff or other law enforcement of a petition, rule, motion, or order in an action commenced under this Section.</p> <p><b>Firearm prohibitions:</b> The respondent must refrain from having custody or control, purchasing, possessing, or receiving additional firearms for the duration of the order.</p> <p><b>Firearm relinquishment process:</b> Ex parte order: respondent must turn over to the local law enforcement agency any Firearm Owner's Identification Card and concealed carry license in his or her possession  Six month order: respondent to turn over to the local law enforcement agency any firearm or Firearm Owner's Identification Card and concealed carry license in his or her possession.  When making a firearms restraining order, if the court finds probable cause that respondent possesses firearms, the court will issue a search warrant to search for and seize all firearms.</p> <p><b>Firearm disposal process:</b> Statute is silent</p> <p><b>Limitations on liability:</b> Any act or omission by any law enforcement officer acting in good faith in rendering emergency assistance or otherwise enforcing this Act shall not impose civil liability upon the law enforcement officer or his or her supervisor</p>	<p>(a) A petitioner may request an emergency firearms restraining order by filing an affidavit or verified pleading alleging that the respondent poses an immediate and present danger of causing personal injury to himself, herself, or another by having in his or her custody or control, purchasing, possessing, or receiving a firearm. The petition shall also describe the type and location of any firearm or firearms presently believed by the petitioner to be possessed or controlled by the respondent.</p> <p>(b) If the respondent is alleged to pose an immediate and present danger of causing personal injury to an intimate partner, or an intimate partner is alleged to have been the target of a threat or act of violence by the respondent, petitioner shall make a good faith effort to provide notice to any and all intimate partners of the respondent. The notice must include that the petitioner intends to petition the court for an emergency firearms restraining order, and, if petitioner is a law enforcement officer, referral to relevant domestic violence or stalking advocacy or counseling resources, if appropriate. Petitioner shall attest to having provided the notice in the filed affidavit or verified pleading. If after making a good faith effort petitioner is unable to provide notice to any or all intimate partners, the affidavit or verified pleading should describe what efforts were made.</p> <p>(c) Every person who files a petition for an emergency firearms restraining order, knowing the information provided to the court at any hearing or in the affidavit or verified pleading to be false, is guilty of perjury under Section 32-2 of the Criminal Code of 2012 [720 ILCS 5/32-2].</p> <p>(d) An emergency firearms restraining order shall be issued on an ex parte basis, that is, without notice to the respondent.</p> <p>(e) An emergency hearing held on an ex parte basis shall be held the same day that the petition is filed or the next day that the court is in session.</p> <p>(f) If a circuit or associate judge finds probable cause to believe that the respondent poses an immediate and present danger of causing personal injury to himself, herself, or another by having in his or her custody or control, purchasing, possessing, or receiving a firearm the circuit or associate judge shall issue an emergency order.</p> <p>(f-5) If the court issues an emergency firearms restraining order, it shall, upon a finding of probable cause that the respondent possesses firearms, issue a search warrant directing a law enforcement agency to seize the respondent's firearms. The court may, as part of that warrant, direct the law enforcement agency to search the respondent's residence and other places where the court finds there is probable cause to believe he or she is likely to possess the firearms.</p> <p>(g) An emergency firearms restraining order shall require:</p> <p>(1) the respondent to refrain from having in his or her custody or control, purchasing, possessing, or receiving additional firearms for the duration of the order; and</p> <p>(2) the respondent to turn over to the local law enforcement agency any Firearm Owner's Identification Card and concealed carry license in his or her possession. The local law enforcement agency shall immediately mail the card and concealed carry license to the Department of State Police Firearm Services Bureau for safekeeping. The firearm or firearms and Firearm Owner's Identification Card and concealed carry license, if unexpired, shall be returned to the respondent after the firearms restraining order is terminated or expired.</p>
--	--	---

	<p>or employer, unless the act is a result of willful or wanton misconduct.</p> <p><b>Return/transfer of firearms:</b> The firearm or Firearm Owner's Identification Card shall be returned to the respondent after the order is expired or terminated.</p> <p>Respondent may submit one written request at any time during the effective period of the order for a hearing to terminate the order. If the respondent meets his or her burden of proving by a preponderance of the evidence that the respondent does not pose a danger of causing personal injury to himself, herself, or another in the near future by having in his or her custody or control, purchasing, possessing, or receiving a firearm, then the court shall terminate the order.</p> <p><b>Warrant authority:</b> If the court finds there is probable cause that the respondent possesses firearms, the court may issue a search warrant directing a local law enforcement agency to seize the respondent's firearms. As part of the warrant, the court may direct the law enforcement agency to search the respondent's residence or other places the court finds there is probable cause to believe he or she is likely to possess the firearms.</p> <p><b>Venue:</b> A petition for a firearms restraining order may be filed in any county where the respondent resides.</p>	<p><b>(h)</b> Except as otherwise provided in subsection (h-5) of this Section, upon expiration of the period of safekeeping, if the firearms or Firearm Owner's Identification Card and concealed carry license cannot be returned to respondent because respondent cannot be located, fails to respond to requests to retrieve the firearms, or is not lawfully eligible to possess a firearm, upon petition from the local law enforcement agency, the court may order the local law enforcement agency to destroy the firearms, use the firearms for training purposes, or for any other application as deemed appropriate by the local law enforcement agency.</p> <p><b>(h-5)</b> A respondent whose Firearm Owner's Identification Card has been revoked or suspended may petition the court, if the petitioner is present in court or has notice of the respondent's petition, to transfer the respondent's firearm to a person who is lawfully able to possess the firearm if the person does not reside at the same address as the respondent. Notice of the petition shall be served upon the person protected by the emergency firearms restraining order. While the order is in effect, the transferee who receives respondent's firearms must swear or affirm by affidavit that he or she shall not transfer the firearm to the respondent or to anyone residing in the same residence as the respondent.</p> <p><b>(h-6)</b> If a person other than the respondent claims title to any firearms surrendered under this Section, he or she may petition the court, if the petitioner is present in court or has notice of the petition, to have the firearm returned to him or her. If the court determines that person to be the lawful owner of the firearm, the firearm shall be returned to him or her, provided that:</p> <p><b>(1)</b> the firearm is removed from the respondent's custody, control, or possession and the lawful owner agrees to store the firearm in a manner such that the respondent does not have access to or control of the firearm; and</p> <p><b>(2)</b> the firearm is not otherwise unlawfully possessed by the owner.</p> <p>The person petitioning for the return of his or her firearm must swear or affirm by affidavit that he or she: (i) is the lawful owner of the firearm; (ii) shall not transfer the firearm to the respondent; and (iii) will store the firearm in a manner that the respondent does not have access to or control of the firearm.</p> <p><b>(i)</b> In accordance with subsection (e) of this Section, the court shall schedule a full hearing as soon as possible, but no longer than 14 days from the issuance of an ex parte firearms restraining order, to determine if a 6-month firearms restraining order shall be issued. The court may extend an ex parte order as needed, but not to exceed 14 days, to effectuate service of the order or if necessary to continue protection. The court may extend the order for a greater length of time by mutual agreement of the parties.</p> <p><b>430 ILCS 67/40 Six month orders.</b></p> <p><b>(a)</b> A petitioner may request a 6-month firearms restraining order by filing an affidavit or verified pleading alleging that the respondent poses a significant danger of causing personal injury to himself, herself, or another in the near future by having in his or her custody or control, purchasing, possessing, or receiving a firearm. The petition shall also describe the number, types, and locations of any firearms presently believed by the petitioner to be possessed or controlled by the respondent.</p>
--	---	---

		<p><b>(b)</b> If the respondent is alleged to pose a significant danger of causing personal injury to an intimate partner, or an intimate partner is alleged to have been the target of a threat or act of violence by the respondent, petitioner shall make a good faith effort to provide notice to any and all intimate partners of the respondent. The notice must include that the petitioner intends to petition the court for a 6-month firearms restraining order, and, if petitioner is a law enforcement officer, referral to relevant domestic violence or stalking advocacy or counseling resources, if appropriate. Petitioner shall attest to having provided the notice in the filed affidavit or verified pleading. If after making a good faith effort petitioner is unable to provide notice to any or all intimate partners, the affidavit or verified pleading should describe what efforts were made.</p> <p><b>(c)</b> Every person who files a petition for a 6-month firearms restraining order, knowing the information provided to the court at any hearing or in the affidavit or verified pleading to be false, is guilty of perjury under Section 32-2 of the Criminal Code of 2012 [720 ILCS 5/32-2].</p> <p><b>(d)</b> Upon receipt of a petition for a 6-month firearms restraining order, the court shall order a hearing within 30 days.</p> <p><b>(e)</b> In determining whether to issue a firearms restraining order under this Section, the court shall consider evidence including, but not limited to, the following:</p> <ol style="list-style-type: none"> <li><b>(1)</b> The unlawful and reckless use, display, or brandishing of a firearm by the respondent.</li> <li><b>(2)</b> The history of use, attempted use, or threatened use of physical force by the respondent against another person.</li> <li><b>(3)</b> Any prior arrest of the respondent for a felony offense.</li> <li><b>(4)</b> Evidence of the abuse of controlled substances or alcohol by the respondent.</li> <li><b>(5)</b> A recent threat of violence or act of violence by the respondent directed toward himself, herself, or another.</li> <li><b>(6)</b> A violation of an emergency order of protection issued under Section 217 of the Illinois Domestic Violence Act of 1986 or Section 112A-17 of the Code of Criminal Procedure of 1963 [750 ILCS 60/217 or 725 ILCS 5/112A-17] or of an order of protection issued under Section 214 of the Illinois Domestic Violence Act of 1986 or Section 112A-14 of the Code of Criminal Procedure of 1963 [750 ILCS 60/214 or 725 ILCS 5/112A-14].</li> <li><b>(7)</b> A pattern of violent acts or violent threats, including, but not limited to, threats of violence or acts of violence by the respondent directed toward himself, herself, or another.</li> </ol> <p><b>(f)</b> At the hearing, the petitioner shall have the burden of proving, by clear and convincing evidence, that the respondent poses a significant danger of personal injury to himself, herself, or another by having in his or her custody or control, purchasing, possessing, or receiving a firearm.</p> <p><b>(g)</b> If the court finds that there is clear and convincing evidence to issue a firearms restraining order, the court shall issue a firearms restraining order that shall be in effect for 6 months subject to renewal under Section 45 of this Act [430 ILCS 67/45] or termination under that Section.</p> <p><b>(g-5)</b> If the court issues a 6-month firearms restraining order, it shall, upon a finding of probable cause that the respondent possesses firearms, issue a search warrant directing a law enforcement agency to</p>
--	--	---

		<p>seize the respondent's firearms. The court may, as part of that warrant, direct the law enforcement agency to search the respondent's residence and other places where the court finds there is probable cause to believe he or she is likely to possess the firearms.</p> <p><b>(h)</b> A 6-month firearms restraining order shall require:</p> <p><b>(1)</b> the respondent to refrain from having in his or her custody or control, purchasing, possessing or receiving additional firearms for the duration of the order; and</p> <p><b>(2)</b> the respondent to turn over to the local law enforcement agency any firearm or Firearm Owner's Identification Card and concealed carry license in his or her possession. The local law enforcement agency shall immediately mail the card and concealed carry license to the Department of State Police Firearm Services Bureau for safekeeping. The firearm or firearms and Firearm Owner's Identification Card and concealed carry license, if unexpired shall be returned to the respondent after the firearms restraining order is terminated or expired.</p> <p><b>(i)</b> Except as otherwise provided in subsection (i-5) of this Section, upon expiration of the period of safekeeping, if the firearms or Firearm Owner's Identification Card cannot be returned to respondent because respondent cannot be located, fails to respond to requests to retrieve the firearms, or is not lawfully eligible to possess a firearm, upon petition from the local law enforcement agency, the court may order the local law enforcement agency to destroy the firearms, use the firearms for training purposes, or for any other application as deemed appropriate by the local law enforcement agency.</p> <p><b>(i-5)</b> A respondent whose Firearm Owner's Identification Card has been revoked or suspended may petition the court, if the petitioner is present in court or has notice of the respondent's petition, to transfer the respondent's firearm to a person who is lawfully able to possess the firearm if the person does not reside at the same address as the respondent. Notice of the petition shall be served upon the person protected by the emergency firearms restraining order. While the order is in effect, the transferee who receives respondent's firearms must swear or affirm by affidavit that he or she shall not transfer the firearm to the respondent or to any one residing in the same residence as the respondent.</p> <p><b>(i-6)</b> If a person other than the respondent claims title to any firearms surrendered under this Section, he or she may petition the court, if the petitioner is present in court or has notice of the petition, to have the firearm returned to him or her. If the court determines that person to be the lawful owner of the firearm, the firearm shall be returned to him or her, provided that:</p> <p><b>(1)</b> the firearm is removed from the respondent's custody, control, or possession and the lawful owner agrees to store the firearm in a manner such that the respondent does not have access to or control of the firearm; and</p> <p><b>(2)</b> the firearm is not otherwise unlawfully possessed by the owner.</p> <p>The person petitioning for the return of his or her firearm must swear or affirm by affidavit that he or she: (i) is the lawful owner of the firearm; (ii) shall not transfer the firearm to the respondent; and (iii) will store the firearm in a manner that the respondent does not have access to or control of the firearm.</p> <p><b>(j)</b> If the court does not issue a firearms restraining order at the hearing, the court shall dissolve any emergency firearms restraining order then in effect.</p>
--	--	---

(k) When the court issues a firearms restraining order under this Section, the court shall inform the respondent that he or she is entitled to one hearing during the period of the order to request a termination of the order, under Section 45 of this Act, and shall provide the respondent with a form to request a hearing.

**430 ILCS 67/45 Termination and renewal**

(a) A person subject to a firearms restraining order issued under this Act may submit one written request at any time during the effective period of the order for a hearing to terminate the order.

(1) The respondent shall have the burden of proving by a preponderance of the evidence that the respondent does not pose a danger of causing personal injury to himself, herself, or another in the near future by having in his or her custody or control, purchasing, possessing, or receiving a firearm.

(2) If the court finds after the hearing that the respondent has met his or her burden, the court shall terminate the order.

(b) A petitioner may request a renewal of a firearms restraining order at any time within the 3 months before the expiration of a firearms restraining order.

(1) A court shall, after notice and a hearing, renew a firearms restraining order issued under this part if the petitioner proves, by clear and convincing evidence, that the respondent continues to pose a danger of causing personal injury to himself, herself, or another in the near future by having in his or her custody or control, purchasing, possessing, or receiving a firearm.

(2) In determining whether to renew a firearms restraining order issued under this Act, the court shall consider evidence of the facts identified in subsection (e) of Section 40 of this Act [430 ILCS 67/40] and any other evidence of an increased risk for violence.

(3) At the hearing, the petitioner shall have the burden of proving, by clear and convincing evidence that the respondent continues to pose a danger of causing personal injury to himself, herself, or another in the near future by having in his or her custody or control, purchasing, possessing, or receiving a firearm.

(4) The renewal of a firearms restraining order issued under this Section shall be in effect for 6 months, subject to termination by further order of the court at a hearing held under this Section and further renewal by further order of the court under this Section.

**430 ILCS 67/50 Notice of orders.**

(a) Entry and issuance. Upon issuance of any firearms restraining order, the clerk shall immediately, or on the next court day if an emergency firearms restraining order is issued in accordance with Section 35 of this Act [430 ILCS 67/35] (emergency firearms restraining order), (i) enter the order on the record and file it in accordance with the circuit court procedures and (ii) provide a file stamped copy of the order to respondent, if present, and to petitioner.

		<p>(b) Filing with sheriff. The clerk of the issuing judge shall, or the petitioner may, on the same day that a firearms restraining order is issued, file a certified copy of that order with the sheriff or other law enforcement officials charged with maintaining Department of State Police records or charged with serving the order upon respondent. If the order was issued in accordance with Section 35 of this Act (emergency firearms restraining order), the clerk shall on the next court day, file a certified copy of the order with the sheriff or other law enforcement officials charged with maintaining Department of State Police records.</p> <p>(c) Service by sheriff. Unless respondent was present in court when the order was issued, the sheriff or other law enforcement official shall promptly serve that order upon respondent and file proof of the service, in the manner provided for service of process in civil proceedings. Instead of serving the order upon the respondent, however, the sheriff, other law enforcement official, or other persons defined in Section 112A-22.10 of the Criminal Code of 1963 may serve the respondent with a short form notification as provided in that Section. If process has not yet been served upon the respondent, it shall be served with the order or short form notification if the service is made by the sheriff, or other law enforcement official.</p> <p>(d) Any order renewing or terminating any firearms restraining order shall be promptly recorded, issued, and served as provided in this Section.</p> <p><b>430 ILCS 67/55 Data maintenance by law enforcement agencies</b></p> <p>(a) All sheriffs shall furnish to the Department of State Police, daily, in the form and detail the Department requires, copies of any recorded firearms restraining order issued by the court, and any foreign orders of protection filed by the clerk of the court, and transmitted to the sheriff by the clerk of the court under Section 50 [430 ILCS 67/50]. Each firearms restraining order shall be entered in the Law Enforcement Agencies Data System (LEADS) on the same day it is issued by the court. If an emergency firearms restraining order was issued in accordance with Section 35 of this Act [430 ILCS 67/35], the order shall be entered in the Law Enforcement Agencies Data System (LEADS) as soon as possible after receipt from the clerk.</p> <p>(b) The Department of State Police shall maintain a complete and systematic record and index of all valid and recorded firearms restraining orders issued or filed under this Act. The data shall be used to inform all dispatchers and law enforcement officers at the scene of a violation of firearms restraining order of the effective dates and terms of any recorded order of protection.</p> <p>(c) The data, records and transmittals required under this Section shall pertain to any valid emergency or 6-month firearms restraining order, whether issued in a civil or criminal proceeding or authorized under the laws of another state, tribe, or United States territory.</p> <p><b>430 ILCS 67/60 Filing of a firearms restraining order issued by another state.</b></p> <p>(a) A person who has sought a firearms restraining order or similar order issued by the court of another state, tribe, or United States territory may file a certified copy of the firearms restraining order with the clerk of the court in a judicial circuit in which the person believes that enforcement may be necessary.</p> <p>(b) The clerk shall:</p>
--	--	--

		<p>(1) treat the foreign firearms restraining order in the same manner as a judgment of the circuit court for any county of this State in accordance with the provisions of the Uniform Enforcement of Foreign Judgments Act, except that the clerk shall not mail notice of the filing of the foreign order to the respondent named in the order; and</p> <p>(2) on the same day that a foreign firearms restraining order is filed, file a certified copy of that order with the sheriff or other law enforcement officials charged with maintaining Department of State Police records as set forth in Section 55 of this Act [430 ILCS 67/55].</p> <p>(c) Neither residence in this State nor filing of a foreign firearms restraining order shall be required for enforcement of the order by this State. Failure to file the foreign order shall not be an impediment to its treatment in all respects as an Illinois firearms restraining order.</p> <p>(d) The clerk shall not charge a fee to file a foreign order of protection under this Section.</p> <p><b>430 ILCS 67/65 Enforcement; sanctions for violation of order</b></p> <p>A respondent who knowingly violates a firearms restraining order is guilty of a Class A misdemeanor. Prosecution for a violation of a firearms restraining order shall not bar concurrent prosecution for any other crime, including any crime that may have been committed at the time of the violation of the firearms restraining order.</p> <p><b>430 ILCS 67/70 Non-preclusion of remedies</b></p> <p>Nothing in this Act shall preclude a petitioner or law-enforcement officer from removing weapons under other authority, or filing criminal charges when probable cause exists.</p> <p><b>430 ILCS 67/75 Limited law enforcement liability.</b></p> <p>Any act of omission or commission by any law enforcement officer acting in good faith in rendering emergency assistance or otherwise enforcing this Act shall not impose civil liability upon the law enforcement officer or his or her supervisor or employer, unless the act is a result of willful or wanton misconduct.</p> <p><b>430 ILCS 67/80 Expungement or sealing of order.</b></p> <p>If the court denies issuance of a firearms restraining order against the respondent, all records of the proceeding shall be immediately expunged from the court records. If the firearms restraining order is granted, all records of the proceeding shall, 3 years after the expiration of the order, be sealed.</p>
--	--	---

<p style="text-align: center;"><b>INDIANA</b></p> <p><b>Types of warrants:</b>  <b>Warrant for search and seizure of a firearm</b></p> <p><b>Seizure without a warrant</b></p> <p><a href="#">Burns Ind. Code Ann. § 35-47-14-1</a></p>	<p><b>Persons eligible to petition:</b>  Law enforcement officer</p> <p><b>Standard of proof:</b>  Probable cause</p> <p><b>Evidence required:</b>  (1) that respondent possesses a firearm and (2) that respondent is dangerous, as defined below:</p> <p><b>Definitions:</b>  A person is dangerous if either (1) the person presents an imminent risk of injury to himself or another, or (2) it is probable that the person will present a risk of injury to himself or another and the person either (a) has a mental illness that may be controlled by medication and has not demonstrated a pattern of voluntarily and consistently taking the individual’s medication while not under supervision or (b) is the subject of documented evidence that would give rise to a reasonable belief that the individual has a propensity for violent or suicidal conduct.</p> <p><b>Length of order:</b>  Until July 1, 2019: the court must conduct a hearing within 14 days after law enforcement reports the results of a warrant or submits a written statement detailing a seizure without a warrant. At the hearing the court will determine whether the firearm should be returned to the person or retained by law enforcement.</p> <p>Effective July 1, 2019: the court will make a good faith effort to conduct a hearing within 14 days, and if no within 14 days then as soon as possible. The court will liberally grant continuances of up to 60 days when requested by the person from whom the firearm was seized.</p> <p><b>Service on respondent:</b>  N/A</p>	<p><b>35-47-14-1. “Dangerous individual” defined.</b></p> <p>(a) For the purposes of this chapter, an individual is “dangerous” if:</p> <p>(1) the individual presents an imminent risk of personal injury to the individual or to another individual; or</p> <p>(2) the individual may present a risk of personal injury to the individual or to another individual in the future and the individual:</p> <p>(A) has a mental illness (as defined in IC 12-7-2-130) that may be controlled by medication, and has not demonstrated a pattern of voluntarily and consistently taking the individual’s medication while not under supervision; or</p> <p>(B) is the subject of documented evidence that would give rise to a reasonable belief that the individual has a propensity for violent or emotionally unstable conduct.</p> <p>(b) The fact that an individual has been released from a mental health facility or has a mental illness that is currently controlled by medication does not establish that the individual is dangerous for the purposes of this chapter.</p> <p><b>35-47-14-2. Warrant for search and seizure of firearm.</b></p> <p>A circuit or superior court may issue a warrant to search for and seize a firearm in the possession of an individual who is dangerous if:</p> <p>(1) a law enforcement officer provides the court a sworn affidavit that:</p> <p>(A) states why the law enforcement officer believes that the individual is dangerous and in possession of a firearm; and</p> <p>(B) describes the law enforcement officer’s interactions and conversations with:</p> <p>(i) the individual who is alleged to be dangerous; or</p> <p>(ii) another individual, if the law enforcement officer believes that information obtained from this individual is credible and reliable;</p> <p style="padding-left: 40px;">that have led the law enforcement officer to believe that the individual is dangerous and in possession of a firearm;</p> <p>(2) the affidavit specifically describes the location of the firearm; and</p> <p>(3) the circuit or superior court determines that probable cause exists to believe that the individual is:</p> <p>(A) dangerous; and</p> <p>(B) in possession of a firearm.</p>
---	---	--

	<p><b>Notification of persons at risk:</b> Statute is silent</p> <p><b>Modification/Termination of the order:</b> 180 days or more after the hearing, respondent can petition the court for return of the firearm. Respondent has the burden of proving by a preponderance of the evidence that they no longer meet the elements of being dangerous. If they succeed, the court will order the return of the firearm. If they fail, then they have to wait another 180 days before petitioning again.</p> <p><b>Filing fees:</b> Statute is silent</p> <p><b>Firearm prohibitions:</b> Until July 1, 2019: if the court finds the person to be dangerous, the court may order the law enforcement agency to retain the seized firearm and must order that the person's firearms license be suspended.</p> <p>Effective July 1, 2019: if the court finds the person to be dangerous, the court must order the law enforcement agency to retain the seized firearm; must order that the person's firearms license be suspended; must enjoin the person from renting, receiving transfer of, owning, or possessing a firearm; and must determine whether the person should be referred to further proceedings to consider whether they should be involuntarily detained or committed.</p> <p><b>Firearm relinquishment process:</b> Until July 1, 2019: firearms may be seized with a warrant, or without a warrant if none is required. If seized without a warrant, probable cause must be shown after the fact by submitting a sworn statement to the court. The statute states that it does not grant the authority to seize without a warrant when a warrant would otherwise be required.</p>	<p><b>35-47-14-3. Seizure without warrant — Submission of written statement by law enforcement officer.</b></p> <p>(a) If a law enforcement officer seizes a firearm from an individual whom the law enforcement officer believes to be dangerous without obtaining a warrant, the law enforcement officer shall submit to the circuit or superior court having jurisdiction over the individual believed to be dangerous a written statement under oath or affirmation describing the basis for the law enforcement officer's belief that the individual is dangerous.</p> <p>(b) The court shall review the written statement submitted under subsection (a). If the court finds that probable cause exists to believe that the individual is dangerous, the court shall order the law enforcement agency having custody of the firearm to retain the firearm. If the court finds that there is no probable cause to believe that the individual is dangerous, the court shall order the law enforcement agency having custody of the firearm to return the firearm to the individual.</p> <p>(c) This section does not authorize a law enforcement officer to perform a warrantless search or seizure if a warrant would otherwise be required.</p> <p><b>35-47-14-4. Filing of return of warrant.</b></p> <p>If a court issued a warrant to seize a firearm under this chapter, the law enforcement officer who served the warrant shall, not later than forty-eight (48) hours after the warrant was served, file a return with the court that:</p> <ol style="list-style-type: none"> <li>(1) states that the warrant was served; and</li> <li>(2) sets forth: <ol style="list-style-type: none"> <li>(A) the time and date on which the warrant was served;</li> <li>(B) the name and address of the individual named in the warrant; and</li> <li>(C) the quantity and identity of any firearms seized by the law enforcement officer.</li> </ol> </li> </ol> <p><b>35-47-14-5. Hearing</b></p> <p>(a) Not later than fourteen (14) days after a return is filed under section 4 [IC 35-47-14-4] of this chapter or a written statement is submitted under section 3 [IC 35-47-14-3] of this chapter, the court shall conduct a hearing to determine whether the seized firearm should be:</p> <ol style="list-style-type: none"> <li>(1) returned to the individual from whom the firearm was seized; or</li> <li>(2) retained by the law enforcement agency having custody of the firearm.</li> </ol> <p>(b) The court shall set the hearing date as soon as possible after the return is filed under section 4 of this chapter. The court shall inform:</p>
--	---	--

	<p>Effective July 1 2019: firearms may be seized with or without a warrant. If seized without a warrant, probable cause must be shown after the fact by submitting an affidavit to the court.</p> <p><b>Firearm disposal process:</b> If law enforcement still has a firearm 5 years after the first hearing in which they were ordered to retain it, the court may order them to destroy it.</p> <p><b>Limitations on liability:</b> Statute is silent</p> <p><b>Return/transfer of firearms:</b> If the court determines that the individual from whom the firearm was seized is dangerous and that they are not the owner of the firearm, the court can order that it be returned to its owner.</p> <p>After 180 days, the person it was seized from can petition for its return.</p> <p><b>Venue:</b> Seizure with a warrant: the statute is silent on which circuit or superior court can issue the warrant.</p> <p>Seizure without a warrant: the statement describing basis for probable cause must be submitted to a circuit or superior court that has jurisdiction over respondent.</p>	<p>(1) the prosecuting attorney; and</p> <p>(2) the individual from whom the firearm was seized;</p> <p>of the date, time, and location of the hearing. The court may conduct the hearing at a facility or other suitable place not likely to have a harmful effect upon the individual’s health or well-being.</p> <p><b>35-47-14-6. Burden of proof in hearing — Retention of firearm by law enforcement agency — Return of firearm</b></p> <p>(a) In a hearing conducted under section 5 [IC 35-47-14-5] of this chapter, the state has the burden of proving all material facts by clear and convincing evidence.</p> <p>(b) If the court, in a hearing under section 5 of this chapter, determines that the state has proved by clear and convincing evidence that the individual is dangerous, the court may order that the law enforcement agency having custody of the seized firearm retain the firearm. In addition, if the individual has received a license to carry a handgun, the court shall suspend the individual’s license to carry a handgun. If the court determines that the state has failed to prove that the individual is dangerous, the court shall order the law enforcement agency having custody of the firearm to return the firearm to the individual from whom it was seized.</p> <p>(c) If the court, in a hearing under section 5 of this chapter, orders a law enforcement agency to retain a firearm, the law enforcement agency shall retain the firearm until the court orders the firearm returned or otherwise disposed of.</p> <p><b>35-47-14-7. Return of firearm to owner</b></p> <p>If the court, in a hearing conducted under section 5 [IC 35-47-14-5] of this chapter, determines that:</p> <p>(1) the individual from whom a firearm was seized is dangerous; and</p> <p>(2) the firearm seized from the individual is owned by another individual;</p> <p>the court may order the law enforcement agency having custody of the firearm to return the firearm to the owner of the firearm.</p> <p><b>35-47-14-8. Petition for return of firearm after hearing.</b></p> <p>(a) At least one hundred eighty (180) days after the date on which a court orders a law enforcement agency to retain an individual’s firearm under section 6(b) [IC 35-47-14-6(b)] of this chapter, the individual may petition the court for return of the firearm.</p> <p>(b) Upon receipt of a petition described in subsection (a), the court shall:</p> <p>(1) enter an order setting a date for a hearing on the petition; and</p> <p>(2) inform the prosecuting attorney of the date, time, and location of the hearing.</p>
--	---	---

		<p>(c) The prosecuting attorney shall represent the state at the hearing on a petition under this section.</p> <p>(d) In a hearing on a petition under this section, the individual:</p> <ol style="list-style-type: none"> <li>(1) may be represented by an attorney; and</li> <li>(2) must prove by a preponderance of the evidence that the individual is not dangerous.</li> </ol> <p>(e) If, upon the completion of the hearing and consideration of the record, the court finds that the individual is not dangerous, the court shall order the law enforcement agency having custody of the firearm to return the firearm to the individual.</p> <p>(f) If the court denies an individual's petition under this section, the individual may not file a subsequent petition until at least one hundred eighty (180) days after the date on which the court denied the petition.</p> <p><b>35-47-14-9. Destruction or permanent disposal of firearm.</b></p> <p>If at least five (5) years have passed since a court conducted the first hearing to retain a firearm under this chapter, the court, after giving notice to the parties and conducting a hearing, may order the law enforcement agency having custody of the firearm to dispose of the firearm in accordance with IC 35-47-3.</p> <p><b>35-47-14-10. Sale of firearms retained under court order</b></p> <p>(a) If a court has ordered a law enforcement agency to retain an individual's firearm under section 6 [IC 35-47-14-6] of this chapter, the individual may request the court to order the law enforcement agency to sell the firearm at auction under IC 35-47-3-2 and return the proceeds to the individual.</p> <p>(b) An individual may make the request described in subsection (a):</p> <ol style="list-style-type: none"> <li>(1) at the retention hearing described in section 9 [IC 35-47-14-9] of this chapter; or</li> <li>(2) at any time before the retention hearing described in section 9 of this chapter is held.</li> </ol> <p>(c) If an individual timely requests a sale of a firearm under subsection (a), the court shall order the law enforcement agency having custody of the firearm to sell the firearm at auction under IC 35-47-3-2, unless the serial number of the firearm has been obliterated.</p> <p>(d) If the court issues an order under subsection (c), the court's order must require:</p> <ol style="list-style-type: none"> <li>(1) that the firearm be sold not more than one (1) year after receipt of the order; and</li> <li>(2) that the proceeds of the sale be returned to the individual who owns the firearm. However, the law enforcement agency may retain not more than eight percent (8%) of the sale price to pay the costs of the sale, including administrative costs and the auctioneer's fee.</li> </ol>
<p><b>MARYLAND</b></p> <p><b>Types of orders:</b></p> <p><b>Interim Extreme Risk Protective Order</b></p>	<p><b>Persons eligible to petition:</b></p> <p>Physician, psychologist, clinical social worker, licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, licensed</p>	<p><b>§ 5-601. Definitions</b></p> <p>(a) In general. -- In this subtitle the following words have the meanings indicated.</p> <p>(b) Ammunition. -- "Ammunition" has the meaning stated in § 5-133.1 of this title.</p>

<p><b>Temporary Extreme Risk Protective Order</b></p> <p><b>Final Extreme Risk Protective Order</b></p> <p><a href="#">Md. PUBLIC SAFETY Code Ann. § 5-601</a> et seq.</p>	<p>clinical marriage or family therapist, or health officer or designee of a health officer who has examined the individual</p> <p>Law enforcement officer</p> <p>Spouse, cohabitant of the respondent by blood, marriage, or adoption, individual with child in common, current dating or intimate partner of the respondent</p> <p>Current or former legal guardian of the respondent</p> <p><b>Standard of proof:</b> Interim ERPO: reasonable grounds</p> <p>Temporary ERPO: reasonable grounds</p> <p>Final ERPO: clear and convincing evidence</p> <p><b>Evidence required:</b> Interim ERPO: respondent poses an immediate and present danger of causing personal injury to the respondent, the petitioner, or another by possessing a firearm</p> <p>Temporary ERPO: respondent poses an immediate and present danger of causing personal injury to the respondent, the petitioner, or another by possessing a firearm</p> <p>Final ERPO: respondent poses a danger of causing personal injury to the respondent, the petitioner, or another by possessing a firearm</p> <p><b>Length of order:</b> Interim ERPO: until the temporary order hearing or the end of the second business day in which the Office of the District Court Clerk is open</p> <p>Temporary ERPO: normally up to 7 days; can be extended up to 6 months if necessary to complete service</p>	<p>(c) Extreme risk protective order. -- "Extreme risk protective order" means a civil interim, temporary, or final protective order issued in accordance with this subtitle.</p> <p>(d) Firearm. -- "Firearm" has the meaning stated in § 5-101 of this title.</p> <p>(e) Petitioner. --</p> <p>(1) "Petitioner" means an individual who files a petition for an extreme risk protective order under this subtitle.</p> <p>(2) "Petitioner" includes:</p> <p>(i) a physician, psychologist, clinical social worker, licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, licensed clinical marriage or family therapist, or health officer or designee of a health officer who has examined the individual;</p> <p>(ii) a law enforcement officer;</p> <p>(iii) the spouse of the respondent;</p> <p>(iv) a cohabitant of the respondent;</p> <p>(v) a person related to the respondent by blood, marriage, or adoption;</p> <p>(vi) an individual who has a child in common with the respondent;</p> <p>(vii) a current dating or intimate partner of the respondent; and</p> <p>(viii) a current or former legal guardian of the respondent.</p> <p>(f) Respondent. -- "Respondent" means a person against whom a petition for an extreme risk protective order is filed.</p> <p><b>§ 5-602. Petition</b></p> <p>(a) Requirements. --</p> <p>(1) A petition for an extreme risk protective order shall:</p> <p>(i) be signed and sworn to by the petitioner under the penalty of perjury;</p> <p>(ii) include any information known to the petitioner that the respondent poses an immediate and present danger of causing personal injury to the respondent, the petitioner, or another by possessing a firearm;</p> <p>(iii) set forth specific facts in support of the information described in item (ii) of this paragraph;</p> <p>(iv) explain the basis for the petitioner's knowledge of the supporting facts, including a description of the behavior and statements of the respondent or any other information that led the petitioner to believe that the respondent presents an immediate and present danger of causing personal injury to the respondent or others;</p> <p>(v) describe the number, types, and location of any known firearms believed to be possessed by the respondent; and</p> <p>(vi) include any supporting documents or information regarding:</p> <ol style="list-style-type: none"> <li>1. any unlawful, reckless, or negligent use, display, storage, possession, or brandishing of a firearm by the respondent;</li> <li>2. any act or threat of violence the respondent made against the respondent or against another, whether or not the threat of violence involved a firearm;</li> <li>3. any violation by the respondent of a protective order under Title 4, Subtitle 5 of the Family Law Article;</li> <li>4. any violation by the respondent of a peace order under Title 3, Subtitle 15 of the Courts Article; and</li> <li>5. any abuse of a controlled dangerous substance or alcohol by the respondent, including any conviction for a criminal offense involving a controlled dangerous substance or alcohol.</li> </ol>
--	---	--

<p>Final ERPO: up to 1 year, as chosen by the court</p> <p><b>Service on respondent:</b> Interim ERPO: must be immediately served on respondent by a law enforcement officer</p> <p>Temporary ERPO: If respondent was not served with the interim order, they must be immediately served by a law enforcement officer. If respondent was served with the interim order, then if they were present at the hearing they can be served in open court, and if they were not present at the hearing then they can be served by first class mail.</p> <p>Final ERPO: If respondent is present at the hearing, then they can be served in open court. If not, they can be served by first class mail.</p> <p><b>Notification of persons at risk:</b> A copy of a final order must be delivered to any person the judge determines is appropriate.</p> <p>The court must also notify all affected persons before modifying or rescinding a final order.</p> <p><b>Renewal/Termination of the order:</b> Modification and termination: the court may modify or rescind a final order after giving notice to all affected persons and holding a hearing.</p> <p>Extension: if good cause is shown, the court may extend a final order for 6 months after giving notice to all affected persons and holding a hearing.</p> <p>Appeal: if a petition is granted or denied, respondent or petitioner may appeal that decision to the circuit court.</p> <p><b>Filing fees:</b> Statute is silent</p>	<p>(2) A petition for an extreme risk protective order may include, to the extent disclosure is not otherwise prohibited, health records or other health information concerning the respondent.</p> <p>(b) Filing. -- A petitioner seeking an extreme risk protective order under this subtitle may file a petition with:</p> <ol style="list-style-type: none"> <li>(1) the District Court; or</li> <li>(2) when the Office of the District Court Clerk is closed, a District Court commissioner.</li> </ol> <p>(c) Confidentiality of court records. --</p> <ol style="list-style-type: none"> <li>(1) All court records relating to a petition for an extreme risk protective order made under this subtitle are confidential and the contents may not be divulged, by subpoena or otherwise, except by order of the court on good cause shown.</li> <li>(2) This subsection does not prohibit review of a court record relating to a petition by: <ol style="list-style-type: none"> <li>(i) personnel of the court;</li> <li>(ii) the respondent or counsel for the respondent;</li> <li>(iii) authorized personnel of the Maryland Department of Health;</li> <li>(iv) authorized personnel of a local core service agency or local behavioral health authority;</li> <li>(v) a law enforcement agency; or</li> <li>(vi) a person authorized by a court order on good cause shown.</li> </ol> </li> </ol> <p>(d) Immunity from liability. -- A petitioner who, in good faith, files a petition under this subtitle is not civilly or criminally liable for filing the petition.</p> <p>(e) Subtitle not applicable to health records or information. -- Nothing in this subtitle may be interpreted to require a health care provider to disclose health records or other health information concerning a respondent except:</p> <ol style="list-style-type: none"> <li>(1) in accordance with a subpoena directing delivery of the records or information to the court under seal; or</li> <li>(2) by order of the court.</li> </ol> <p><b>§ 5-603. Interim extreme risk protective order</b></p> <p>(a) Findings and factors. --</p> <ol style="list-style-type: none"> <li>(1) When a petition is filed with a District Court commissioner under § 5-602(b)(2) of this subtitle, the commissioner may enter an interim extreme risk protective order to prohibit the respondent from possessing a firearm if the commissioner finds that there are reasonable grounds to believe that the respondent poses an immediate and present danger of causing personal injury to the respondent, the petitioner, or another by possessing a firearm.</li> <li>(2) In determining whether to enter an interim extreme risk protective order under this section, the commissioner shall consider: <ol style="list-style-type: none"> <li>(i) all relevant evidence presented by the petitioner; and</li> <li>(ii) the amount of time that has elapsed since any of the events described in the petition.</li> </ol> </li> <li>(3) The interim extreme risk protective order shall: <ol style="list-style-type: none"> <li>(i) order the respondent to surrender to law enforcement authorities any firearm and ammunition in the respondent's possession; and</li> </ol> </li> </ol>
---	---

<p><b>Firearm prohibitions:</b> Respondent is prohibited from purchasing or possessing any firearm or ammunition for the duration of the order.</p> <p><b>Firearm relinquishment process:</b> Respondent must surrender all firearms and ammunition to law enforcement. Law enforcement can apply for a warrant if they have probable cause to believe respondent is violating an order. Law enforcement can also arrest respondent if there is probable cause to believe they are violating an order, even if there is no warrant.</p> <p><b>Firearm termination process:</b> Respondent can request that the agency holding the firearm destroy it.  If no one claims the firearm 6 months after notice is given to respondent that the order has ended, then the agency may destroy it.</p> <p><b>Limitations on liability:</b> There is no civil or criminal liability for a petitioner who files in good faith.</p> <p><b>Return/transfer of firearms:</b> When an order expires or is terminated, the law enforcement agency holding the firearm notifies the respondent. If respondent requests return of the firearm, the agency must return it within the following times: 14 days after the expiration of an interim or temporary ERPO; 14 days after the court terminates a final ERPO; or 48 hours after the expiration of a final ERPO.  If respondent does not want to reclaim the firearm, they can sell it to a licensed firearms dealer or a 3rd party who does not live with respondent and is not otherwise prohibited from purchasing it.</p> <p><b>Warrant authority:</b> A State's Attorney or law enforcement officer may apply for a search warrant if there is</p>	<p>(ii) prohibit the respondent from purchasing or possessing any firearm or ammunition for the duration of the interim extreme risk protective order.</p> <p>(4) If, based on the petition, the commissioner finds probable cause to believe that the respondent meets the requirements for emergency evaluation under Title 10, Subtitle 6 of the Health - General Article, the commissioner shall refer the respondent to law enforcement for a determination of whether the respondent should be taken for an emergency evaluation.</p> <p>(b) Contents. --</p> <p>(1)</p> <p>(i) An interim extreme risk protective order shall state the date, time, and location for a temporary extreme risk protective order hearing and a tentative date, time, and location for a final extreme risk protective order hearing.</p> <p>(ii) Except as provided in subsection (e) of this section, or unless the judge continues the hearing for good cause, a temporary extreme risk protective order hearing shall be held on the first or second day on which a District Court judge is sitting after issuance of the interim extreme risk protective order.</p> <p>(2) An interim extreme risk protective order shall include in at least 10 point bold type:</p> <p>(i) notice to the respondent that:</p> <ol style="list-style-type: none"> <li>1. the respondent must give the court written notice of each change of address;</li> <li>2. if the respondent fails to appear at the temporary extreme risk protective order hearing or any later hearing, the respondent may be served with any orders or notices in the case by first-class mail at the respondent's last known address;</li> <li>3. the date, time, and location of the final extreme risk protective order hearing is tentative only and subject to change;</li> <li>4. if the respondent does not attend the temporary extreme risk protective order hearing, the respondent may call the Office of the District Court Clerk at the number provided in the order to find out the actual date, time, and location of any final extreme risk protective order hearing; and</li> <li>5. if the respondent fails to appear at the final extreme risk protective order hearing, a final extreme risk protective order may be entered in the respondent's absence and served on the respondent by first-class mail;</li> </ol> <p>(ii) a statement that the respondent may consult an attorney regarding any matter related to the order, and that an attorney should be contacted promptly so that the attorney may assist the respondent;</p> <p>(iii) a statement specifying the contents and duration of a temporary extreme risk protective order;</p> <p>(iv) notice to the petitioner and respondent that, at the hearing, a judge may issue a temporary extreme risk protective order prohibiting the respondent from possessing a firearm or may deny the petition, whether or not the respondent is in court;</p> <p>(v) notice of:</p>
---	--

	<p>probable cause to believe that the subject of an ERPO possesses a firearm and failed to surrender it to law enforcement.</p> <p><b>Venue:</b> Statute is silent</p>	<ol style="list-style-type: none"> <li>1. the requirements for surrendering firearms and ammunition in the respondent's possession to law enforcement authorities; and</li> <li>2. the process for reclaiming firearms and ammunition on the expiration or termination of the order;</li> </ol> <p>(vi) a warning to the respondent that violation of an interim extreme risk protective order is a crime and that a law enforcement officer will arrest the respondent, with or without a warrant, and take the respondent into custody if the officer has probable cause to believe that the respondent has violated a provision of the interim extreme risk protective order; and</p> <p>(vii) the phone number of the Office of the District Court Clerk.</p> <p>(c) Forward of copy of petition and order to law enforcement for service; transfer of case file to court. -- Whenever a commissioner issues an interim extreme risk protective order, the commissioner shall:</p> <ol style="list-style-type: none"> <li>(1) immediately forward a copy of the petition and interim extreme risk protective order to the appropriate law enforcement agency for service on the respondent; and</li> <li>(2) before the hearing scheduled for the temporary extreme risk protective order, transfer the case file to the clerk of court.</li> </ol> <p>(d) Service. -- A law enforcement officer shall:</p> <ol style="list-style-type: none"> <li>(1) immediately on receipt of an interim extreme risk protective order, serve it on the respondent named in the order;</li> <li>(2) make a return of service to the clerk of court; and</li> <li>(3) within 2 hours after service of the order on the respondent, electronically notify the Department of Public Safety and Correctional Services of the service using an electronic system approved and provided by the Department of Public Safety and Correctional Services.</li> </ol> <p>(e) Effective period. --</p> <ol style="list-style-type: none"> <li>(1) Except as provided in paragraph (2) of this subsection, an interim extreme risk protective order shall be effective until the earlier of: <ol style="list-style-type: none"> <li>(i) the temporary extreme risk protective order hearing under § 5-604 of this subtitle; or</li> <li>(ii) the end of the second business day the Office of the District Court Clerk is open following the issuance of the interim extreme risk protective order.</li> </ol> </li> <li>(2) If the court is closed on the day on which the interim extreme risk protective order is due to expire, the interim extreme risk protective order shall be effective until the next day on which the court is open, at which time the court shall hold a temporary extreme risk protective order hearing.</li> </ol> <p><b>§ 5-604. Temporary extreme risk protective order</b></p> <p>(a) Findings and factors. --</p> <ol style="list-style-type: none"> <li>(1) After a hearing on a petition, whether ex parte or otherwise, a judge may enter a temporary extreme risk protective order to prohibit the respondent from possessing a firearm if the judge finds that there</li> </ol>
--	--	--

		<p>are reasonable grounds to believe that the respondent poses an immediate and present danger of causing personal injury to the respondent, the petitioner, or another by possessing a firearm.</p> <p>(2) In determining whether to enter a temporary extreme risk protective order under this section, the judge shall consider:</p> <ul style="list-style-type: none"> <li>(i) all relevant evidence presented by the petitioner; and</li> <li>(ii) the amount of time that has elapsed since any of the events described in the petition.</li> </ul> <p>(3) The temporary extreme risk protective order shall:</p> <ul style="list-style-type: none"> <li>(i) order the respondent to surrender to law enforcement authorities any firearm and ammunition in the respondent's possession; and</li> <li>(ii) prohibit the respondent from purchasing or possessing any firearm or ammunition for the duration of the temporary extreme risk protective order.</li> </ul> <p>(4) If the judge finds probable cause to believe that the respondent meets the requirements for emergency evaluation under Title 10, Subtitle 6 of the Health - General Article, the judge shall refer the respondent for emergency evaluation.</p> <p>(b) Service. --</p> <p>(1) Except as provided in paragraph (2) of this subsection, a law enforcement officer shall:</p> <ul style="list-style-type: none"> <li>(i) immediately serve the temporary extreme risk protective order on the respondent under this section; and</li> <li>(ii) within 2 hours after service of the order on the respondent, electronically notify the Department of Public Safety and Correctional Services of the service using an electronic system approved and provided by the Department of Public Safety and Correctional Services.</li> </ul> <p>(2) A respondent who has been served with an interim extreme risk protective order under § 5-603 of this subtitle shall be served with the temporary extreme risk protective order in open court or, if the respondent is not present at the temporary extreme risk protective order hearing, by first-class mail at the respondent's last known address.</p> <p>(3) There shall be no cost to the petitioner for service of the temporary extreme risk protective order.</p> <p>(c) Effective period. --</p> <p>(1) Except as otherwise provided in this subsection, the temporary extreme risk protective order shall be effective for not more than 7 days after service of the order.</p> <p>(2) The judge may extend the temporary extreme risk protective order as needed, but not to exceed 6 months, to effectuate service of the order where necessary to provide protection or for other good cause.</p> <p>(3) If the court is closed on the day on which the temporary extreme risk protective order is due to expire, the temporary extreme risk protective order shall be effective until the second day on which the court is open, by which time the court shall hold a final extreme risk protective order hearing.</p>
--	--	---

(d) Final hearing. -- The judge may proceed with a final extreme risk protective order hearing instead of a temporary extreme risk protective order hearing if:

- (1)
  - (i) the respondent appears at the hearing;
  - (ii) the respondent has been served with an interim extreme risk protective order; or
  - (iii) the court otherwise has personal jurisdiction over the respondent; and
- (2) the petitioner and the respondent expressly consent to waive the temporary extreme risk protective order hearing.

**§ 5-605. Final extreme risk protective order**

(a) Opportunity to be heard. -- A respondent under § 5-604 of this subtitle shall have an opportunity to be heard on the question of whether the judge should issue a final extreme risk protective order.

(b) Hearing and notice. --

- (1)
  - (i) The temporary extreme risk protective order shall state the date and time of the final extreme risk protective order hearing.
  - (ii) Except as provided in § 5-604(c) of this subtitle and subparagraph (iii) of this paragraph, or unless continued for good cause, the final extreme risk protective order hearing shall be held not later than 7 days after the temporary extreme risk protective order is served on the respondent.
  - (iii) On request of the respondent, a final extreme risk protective order hearing may be rescheduled for a date not later than 30 days after the date on which the hearing was initially scheduled.
- (2) The temporary extreme risk protective order shall include notice to the respondent:
  - (i) in at least 10 point bold type, that if the respondent fails to appear at the final extreme risk protective order hearing, a final extreme risk protective order may be entered in the respondent's absence and the respondent may be served by first-class mail at the respondent's last known address with the final extreme risk protective order and all other notices concerning the final extreme risk protective order;
  - (ii) of the contents of a final extreme risk protective order;
  - (iii) that the final extreme risk protective order shall be effective for the period stated in the order, not to exceed 1 year, unless the judge extends the term of the order under § 5-606(a)(2) of this subtitle;
  - (iv) that the respondent may consult an attorney regarding any matter related to the order, and that an attorney should be contacted promptly so that the attorney may assist the respondent;
  - (v) of the requirements for surrendering firearms and ammunition in the respondent's possession to law enforcement authorities;

		<p>(vi) of the process for reclaiming firearms and ammunition on the expiration or termination of the order; and</p> <p>(vii) in at least 10 point bold type, that the respondent must notify the court in writing of any change of address.</p> <p>(c) Conducting hearing; considerations; content; emergency evaluation. --</p> <p>(1) If the respondent appears before the court at a final extreme risk protective order hearing or has been served with an interim or temporary extreme risk protective order or if the court otherwise has personal jurisdiction over the respondent, the judge:</p> <p>(i) may proceed with the final extreme risk protective order hearing; and</p> <p>(ii) may enter a final extreme risk protective order to prohibit the respondent from possessing a firearm if the judge finds by clear and convincing evidence that the respondent poses a danger of causing personal injury to the respondent, the petitioner, or another by possessing a firearm.</p> <p>(2) In determining whether to enter a final extreme risk protective order under this section, the judge shall consider:</p> <p>(i) all relevant evidence presented by the petitioner and respondent; and</p> <p>(ii) the amount of time that has elapsed since any of the events described in the petition.</p> <p>(3) The final extreme risk protective order shall:</p> <p>(i) order the respondent to surrender to law enforcement authorities any firearm and ammunition in the respondent's possession; and</p> <p>(ii) prohibit the respondent from purchasing or possessing any firearm or ammunition for the duration of the interim extreme risk protective order.</p> <p>(4) If the judge finds probable cause to believe that the respondent meets the requirements for emergency evaluation under Title 10, Subtitle 6 of the Health - General Article, the judge may refer the respondent for emergency evaluation.</p> <p>(d) Review relevant open and shielded court records. --</p> <p>(1) Before granting, denying, or modifying a final extreme risk protective order under this section, the court may review all relevant open and shielded court records involving the petitioner and the respondent, including records of proceedings under:</p> <p>(i) the Criminal Law Article;</p> <p>(ii) Title 3, Subtitle 15 of the Courts Article;</p> <p>(iii) Title 4, Subtitle 5 of the Family Law Article;</p> <p>(iv) Title 10, Subtitle 6 of the Health - General Article; and</p> <p>(v) this article.</p> <p>(2) The court's failure to review records under this subsection does not affect the validity of an order issued under this section.</p>
--	--	--

(e) Service. --

(1) A copy of the final extreme risk protective order shall be served on the petitioner, the respondent, the appropriate law enforcement agency, and any other person the judge determines is appropriate in open court or, if the person is not present at the final extreme risk protective order hearing, by first-class mail to the person's last known address.

(2)

(i) A copy of the final extreme risk protective order served on the respondent in accordance with paragraph (1) of this subsection constitutes actual notice to the respondent of the contents of the final extreme risk protective order.

(ii) Service is complete on mailing.

(f) Effective period. --

(1) Except as provided in paragraph (2) of this subsection, all relief granted in a final extreme risk protective order shall be effective for the period stated in the order, not to exceed 1 year.

(2) A subsequent circuit court order pertaining to any of the provisions included in the final extreme risk protective order shall supersede those provisions in the final extreme risk protective order.

**§ 5-606. Final extreme risk protective order -- Modification and appeal**

(a) Modification. --

(1) A final extreme risk protective order may be modified or rescinded during the term of the extreme risk protective order after:

- (i) giving notice to all affected persons and the respondent; and
- (ii) a hearing.

(2) For good cause shown, a judge may extend the term of a final extreme risk protective order for 6 months beyond the period specified in § 5-605(f) of this subtitle after:

- (i) giving notice to all affected persons and the respondent; and
- (ii) a hearing.

(3)

(i) If, during the term of a final extreme risk protective order, a petitioner files a motion to extend the term of the order under paragraph (2) of this subsection, the court shall hold a hearing on the motion within 30 days after the motion is filed.

(ii) If the hearing on the motion is scheduled after the original expiration date of the final extreme risk protective order, the court shall extend the order and keep the terms of the order in full force and effect until the hearing on the motion.

(b) Appeal. --

		<p>(1) If a District Court judge grants or denies a petition filed under this subtitle, a respondent or a petitioner may appeal to the circuit court for the county in which the District Court is located.</p> <p>(2) An appeal taken under this subsection to the circuit court shall be heard de novo in the circuit court not later than 60 days after the date the appeal is filed.</p> <p>(3)</p> <p>(i) If an appeal is filed under this subsection, the District Court judgment shall remain in effect until superseded by a judgment of the circuit court.</p> <p>(ii) Unless the circuit court orders otherwise, modification or enforcement of the District Court order shall be by the District Court.</p> <p><b>§ 5-607. Search warrant for removal of firearm</b></p> <p>In accordance with the provisions of § 1-203 of the Criminal Procedure Article, on application by a State's Attorney or a law enforcement officer with probable cause to believe that a respondent who is subject to an extreme risk protective order possesses a firearm and failed to surrender the firearm in accordance with the order, a court may issue a search warrant for the removal of the firearm at any location identified in the application for the warrant.</p> <p><b>§ 5-608. Firearm or ammunition surrendered or seized</b></p> <p>(a) General procedure. --</p> <p>(1) A law enforcement officer who takes possession of a firearm or ammunition in accordance with an extreme risk protective order shall, at the time the firearm or ammunition is surrendered or seized:</p> <p>(i) issue a receipt identifying, by make, model, and serial number, all firearms and ammunition that have been surrendered or seized;</p> <p>(ii) provide a copy of the receipt to the respondent;</p> <p>(iii) retain a copy of the receipt; and</p> <p>(iv) provide information to the respondent on the process for retaking possession of the firearms and ammunition on the expiration or termination of the order.</p> <p>(2) A law enforcement agency shall transport and store any firearm surrendered or seized in accordance with an extreme risk protective order:</p> <p>(i) in a protective case, if one is available; and</p> <p>(ii) in a manner intended to prevent damage to the firearm during the time the extreme risk protective order is in effect.</p> <p>(3) A law enforcement agency may not place any mark on a seized or surrendered firearm for identification or other purposes.</p> <p>(b) Request for return of firearm or ammunition. --</p>
--	--	---

		<p>(1) On expiration or termination of an extreme risk protective order, a law enforcement agency that holds any firearm or ammunition surrendered or seized in accordance with the expired or terminated order shall notify the respondent that the respondent may request the return of the firearm or ammunition.</p> <p>(2) A law enforcement agency shall return a firearm or ammunition to a respondent only after the law enforcement agency verifies that the respondent is not otherwise prohibited from possessing the firearm or ammunition.</p> <p>(3) Subject to paragraph (2) of this subsection, on request of the respondent, a law enforcement agency shall return all firearms and ammunition belonging to the respondent not later than:</p> <ul style="list-style-type: none"> <li>(i) 14 days after the expiration of an interim or temporary extreme risk protective order;</li> <li>(ii) 14 days after a court terminates a final extreme risk protective order; or</li> <li>(iii) 48 hours after the expiration of a final extreme risk protective order.</li> </ul> <p>(c) When respondent does not wish to recover firearm or ammunition. --</p> <p>(1) A respondent who does not wish to recover a firearm or ammunition seized or surrendered in accordance with an extreme risk protective order, or who is prohibited from possessing firearms or ammunition under this title, may:</p> <ul style="list-style-type: none"> <li>(i) sell or transfer title to the firearm or ammunition to: <ul style="list-style-type: none"> <li>1. a licensed firearms dealer; or</li> <li>2. another person who is not prohibited from possessing the firearm or ammunition under State or federal law and who does not live in the same residence as the respondent; or</li> </ul> </li> <li>(ii) request the destruction of the firearm or ammunition.</li> </ul> <p>(2) A law enforcement agency shall transfer possession of a firearm or ammunition to a licensed firearms dealer or a person described in paragraph (1)(i)2 of this subsection only after:</p> <ul style="list-style-type: none"> <li>(i) the licensed firearms dealer or other person provides written proof that the respondent has agreed to transfer the firearm or ammunition to the dealer or person; and</li> <li>(ii) the law enforcement agency verifies the agreement with the respondent.</li> </ul> <p>(3) On request of the respondent, a law enforcement agency may destroy firearms or ammunition seized or surrendered in accordance with an extreme risk protective order.</p> <p>(d) When individual who is not respondent claims ownership. -- If an individual other than the respondent claims ownership of a firearm or ammunition seized or surrendered in accordance with an extreme risk protective order, the law enforcement agency shall return the firearm or ammunition to the individual if:</p> <ul style="list-style-type: none"> <li>(1) the individual provides proof of ownership of the firearm or ammunition; and</li> <li>(2) the law enforcement agency determines that the individual is not prohibited from possessing the firearm or ammunition.</li> </ul>
--	--	---

		<p>(e) Procedure when firearm or ammunition is not reclaimed. -- If a firearm or ammunition is not reclaimed within 6 months after the provision of notice to a respondent under subsection (b) of this section:</p> <ol style="list-style-type: none"> <li>(1) no party shall have the right to assert ownership of the firearm or ammunition; and</li> <li>(2) the law enforcement agency holding the firearm or ammunition may destroy the firearm or ammunition.</li> </ol> <p><b>§ 5-609. Penalties for violations</b></p> <p>(a) In general. -- An interim extreme risk protective order, temporary extreme risk protective order, and final extreme risk protective order issued under this subtitle shall state that a violation of the order may result in:</p> <ol style="list-style-type: none"> <li>(1) criminal prosecution; and</li> <li>(2) imprisonment or fine or both.</li> </ol> <p>(b) Contempt. -- A temporary extreme risk protective order and final extreme risk protective order issued under this subtitle shall state that a violation of the order may result in a finding of contempt.</p> <p><b>§ 5-610. Penalties for failure to comply</b></p> <p>(a) In general. -- A person who fails to comply with the provisions of an interim extreme risk protective order, a temporary extreme risk protective order, or a final extreme risk protective order under this subtitle is guilty of a misdemeanor and on conviction is subject to:</p> <ol style="list-style-type: none"> <li>(1) for a first offense, a fine not exceeding \$ 1,000 or imprisonment not exceeding 90 days or both; and</li> <li>(2) for a second or subsequent offense, a fine not exceeding \$ 2,500 or imprisonment not exceeding 1 year or both.</li> </ol> <p>(b) Arrest. -- A law enforcement officer shall arrest with or without a warrant and take into custody a person who the officer has probable cause to believe is in violation of an interim, temporary, or final extreme risk protective order in effect at the time of the violation.</p>
<p><b>MASSACHUSETTS</b></p> <p><b>Types of orders:</b>  Extreme risk protection order  Emergency extreme risk protection order</p> <p><a href="#">ALM GL ch. 140, § 131R</a></p>	<p><b>Persons eligible to petition:</b>  Anyone may petition</p> <p><b>Standard of proof:</b>  Emergency ERPO: reasonable cause  ERPO: preponderance of the evidence</p> <p><b>Evidence required:</b>  Emergency ERPO: respondent poses a risk of causing bodily injury to self or others by being in possession of a license to carry firearms or a firearm identification card or having in the</p>	<p><b>§ 131R. Firearms — Possession — License to Carry — Petition of Risk of Bodily Injury.</b></p> <p>(a) A petitioner who believes that a person holding a license to carry firearms or a firearm identification card may pose a risk of causing bodily injury to self or others may, on a form furnished by the court and signed under the pains and penalties of perjury, file a petition in court.</p> <p>(b) A petition filed pursuant to this section shall:</p> <ol style="list-style-type: none"> <li>(i) state any relevant facts supporting the petition;</li> <li>(ii) identify the reasons why the petitioner believes that the respondent poses a risk of causing bodily injury to self or others by having in the respondent’s control, ownership or possession a firearm, rifle, shotgun, machine gun, weapon or ammunition;</li> </ol>

	<p>respondent’s control, ownership or possession a firearm, rifle, shotgun, machine gun, weapon or ammunition.</p> <p>ERPO: respondent poses a risk of causing bodily injury to self or others by having in the respondent’s control, ownership or possession a firearm, rifle, shotgun, machine gun, weapon or ammunition.</p> <p><b>Length of order:</b> Emergency ERPO: up to 10 days, until a hearing is held</p> <p>ERPO: one year</p> <p><b>Service on respondent:</b> When an order is issued, the clerk-magistrate of the court will transmit the order to the licensing authority of the municipality in which respondent resides. The licensing authority will serve respondent.</p> <p><b>Notification of persons at risk:</b> Statute is silent</p> <p><b>Renewal/Termination of the order:</b> Termination: either party may move at any time to modify, suspend, or terminate a final order. If they do so, then a hearing will be held once both parties have notice. Renewal: the court will notify petitioner at least 30 days before the order is to expire. In that time, petitioner may file another petition to renew the original order.</p> <p><b>Filing fees:</b> None. No fees for filing or service of process may be charged by a court or any public agency to a petitioner filing a petition pursuant.</p> <p><b>Firearm prohibitions:</b> Surrender of all firearms and ammunition in control, ownership, or possession, as well as all firearm identification cards and licenses to carry</p>	<p>(iii) identify the number, types and locations of any firearms, rifles, shotguns, machine guns, weapons or ammunition the petitioner believes to be in the respondent’s current control, ownership or possession;</p> <p>(iv) identify whether there is an abuse prevention order pursuant to chapter 209A, a harassment prevention order pursuant to chapter 258E or an order similar to an abuse prevention or harassment prevention order issued by another jurisdiction in effect against the respondent; and</p> <p>address and workplace address shall appear on the court order and shall be accessible to the respondent and the r(v) identify whether there is a pending lawsuit, complaint, petition or other legal action between the parties to the petition.</p> <p>(c) No fees for filing or service of process may be charged by a court or any public agency to a petitioner filing a petition pursuant to this section.</p> <p>(d) The petitioner’s residential address, residential telephone number and workplace name, address and telephone number, contained within the records of the court related to a petition shall be confidential and withheld from public inspection, except by order of the court; provided, however, that the petitioner’s residential address and workplace address shall appear on the court order and shall be accessible to the respondent and the respondent’s attorney unless the petitioner specifically requests, and the court orders, that this information be withheld from the order. All confidential portions of the records shall be accessible at all reasonable times to the petitioner and the petitioner’s attorney, the licensing authority of the municipality where the respondent resides and to law enforcement officers, if such access is necessary in the performance of their official duties. Such confidential portions of the court records shall not be deemed to be public records under the provisions of clause twenty-sixth of section 7 of chapter 4.</p> <p>(e) The court may order that any information in the petition or case record be impounded in accordance with court rule.</p> <p>(f) Upon receipt of a petition under this section and if the petitioner is a family or household member as defined in section 121, the clerk of the court shall provide to the petitioner and respondent informational resources about: (i) crisis intervention; (ii) mental health; (iii) substance use disorders; (iv) counseling services; and (v) the process to apply for a temporary commitment under section 12 of chapter 123.</p> <p><b>§ 131S. Firearms — Possession — License to Carry — Petition of Risk of Bodily Injury — Hearing.</b></p> <p>(a) The court shall, within 10 days of receipt of a petition pursuant to section 131R, conduct a hearing on the petition. Upon receipt of the petition, the court shall issue a summons with the date, time and location of the hearing. The court shall direct a law enforcement officer to personally serve a copy of the petition and the summons on the respondent or, if personal service by a law enforcement officer is not possible, the court may, after a hearing, order that service be made by some other identified means reasonably calculated to reach the respondent. Service shall be made not less than 7 days prior to the hearing.</p> <p>(b) Notwithstanding the provisions of subsection (a), the court shall, within 2 days of receipt of a petition made pursuant to section 131R, conduct a hearing on the petition if the respondent files an affidavit that a firearm, rifle, shotgun, machine gun, weapon or ammunition is required in the performance of the respondent’s employment.</p>
--	--	--

	<p>firearms. Suspension of license to carry firearms and firearm identification cards.</p> <p><b>Firearm relinquishment process:</b> Respondent must surrender all firearms, weapons, ammunition, licenses to carry firearms, and firearm identification cards to the licensing authority of the municipality in which respondent resides</p> <p><b>Firearm disposal process:</b> If the licensing authority holding the firearms can't determine a lawful owner within 180 days after an order ends, they may destroy the firearms or sell them to a licensed dealer.</p> <p><b>Limitations on liability:</b> A person has no civil or criminal liability for failure to petition if that person (i) is or was married to the respondent; (ii) is or was residing with the respondent in the same household; (iii) is or was related by blood or marriage to the respondent; (iv) has or is having a child in common with the respondent, regardless of whether they have ever married or lived together; (v) is or has been in a substantive dating relationship with the respondent; or (vi) is or has been engaged to the respondent</p> <p><b>Return/transfer of firearms:</b> The licensing authority holding the items may return them after the order ends, but only if they determine the respondent is suitable for them.</p> <p><b>Warrant authority:</b> Statute is silent</p> <p><b>Venue:</b> Statute is silent</p>	<p>(c) If after the hearing pursuant to subsection (a) or subsection (b), the court finds by a preponderance of the evidence that the respondent poses a risk of causing bodily injury to self or others by having in the respondent's control, ownership or possession a firearm, rifle, shotgun, machine gun, weapon or ammunition, the court shall grant the petition. If the respondent does not appear at the hearing pursuant to subsection (a) or subsection (b), the court shall grant the petition upon a determination that the petitioner has demonstrated by a preponderance of the evidence that the respondent poses such a risk.</p> <p>(d) Upon granting a petition, the court shall issue an extreme risk protection order and shall order the respondent to surrender any licenses to carry firearms, firearms identification cards and all firearms, rifles, shotguns, machine guns, weapons and ammunition which the respondent then controls, owns or possesses, to the licensing authority of the municipality where the respondent resides. The court shall enter written findings as to the basis of its order within 24 hours of granting the order. The court may modify, suspend or terminate its order at any subsequent time upon motion by either party; provided, however, that due notice shall be given to the respondent and petitioner, and the court shall hold a hearing on said motion. When the petitioner's address is confidential to the respondent as provided in subsection (d) of section 131R and the respondent has filed a motion to modify the court's order, the court shall be responsible for notifying the petitioner. In no event shall the court disclose any such confidential address.</p> <p>Not less than 30 calendar days prior to the expiration of an extreme risk protection order, the court shall notify the petitioner at the best known address of the scheduled expiration of the order and that the petitioner may file a petition to renew the order pursuant to section 131R.</p> <p>(e) Upon issuing an extreme risk protection order the clerk-magistrate of the court shall transmit 2 certified copies of the order and 1 copy of the petition and summons forthwith to the licensing authority of the municipality where the respondent resides which, unless otherwise ordered by the court, shall serve a copy of the order and petition upon the respondent. Licensing authorities shall establish adequate procedures to ensure that, when effecting service upon a respondent, a law enforcement officer shall, to the extent practicable: (i) fully inform the respondent of the contents and terms of the order and the available penalties for any violation of an order; and (ii) provide the respondent with informational resources, including, but not limited to, a list of services relating to crisis intervention, mental health, substance use disorders and counseling, and a list of interpreters, as necessary, located within or near the court's jurisdiction. The chief justice of the trial court, in consultation with the executive office of public safety and security, and the department of mental health, shall annually update the informational resource guides required under this section.</p> <p>Each extreme risk protection order issued by the court shall contain the following statement: VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.</p> <p>(f) Upon receipt of service of an extreme risk protection order, the licensing authority of the municipality where the respondent resides shall immediately suspend the respondent's license to carry firearms or a firearm identification card and shall immediately notify the respondent of said suspension.</p> <p>Upon receipt of service of an extreme risk protection order the respondent shall immediately surrender their license to carry firearms or a firearm identification card and all firearms, rifles, shotguns, machine guns, weapons or ammunition in their control, ownership or possession to the local licensing authority serving the order, in accordance with section 129D; provided, however, that nothing in this section or in said section 129D shall allow the respondent to: (i) transfer any firearms, rifles, shotguns, machine guns, weapons or ammunition required to be surrendered, or surrendered, by the respondent to anyone other than a licensed dealer; or (ii) maintain control, ownership or possession of any firearms, rifles, shotguns, machine guns, weapons or ammunition during the</p>
--	---	--

pendency of any appeal of an extreme risk protection order; provided, however, that while the surrender of ownership pursuant to an extreme risk protection order shall require the immediate surrender of any license to carry firearms or a firearm identification card and all firearms, rifles, shotguns, machine guns, weapons or ammunition in the respondent's control or possession, it shall not require the surrender of permanent ownership rights; and provided further that, notwithstanding section 129D, if the licensing authority cannot reasonably ascertain a lawful owner of firearms, rifles, shotguns, machine guns, weapons or ammunition surrendered pursuant to extreme risk protection order within 180 days of the expiration or termination of the extreme risk protection order, the licensing authority may, in its discretion, trade or dispose of surplus, donated, abandoned or junk firearms, rifles, shotguns, machine guns, weapons or ammunition to properly licensed distributors or firearms dealers and the proceeds of such sale or transfer shall be remitted or credited to the municipality in which the licensing authority presides to be used for violence reduction or suicide prevention. A violation of this subsection shall be punishable by a fine of not more than \$5,000 or by imprisonment for not more than 2½ years in a house of correction or by both such fine and imprisonment.

(g) Upon receipt of a license to carry firearms or a firearm identification card and any firearms, rifles, shotguns, machine guns, weapons or ammunition surrendered by a respondent pursuant to subsection (f), the licensing authority taking possession of the license to carry firearms or a firearm identification card and firearms, rifles, shotguns, machine guns, weapons or ammunition shall issue a receipt identifying any license to carry firearms or a firearm identification card and all firearms, rifles, shotguns, machine guns, weapons or ammunition surrendered by the respondent and shall provide a copy of the receipt to the respondent. The licensing authority to which the respondent surrendered a license to carry firearms or a firearm identification card and all firearms, rifles, shotguns, machine guns, weapons or ammunition shall, within 48 hours of the surrender, file the receipt with the court.

(h) If a person other than the respondent claims title to any firearms, rifles, shotguns, machine guns, weapons or ammunition required to be surrendered or surrendered, pursuant to this section, and is determined by the licensing authority to be the lawful owner of the firearms, rifles, shotguns, machine guns, weapons or ammunition, the firearms, rifles, shotguns, machine guns, weapons or ammunition shall be returned to the person; provided, however, that: (i) the firearms, rifles, shotguns, machine guns, weapons or ammunition are removed from the respondent's control, ownership or possession and the lawful owner agrees to store the firearms, rifles, shotguns, machine guns, weapons or ammunition in a manner such that the respondent does not have access to, or control of, the firearms, rifles, shotguns, machine guns, weapons or ammunition; and (ii) the firearms, rifles, shotguns, machine guns, weapons or ammunition are not otherwise unlawfully possessed by the owner. A violation of this subsection shall be punishable by a fine of not more than \$5,000 or by imprisonment for not more than 2½ years in a house of correction or by both such fine and imprisonment.

(i) Upon the expiration or termination of an extreme risk protection order, a licensing authority holding any firearms, rifles, shotguns, machine guns, weapons or ammunition that have been surrendered pursuant to this section shall return any license to carry firearms or firearm identification card and all firearms, rifles, shotguns, machine guns, weapons or ammunition requested by a respondent only after the licensing authority of the municipality in which the respondent resides confirms that the respondent is suitable for a license to carry firearms or a firearm identification card and to control, own or possess firearms, rifles, shotguns, machine guns, weapons or ammunition under federal and state law.

Not less than 7 days prior to expiration of an extreme risk protection order, a licensing authority holding any firearms, rifles, shotguns, machine guns, weapons or ammunition that have been surrendered pursuant to this section shall notify the petitioner of the expiration of the extreme risk protection order and the return of a license

to carry firearms or firearm identification card and the return of any firearms, rifles, shotguns, machine guns, weapons or ammunition to the respondent.

As soon as reasonably practicable after receiving notice of the termination of an extreme risk protection order by the court, a licensing authority holding any firearms, rifles, shotguns, machine guns, weapons or ammunition that have been surrendered pursuant to this section shall notify the petitioner of the termination of the extreme risk protection order and the return of a license to carry firearms or firearm identification card and the return of any firearms, rifles, shotguns, machine guns, weapons or ammunition to the respondent.

(j) A respondent who has surrendered a license to carry firearms or firearm identification card and all firearms, rifles, shotguns, machine guns, weapons or ammunition to a licensing authority and who does not wish to have the license to carry firearms or firearm identification card or firearms, rifles, shotguns, machine guns, weapons or ammunition returned or who is no longer eligible to control, own or possess firearms, rifles, shotguns, machine guns, weapons or ammunition pursuant to this chapter or federal law, may sell or transfer title of the firearms, rifles, shotguns, machine guns, weapons or ammunition to a licensed firearms dealer; provided, however, that the respondent shall not take physical possession of the firearms, rifles, shotguns, machine guns, weapons or ammunition. The licensing authority may transfer possession of the firearms, rifles, shotguns, machine guns, weapons or ammunition to a licensed dealer upon the dealer providing the licensing authority with written proof of the sale or transfer of title of the firearms, rifles, shotguns, machine guns, weapons or ammunition from the respondent to the dealer.

(k) If the licensing authority cannot reasonably ascertain the lawful owner of any firearms, rifles, shotguns, machine guns, weapons or ammunition surrendered pursuant to this section within 180 days of the expiration or termination of the order to surrender the firearms, rifles, shotguns, machine guns, weapons or ammunition the licensing authority may dispose of the firearms, rifles, shotguns, machine guns, weapons or ammunition pursuant to section 129D.

**§ 131T. Firearms — Possession — License to Carry — Petition of Risk of Bodily Injury — Emergency Extreme Risk Protection Order**

(a) Upon the filing of a petition pursuant to section 131R, the court may issue an emergency extreme risk protection order without notice to the respondent and prior to the hearing required pursuant to subsection (a) of section 131S if the court finds reasonable cause to conclude that the respondent poses a risk of causing bodily injury to the respondent’s self or others by being in possession of a license to carry firearms or a firearm identification card or having in the respondent’s control, ownership or possession a firearm, rifle, shotgun, machine gun, weapon or ammunition.

Upon issuance of an emergency extreme risk protection order pursuant to this section, the clerk magistrate of the court shall notify the respondent pursuant to subsection (e) of section 131S. An order issued under this subsection shall expire 10 days after its issuance unless a hearing is scheduled pursuant to subsection (a) or (b) of said section 131S or at the conclusion of a hearing held pursuant to said subsection (a) or (b) of said section 131S unless a permanent order is issued by the court pursuant to subsection (d) of said section 131S.

(b) When the court is closed for business, a justice of the court may grant an emergency extreme risk protection order if the court finds reasonable cause to conclude that the respondent poses a risk of causing bodily injury to the respondent’s self or others by being in possession of a license to carry firearms or firearm identification card or by having in the respondent’s control, ownership or possession of a firearm, rifle, shotgun, machine gun, weapon or ammunition. In the discretion of the justice, such relief may be granted and communicated by telephone to the licensing authority of the municipality where the respondent resides, which shall record such

	<p>order on a form of order promulgated for such use by the chief justice of the trial court and shall deliver a copy of such order on the next court business day to the clerk-magistrate of the court. If relief has been granted without the filing of a petition pursuant to section 131R, the petitioner shall appear in court on the next available court business day to file a petition. An order issued under this subsection shall expire at the conclusion of the next court business day after the order was issued unless a petitioner has filed a petition with the court pursuant to said section 131R and the court has issued an emergency extreme risk protection order pursuant to subsection (a).</p> <p>(c) Upon receipt of service of an extreme risk protection order pursuant to this section, the respondent shall immediately surrender the respondent's license to carry firearms or firearm identification card and all firearms, rifles, shotguns, machine guns, weapons or ammunition to the local licensing authority serving the order as provided in subsection (f) of section 131S.</p> <p><b>§ 131U. Firearms — Possession — License to Carry — Petition of Risk of Bodily Injury — Notification of Emergency Extreme Risk Protection Order.</b></p> <p>(a) On the same day that an extreme risk protection order is issued pursuant to section 131S or section 131T, the clerk magistrate of the court shall forward a copy of the order to: (i) the licensing authority; (ii) the commissioner of probation; (iii) the department of criminal justice information services, which shall transmit the report, pursuant to paragraph (h) of section 167A of chapter 6, to the Attorney General of the United States to be included in the National Instant Criminal Background Check System; and (iv) any other federal or state computer-based systems used by law enforcement or others to identify prohibited purchasers of firearms. Upon the expiration or termination of an extreme risk protection order issued pursuant to said section 131S or said section 131T, the clerk magistrate of the court shall notify: (i) the licensing authority; (ii) the commissioner of probation; (iii) the department of criminal justice information services, which shall transmit the report, pursuant to paragraph (h) of section 167A of chapter 6, to the Attorney General of the United States to be included in the National Instant Criminal Background Check System; and (iv) any other federal or state computer-based systems used by law enforcement or others to identify prohibited purchasers of firearms that the order has been terminated or has expired.</p> <p><b>§ 131V. Firearms — Possession — License to Carry — Petition of Risk of Bodily Injury — Notification of Emergency Extreme Risk Protection Order — False Petition , Penalties.</b></p> <p>(a) A person who files a petition for an extreme risk protection order, knowing the information in the petition to be materially false or with an intent to harass the respondent, shall be punished by a fine of not less than \$2,500 and not more than \$5,000 or by imprisonment for not more than 2½ years in the house of correction or by both such fine and imprisonment.</p> <p><b>§ 131W. Firearms — Possession — License to Carry — Petition of Risk of Bodily Injury — Notification of Emergency Extreme Risk Protection Order — Rules, Regulations and Policies.</b></p> <p>The chief justice of the trial court, in consultation with the chief justice of the district court and the chief justice of the Boston municipal court, shall promulgate rules, regulations and policies and shall develop and prepare instructions, brochures, petitions, forms and other material required for the administration and enforcement of sections 131R to 131X, inclusive, which shall be in such form and language to permit a petitioner to prepare and file a petition pro se.</p>
--	---

**§ 131X. Firearms — Possession — License to Carry — Petition of Risk of Bodily Injury — Notification of Emergency Extreme Risk Protection Order — Removal of Firearms.**

(a) Sections 131R to 131Y, inclusive, shall not affect the ability of a law enforcement officer to remove firearms, rifles, shotguns, machine guns, weapons or ammunition from any person or conduct any search and seizure for firearms, rifles, shotguns, machine guns, weapons or ammunition pursuant to other lawful authority.

(b) Nothing in sections 131R to 131Y, inclusive, shall supersede or limit a licensing authority’s ability to suspend or revoke a license that the licensing authority has issued pursuant to other lawful authority.

(c) Sections 131R to 131Y, inclusive, shall not impose any duty on a family or household member to file a petition and no family or household member shall be held criminally or civilly liable for failure to petition.

(d) The supreme judicial court and the appeals court shall have concurrent jurisdiction to review any proceedings had, determinations made, and orders or judgments entered in the court pursuant to section 131S or section 131T. The supreme judicial court or the appeals court, subject to section 13 of chapter 211A may by rule vary the procedure authorized or required for such review upon a finding that the review by the court will thereby be made more simple, speedy and effective.

**§ 131Y. Firearms — Possession — License to Carry — Petition of Risk of Bodily Injury — Report.**

The court shall annually, not later than December 31, issue a report on the use of extreme risk protective orders. The report shall be submitted to the executive office of public safety and security, the chairs of the joint committee on public safety and homeland security, the chairs of the joint committee on the judiciary, the chairs of the joint committee on mental health substance use and recovery, and clerks of the senate and the house of representatives. The report shall include, but shall not be limited to, the following information:

- (1) the number of extreme risk protective order petitions filed;
- (2) the number of extreme risk protective order petitions that lead to a respondent’s surrender pursuant to section 131S;
- (3) the number of extreme risk protective order petitions that are heard but not granted;
- (4) the number of emergency extreme risk protective order petitions filed;
- (5) the number of emergency extreme risk protective order petitions that lead to a respondent’s surrender pursuant to 131T;
- (6) the number of emergency extreme risk protective order petitions that are heard but not granted;
- (7) the number of extreme risk protective order or emergency extreme risk protective order petitions filed that are deemed to be fraudulent;
- (8) the race and ethnicity of the petitioner and respondent;
- (9) the gender and gender identity of the petitioner and respondent;
- (10) the data on the duration of extreme risk protection orders;
- (11) the number of instances in which an order has been terminated or otherwise modified prior to its original expiration date; and

		(12) the number of instances in which a fine has been assessed for a filed petition that was deemed to be fraudulent.
<p><b>NEW JERSEY</b></p> <p><b>Types of orders:</b>  Temporary extreme risk protection order</p> <p>Final extreme risk protection order</p> <p><a href="#">N.J. Stat. § 2C:58-20</a> et al.</p>	<p><b>Persons eligible to petition:</b>  Law enforcement officer*, spouse, domestic partner, partner in a civil union couple, or former spouse, former domestic partner, or former partner in a civil union couple, or any other person who is a present household member or was at any time a household member; a person with whom the respondent has a child in common, or with whom the respondent anticipates having a child in common if one of the parties is pregnant; or a current or former dating partner.</p> <p>*Law enforcement officer means a person whose public duties include the power to act as an officer for the detection, apprehension, arrest, and conviction of offenders against the laws of this State.</p> <p><b>Standard of proof:</b>  Temporary ERPO: good cause</p> <p>Final ERPO: preponderance of the evidence</p> <p><b>Evidence required:</b>  Temporary ERPO: Respondent poses an immediate and present danger of causing bodily injury to the respondent or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm</p> <p>Final ERPO: Respondent poses a significant danger of bodily injury to the respondent’s self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm</p> <p><b>Length of order:</b></p>	<p><b>§ 2C:58-20 Short Title [Extreme Risk Protective Order Act of 2018]</b>  This act shall be known and may be cited as the “Extreme Risk Protective Order Act of 2018.”</p> <p><b>§ 2C:58-21. Definitions relative to extreme risk protective orders</b>  As used in P.L.2018, c.35 (C.2C:58-20 et al.):</p> <p>“Ammunition” means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm, but does not include any shotgun shot or pellet not designed for use as the single, complete projectile load for one shotgun hull or casing or any unloaded, non-metallic shotgun hull or casing not having a primer.</p> <p>“Deadly weapon” shall have the same meaning as in subsection c. of N.J.S.2C:11-1.</p> <p>“Family or household member” means a spouse, domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), partner in a civil union couple as defined in section 2 of P.L.2006, c.103 (C.37:1-29), or former spouse, former domestic partner, or former partner in a civil union couple, or any other person who is a present household member or was at any time a household member; a person with whom the respondent has a child in common, or with whom the respondent anticipates having a child in common if one of the parties is pregnant; or a current or former dating partner.</p> <p>“Firearm” shall have the same meaning as in N.J.S.2C:39-1.</p> <p>“Law enforcement agency” means a department, division, bureau, commission, board or other authority of the State or of any political subdivision thereof which employs law enforcement officers.</p> <p>“Law enforcement officer” means a person whose public duties include the power to act as an officer for the detection, apprehension, arrest, and conviction of offenders against the laws of this State.</p> <p>“Petitioner” means a family or household member or law enforcement officer.</p> <p>“Recent” means within six months prior to the date the petition was filed.</p> <p><b>§ 2C:58-22. Immunity from liability for law enforcement</b></p> <p><b>a.</b> A law enforcement officer who, in good faith, does not file a petition for an extreme risk protective order or temporary extreme risk protective order shall be immune from criminal or civil liability.</p>

<p>Temporary ERPO: until a final order is issued or denied</p> <p>Final ERPO: indefinite, until terminated by the court</p> <p><b>Service on respondent:</b> The appropriate law enforcement agency in the municipality where respondent resides will personally serve respondent as soon as is practicable. If personal service can't be completed, the court can order alternate service as appropriate.</p> <p><b>Notification of persons at risk:</b> Statute is silent</p> <p><b>Renewal/Termination of the order:</b> Petitioner or respondent can request termination of a final order. If respondent is the one requesting termination, they must show by a preponderance of the evidence that respondent no longer poses a significant danger of causing bodily injury to the respondent's self or to other persons by having custody or control of, owning, possessing, purchasing, or receiving a firearm</p> <p><b>Filing fees:</b> No fees for filing or service of process may be charged by a court or any public agency to a petitioner filing a petition.</p> <p><b>Firearm prohibitions:</b> Temporary ERPO: Respondent is prohibited from having custody or control of, owning, purchasing, possessing, or receiving firearms or ammunition, and from securing or holding a firearms purchaser identification card or permit to purchase or carry a handgun</p> <p>Final ERPO: Respondent is prohibited from having custody or control of, owning, purchasing, possessing, or receiving a firearm</p> <p><b>Firearm relinquishment process:</b></p>	<p><b>b.</b> A law enforcement agency shall be immune from civil or criminal liability for any damage or deterioration of firearms or ammunition stored or transported pursuant to section 7 or 8 of P.L.2018, c.35 (C.2C:58-26 or C.2C:58-27) unless the damage or deterioration resulted from recklessness, gross negligence, or intentional misconduct by the law enforcement agency.</p> <p><b>c.</b> The immunity provided in subsections a. and b. of this section shall be in addition to any privileges or immunities provided pursuant to any other law.</p> <p><b>§ 2C:58-23. Filing of temporary extreme risk protection order</b></p> <p><b>a.</b> Except as provided in subsection l. of this section, a petitioner may file a petition, as prescribed by the Administrative Director of the Courts, for a temporary extreme risk protective order in the court in accordance with the Rules of Court alleging that the respondent poses a significant danger of bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm. The petition shall be heard by the court in an expedited manner.</p> <p>Petition forms shall be readily available at the courts, and at State, county, and municipal law enforcement agencies.</p> <p>Prior to filing a petition with the court, a family or household member may request assistance from a State, county, or municipal law enforcement agency which shall advise the petitioner of the procedure for completing and signing a petition for a temporary extreme risk protective order. A law enforcement officer from the agency may assist the family or household member in preparing or filing the petition. This assistance may include, but not be limited to, providing information related to the factors set forth in subsection f. of this section, joining in the petition, referring the matter to another law enforcement agency for additional assistance, or filing the officer's own petition with the court.</p> <p>Filing a petition pursuant to this section shall not prevent a petitioner from filing a criminal complaint or applying for a restraining order pursuant to the "Prevention of Domestic Violence Act of 1991," P.L. 1991, c. 261 (C.2C:25-17 et seq.) or prevent any person from taking any action authorized pursuant to P.L.1987, c.116 (C.30:4-27.1 et seq.) based on the circumstances forming the basis of the petition.</p> <p>A petitioner may apply for relief under this section in accordance with the Rules of Court.</p> <p><b>b.</b> A petition for a temporary extreme risk protective order shall include an affidavit setting forth the facts tending to establish the grounds of the petition, or the reason for believing that they exist, and, to the extent available, the number, types, physical description, and locations of any firearms and ammunition currently believed by the petitioner to be controlled or possessed by the respondent.</p> <p><b>c.</b> The court shall not charge a fee to file the petition.</p> <p><b>d.</b> The court, before issuing a temporary extreme risk protective order, shall examine under oath the petitioner and any witness the petitioner may produce. The court, in lieu of examining the petitioner and any witness, may rely on an affidavit submitted in support of the petition.</p> <p><b>e.</b> A judge shall issue the order if the court finds good cause to believe that the respondent poses an immediate and present danger of causing bodily injury to the respondent or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm.</p>
--	---

<p>When a temporary or final order is issued, respondent must surrender to local law enforcement all firearms, ammunition, firearms purchaser identification cards, and permits to purchase or carry handguns.</p> <p>If the petition indicates that respondent has any firearms or ammunition, a warrant is issued alongside the order to search for and seize all firearms and ammunition. The officer serving the order will request that respondent immediately surrender all firearms and ammunition. Respondent may request that the agency sell the seized firearms and ammunition to a federally licensed firearms dealer.</p> <p><b>Firearm disposal process:</b> If a law enforcement agency still holds firearms or ammunition at least a year after the order has expired, the agency may destroy them according to their own policies and procedures.</p> <p><b>Limitations on liability:</b> Law enforcement officers have civil and criminal immunity for good faith choices not to file petitions. Law enforcement agencies have civil and criminal immunity for damage done to firearms or ammunition unless the damage was intentional or a result of recklessness or gross negligence.</p> <p><b>Return/transfer of firearms:</b> When an order is terminated, respondent may petition the law enforcement agency for return of their firearms or ammunition. The agency must return the items within 30 days unless the item has been reported as stolen or respondent is otherwise prohibited from possessing it.</p> <p><b>Warrant authority:</b> If the petition indicates respondent has any firearms or ammunition, the court must order a search warrant for those firearms or ammunition. If respondent fails to surrender any firearms or ammunition after being served with an ERPO, the court may issue a search warrant.</p>	<p><b>f.</b> The county prosecutor or a designee of the county prosecutor shall produce in an expedited manner any available evidence including, but not limited to, available evidence related to the factors set forth in this section, and the court shall consider whether the respondent:</p> <ol style="list-style-type: none"> <li>(1) has any history of threats or acts of violence by the respondent directed toward self or others;</li> <li>(2) has any history of use, attempted use, or threatened use of physical force by the respondent against another person;</li> <li>(3) is the subject of a temporary or final restraining order or has violated a temporary or final restraining order issued pursuant to the “Prevention of Domestic Violence Act of 1991,” P.L.1991, c.261 (C.2C:25-17 et seq.);</li> <li>(4) is the subject of a temporary or final protective order or has violated a temporary or final protective order issued pursuant to the “Sexual Assault Survivor Protection Act of 2015,” P.L.2015, c.147 (C.2C:14-13 et al.);</li> <li>(5) has any prior arrests, pending charges, or convictions for a violent indictable crime or disorderly persons offense, stalking offense pursuant to section 1 of P.L.1992, c.209 (C.2C:12-10), or domestic violence offense enumerated in section 3 of P.L.1991, c.261 (C.2C:25-19);</li> <li>(6) has any prior arrests, pending charges, or convictions for any offense involving cruelty to animals or any history of acts involving cruelty to animals;</li> <li>(7) has any history of drug or alcohol abuse and recovery from this abuse; or</li> <li>(8) has recently acquired a firearm, ammunition, or other deadly weapon.</li> </ol> <p><b>g.</b> The temporary extreme risk protective order shall prohibit the respondent from having custody or control of, owning, purchasing, possessing, or receiving firearms or ammunition, and from securing or holding a firearms purchaser identification card or permit to purchase a handgun pursuant to N.J.S.2C:58-3, or a permit to carry a handgun pursuant to N.J.S.2C:58-4 during the period the protective order is in effect and shall order the respondent to surrender firearms and ammunition in the respondent’s custody or control, or which the respondent possesses or owns, and any firearms purchaser identification card, permit to purchase a handgun, or permit to carry a handgun held by the respondent in accordance with section 7 of P.L.2018, c.35 (C.2C:58-26). Any card or permit issued to the respondent shall be immediately revoked pursuant to subsection f. of N.J.S.2C:58-3.</p> <p><b>h.</b> A temporary extreme risk protective order issued under this section shall remain in effect until a court issues a further order.</p> <p><b>i.</b> The court that issues the temporary extreme risk protective order shall immediately forward:</p> <ol style="list-style-type: none"> <li>(1) a copy of the order to the petitioner and county prosecutor in the county in which the respondent resides; and</li> <li>(2) a copy of the order and the petition to the appropriate law enforcement agency in the municipality in which the respondent resides, which shall immediately, or as soon as practicable, serve it on the respondent.</li> </ol> <p>If personal service cannot be effected upon the respondent, the court may order other appropriate substituted service. At no time shall a petitioner who is a family or household member be asked or required to serve any</p>
---	--

	<p><b>Venue:</b> If respondent is a law enforcement officer, the petition must be filed in the agency at which respondent is employed. In that case, the agency will conduct an internal investigation and then the county prosecutor will decide whether to refer it to the court.</p> <p>The statute is otherwise silent.</p>	<p>order on the respondent. The law enforcement agency serving the <b>order shall not charge a fee</b> or seek reimbursement from the petitioner for service of the order.</p> <p><b>j.</b> Notice of temporary extreme risk protective orders issued pursuant to this section shall be sent by the county prosecutor to the appropriate chiefs of police, members of the State Police, and any other appropriate law enforcement agency or court.</p> <p><b>k.</b> Any temporary extreme risk protective order issued pursuant to this section shall be in effect throughout the State, and shall be enforced by all law enforcement officers.</p> <p><b>l.</b></p> <p><b>(1)</b> A petition for a temporary extreme risk protective order filed against a law enforcement officer shall be filed in the law enforcement agency in which the officer is employed. The law enforcement officer or employee receiving the petition shall advise the petitioner of the procedure for completing and signing a petition.</p> <p><b>(2)</b> Upon receipt of the petition, the law enforcement officer’s employer shall immediately initiate an internal affairs investigation.</p> <p><b>(3)</b> The disposition of the internal affairs investigation shall immediately be served upon the county prosecutor who shall make a determination whether to refer the matter to the courts.</p> <p><b>(4)</b> The law enforcement officer’s employer shall take appropriate steps to implement any findings set forth in the disposition of the internal affairs investigation.</p> <p>The law enforcement officer shall not be terminated during the pendency of the internal affairs investigation.</p> <p><b>§ 2C:58-24. Final extreme risk protective order</b></p> <p><b>a.</b> A hearing for a final extreme risk protective order shall be held in the Superior Court in accordance with the Rules of Court within 10 days of the filing of a petition pursuant to subsection a. of section 4 of P.L.2018, c.35 (C.2C:58-23). A copy of the petition shall be served on the respondent in accordance with the Rules of Court.</p> <p><b>b.</b> The county prosecutor shall produce in an expedited manner any available evidence including, but not limited to, evidence related to the factors enumerated in subsection f. of section 4 of P.L.2018, c.35 (C.2C:58-23). If the court finds by a preponderance of the evidence at the hearing that the respondent poses a significant danger of bodily injury to the respondent’s self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm, the court shall issue an extreme risk protective order.</p> <p><b>c.</b> When deciding whether to issue the order, the court shall consider the factors enumerated in subsection f. of section 4 of P.L.2018, c.35 (C.2C:58-23), as well as any other relevant evidence.</p> <p><b>d.</b> An extreme risk protective order issued pursuant to this section shall prohibit the respondent from having custody or control of, owning, purchasing, possessing, or receiving a firearm. A respondent who is a law enforcement officer shall be subject to the provisions of subsection l. of section 4 of P.L.2018, c.35 (C.2C:58-23).</p> <p><b>§ 2C:58-25. Termination of final extreme risk protective order</b></p>
--	---	--

Upon request of the petitioner or respondent, in a form prescribed by the Administrative Office of the Courts, the court may terminate a final extreme risk protective order issued pursuant to section 5 of P.L.2018, c.35 (C.2C:58-24) if:

- a. the petitioner or respondent, as the case may be, has received notice in accordance with the Rules of Court;
- b. the appropriate law enforcement agency and the county prosecutor have been notified; and
- c. a hearing has been held by the court.

The petition for termination of the order may be filed at any time following the issuance of the order. During the hearing, the court shall consider the factors enumerated in subsection f. of section 4 of P.L.2018, c.35 (C.2C:58-23), as well as any other relevant evidence including, but not limited to, whether the respondent has received, or is receiving, mental health treatment.

If the respondent petitioned for termination, the respondent shall bear the burden at the hearing of proving by a preponderance of the evidence that the respondent no longer poses a significant danger of causing bodily injury to the respondent's self or to other persons by having custody or control of, owning, possessing, purchasing, or receiving a firearm.

**§ 2C:58-26. Surrender of firearms upon issuance of order**

a. When a temporary or final extreme risk protective order is issued pursuant to section 4 or 5 of P.L.2018, c.35 (C.2C:58-23 or C.2C:58-24), the court shall order the respondent to surrender to the local law enforcement agency all firearms and ammunition in the respondent's custody or control, or which the respondent owns or possesses, and any firearms purchaser identification card, permit to purchase a handgun, or permit to carry a handgun held by the respondent. The court also shall notify the respondent that the respondent is prohibited from purchasing firearms or ammunition or applying for a firearms purchaser identification card, permit to purchase a handgun, or permit to carry a handgun.

b. If the petition for the temporary extreme risk protective order indicates that the respondent owns or possesses any firearms or ammunition, the court shall issue a search warrant with the temporary or final extreme risk protective order and the law enforcement officer who serves the order shall request that all firearms and ammunition immediately be surrendered.

(1) The respondent immediately shall surrender, in a safe manner, all firearms and ammunition in the respondent's custody or control, or which the respondent owns or possesses, and any firearms purchaser identification card, permit to purchase a handgun, or permit to carry a handgun held by the respondent to the control of the law enforcement officer.

(2) The respondent may request that the law enforcement agency sell all firearms and ammunition in a safe manner to a federally licensed firearms dealer pursuant to section 8 of P.L.2018, c.35 (C.2C:58-27).

(3) The law enforcement officer or licensed firearms dealer taking possession of any firearms or ammunition pursuant to this subsection shall issue a receipt identifying all firearms and ammunition that have been surrendered by the respondent. The officer or dealer shall provide a copy of the receipt to the respondent at the time of surrender.

		<p>(4) If the respondent surrenders firearms and ammunition to a law enforcement officer pursuant to paragraph (1) of this subsection or surrenders or sells firearms and ammunition to a licensed dealer pursuant to paragraph (2) of this subsection, the respondent shall, within 48 hours after being served with the order, file the receipt with the county prosecutor. Failure to timely file the receipt or copy of the receipt shall constitute contempt of the order.</p> <p>c. The court which issued the protective order may issue a search warrant for a firearm or ammunition that is in the custody or control of, owned, or possessed by a respondent who is subject to a temporary or final protective order issued pursuant to section 4 or 5 of P.L.2018, c.35 (C.2C:58-23 or C.2C:58-24) if the respondent has lawfully been served with that order and has failed to surrender the firearm or ammunition as required by this section.</p> <p>d. The respondent may petition the agency for the return of any surrendered firearms or ammunition upon termination of an order pursuant to section 6 of P.L.2018, c.35 (C.2C:58-25). Within 30 days of receiving a petition for the return of surrendered firearms or ammunition and after the termination of the order, the agency shall return the firearm or ammunition unless:</p> <ol style="list-style-type: none"> <li>(1) the firearm has been reported as stolen; or</li> <li>(2) the respondent is prohibited from possessing a firearm under State or federal law.</li> </ol> <p>Nothing in this act shall prohibit revocation and seizure of a person's firearms purchaser identification card, permit to purchase a handgun, permit to carry a handgun, and weapons as authorized pursuant to applicable law.</p> <p>e. If a person other than the respondent claims title to any firearm or ammunition surrendered pursuant to this section, and the law enforcement agency determines that the person is the lawful owner of the firearm or ammunition, the firearm or ammunition shall be returned to that person.</p> <p>f. If the respondent has surrendered a firearm or ammunition to a federally licensed firearms dealer, after termination of the order, the respondent may request the law enforcement agency, in writing, to authorize the return of the firearm or ammunition from the dealer. The dealer shall transfer the firearm or ammunition to the respondent in accordance with procedures required when a firearm or ammunition is being sold from the dealer's inventory in accordance with N.J.S.2C:58-2.</p> <p><b>§ 2C:58-27. Transfer, sale of surrendered firearms</b></p> <p>A respondent who has surrendered any firearm or ammunition to a law enforcement agency pursuant to P.L.2018, c.35 (C.2C:58-20 et al.) who does not want the firearm or ammunition returned or is no longer eligible to own or possess a firearm or ammunition may sell or transfer title of the firearm or ammunition to a federally licensed firearms dealer. The agency shall transfer possession of the firearm or ammunition to a licensed dealer only after the dealer has displayed written proof of transfer of the firearm or ammunition from the respondent to the dealer and the agency has verified the transfer with the respondent.</p> <p><b>§ 2C:58-28. Destruction of firearms permitted</b></p> <p>A law enforcement agency holding any firearm or ammunition surrendered pursuant to P.L.2018, c.35 (C.2C:58-20 et al.) for more than one year after the termination of the extreme risk protective order</p>
--	--	--

		<p>may destroy the firearm or ammunition in accordance with the policies and procedures of the agency for destruction of firearms or ammunition.</p> <p><b>§ 2C:58-29. Violations considered offense; contempt proceedings</b></p> <p>A violation by the respondent of an order issued pursuant to section 4 or 5 of P.L.2018, c.35 (C.2C:58-23 or C.2C:58-24) shall constitute an offense under subsection e. of N.J.S.2C:29-9 and each order shall so state. All contempt proceedings conducted pursuant to N.J.S.2C:29-9 involving an extreme risk protective order shall be heard by the Superior Court. All contempt proceedings brought pursuant to P.L.2018, c.35 (C.2C:58-20 et al.) shall be made in accordance with the Rules of Court.</p> <p><b>§ 2C:58-30. Electronic central registry</b></p> <p><b>a.</b> The Administrative Office of the Courts shall include all persons who have had a final extreme risk protective order entered against them pursuant to section 5 of P.L.2018, c.35 (C.2C:58-24), and all persons who have been charged with a violation of a temporary or final extreme risk protective order issued pursuant to section 4 or 5 of P.L.2018, c.35 (C.2C:58-23 or C.2C:58-24), in an electronic central registry created and maintained by the Administrative Office of the Courts. All records made pursuant to this section shall be kept confidential and shall be released only to a police or other law enforcement agency investigating a report of a crime, offense, or act of domestic violence, or conducting a background investigation involving a person’s application for a firearms purchaser identification card or permit to purchase a handgun or employment as a police or law enforcement officer, or for any other purpose authorized by law or the Supreme Court of the State of New Jersey. A respondent’s information, other than information related to a violation of a temporary or final order issued pursuant to section 4 or 5 of P.L.2018, c.35 (C.2C:58-23 or C.2C:58-24), shall be removed from the registry upon the termination of the extreme risk protective order.</p> <p><b>b.</b> Any person who disseminates or discloses a record or report of the central registry for a purpose other than the purposes authorized in this section or as otherwise authorized by law or the Supreme Court of the State of New Jersey is guilty of a crime of the fourth degree.</p> <p><b>§ 2C:58-31. Rules of Court</b></p> <p>The Supreme Court may promulgate Rules of Court to effectuate the purposes of the “Extreme Risk Protective Order Act of 2018,” P.L.2018, c.35 (C.2C:58-20 et al.).</p> <p><b>§ 2C:58-32. Rules, regulations</b></p> <p>The Attorney General may adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of the “Extreme Risk Protective Order Act of 2018,” P.L.2018, c.35 (C.2C:58-20 et al.).</p>
--	--	---

<p><b>NEVADA</b>  <a href="#">2019 Nev. ALS 622, 2019 Nev. Stat. 622, 2019 Nev. Ch. 622, 2019 Nev. AB 291</a></p> <p><b><u>Types of Orders</u></b>  <b>Ex Parte Order (Order of protection against high-risk behavior)</b>  <b>Extended Order (Order of protection against high-risk behavior)</b></p>	<p><b>Persons eligible to petition:</b></p> <p>Law enforcement</p> <p>“Family or household member” means, with respect to an adverse party, any:</p> <ol style="list-style-type: none"> <li>1. Person related by blood, adoption or marriage to the adverse party within the first degree of consanguinity;</li> <li>2. Person who has a child in common with the adverse party, regardless of whether the person has been married to the adverse party or has lived together with the adverse party at any time;</li> <li>3. Domestic partner of the adverse party;</li> <li>4. Person who has a biological or legal parent and child relationship with the adverse party, including, without limitation, a natural parent, adoptive parent, stepparent, stepchild, grandparent or grandchild;</li> <li>5. Person who is acting or has acted as a guardian to the adverse party; or</li> <li>6. Person who is currently in a dating or ongoing intimate relationship with the adverse party.</li> </ol> <p><b>Standard of Proof:</b></p> <p>Ex Parte Order: Probable cause to believe that a person poses a risk of causing personal injury to himself or herself or another person by possessing or having under his or her custody or control or by purchasing or otherwise acquiring any firearm.</p> <p>Extended Order: The court shall issue an extended order if the court finds by clear and convincing evidence from facts shown by a verified application filed pursuant to section 11 of this act:</p> <p><b>Evidence required:</b></p> <p>High-risk behavior occurs when a person:</p> <ol style="list-style-type: none"> <li>(a) Uses, attempts to use or threatens the use of physical force against another person;</li> </ol>	<p>THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:</p> <p>Section 1. Chapter 33 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 22, inclusive, of this act.</p> <p>Sec. 2. As used in sections 2 to 22, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 9, inclusive, of this act have the meanings ascribed to them in those sections.</p> <p>Sec. 3. (Deleted by amendment.)</p> <p>Sec. 4. “Adverse party” means a natural person who is named in an application for an order of protection against high-risk behavior.</p> <p>Sec. 5. “Ex parte order” means an ex parte order for protection against high-risk behavior.</p> <p>Sec. 6. “Extended order” means an extended order for protection against high-risk behavior.</p> <p>Secs. 7 and 8. (Deleted by amendment.)</p> <p>Sec. 9. “Family or household member” means, with respect to an adverse party, any:</p> <ol style="list-style-type: none"> <li>1. Person related by blood, adoption or marriage to the adverse party within the first degree of consanguinity;</li> <li>2. Person who has a child in common with the adverse party, regardless of whether the person has been married to the adverse party or has lived together with the adverse party at any time;</li> <li>3. Domestic partner of the adverse party;</li> <li>4. Person who has a biological or legal parent and child relationship with the adverse party, including, without limitation, a natural parent, adoptive parent, stepparent, stepchild, grandparent or grandchild;</li> <li>5. Person who is acting or has acted as a guardian to the adverse party; or</li> <li>6. Person who is currently in a dating or ongoing intimate relationship with the adverse party.</li> </ol> <p>Sec. 10. 1. High-risk behavior occurs when a person:</p> <ol style="list-style-type: none"> <li>(a) Uses, attempts to use or threatens the use of physical force against another person;</li> <li>(b) Communicates a threat of imminent violence toward himself or herself or against another person;</li> <li>(c) Commits an act of violence directed toward himself or herself or another person;</li> <li>(d) Engages in a pattern of threats of violence or acts of violence against himself or herself or another person, including, without limitation, threats of violence or acts of violence that have caused another person to be in reasonable fear of physical harm to himself or herself;</li> </ol>
--	---	--

	<p>(b) Communicates a threat of imminent violence toward himself or herself or against another person;</p> <p>(c) Commits an act of violence directed toward himself or herself or another person;</p> <p>(d) Engages in a pattern of threats of violence or acts of violence against himself or herself or another person, including, without limitation, threats of violence or acts of violence that have caused another person to be in reasonable fear of physical harm to himself or herself;</p> <p>(e) Exhibits conduct which a law enforcement officer reasonably determines would present a serious and imminent threat to the safety of the public;</p> <p>(f) Engages in conduct which presents a danger to himself or herself or another person while:</p> <p>(1) In possession, custody or control of a firearm; or</p> <p>(2) Purchasing or otherwise acquiring a firearm;</p> <p>(g) Abuses a controlled substance or alcohol while engaging in high-risk behavior as described in this section; or</p> <p>(h) Acquires a firearm or other deadly weapon within the immediately preceding 6 months before the person otherwise engages in high-risk behavior as described in this section.</p> <p>2. For the purposes of this section, a person shall be deemed to engage in high-risk behavior if he or she has previously been convicted of:</p> <p>(a) Violating a temporary or extended order for protection against domestic violence issued pursuant to <a href="#">NRS 33.020</a>;</p> <p>(b) Violating a temporary or extended order for protection against sexual assault issued pursuant to <a href="#">NRS 200.378</a>; or</p> <p>(c) A crime of violence, as defined in <a href="#">NRS 200.408</a>, punishable as a felony.</p> <p><b>Duration of order:</b> Ex parte: Not to exceed 7 days as the court permits Extended order: up to 1 year</p>	<p>(e) Exhibits conduct which a law enforcement officer reasonably determines would present a serious and imminent threat to the safety of the public;</p> <p>(f) Engages in conduct which presents a danger to himself or herself or another person while:</p> <p>(1) In possession, custody or control of a firearm; or</p> <p>(2) Purchasing or otherwise acquiring a firearm;</p> <p>(g) Abuses a controlled substance or alcohol while engaging in high-risk behavior as described in this section; or</p> <p>(h) Acquires a firearm or other deadly weapon within the immediately preceding 6 months before the person otherwise engages in high-risk behavior as described in this section.</p> <p>2. For the purposes of this section, a person shall be deemed to engage in high-risk behavior if he or she has previously been convicted of:</p> <p>(a) Violating a temporary or extended order for protection against domestic violence issued pursuant to <a href="#">NRS 33.020</a>;</p> <p>(b) Violating a temporary or extended order for protection against sexual assault issued pursuant to <a href="#">NRS 200.378</a>; or</p> <p>(c) A crime of violence, as defined in <a href="#">NRS 200.408</a>, punishable as a felony.</p> <p>Sec. 11.</p> <p>1. A law enforcement officer who has probable cause to believe that a person poses a risk of causing personal injury to himself or herself or another person by possessing or having under his or her custody or control or by purchasing or otherwise acquiring any firearm may file a verified application for an ex parte or extended order.</p> <p>2. A family or household member who reasonably believes that a person poses a risk of causing personal injury to himself or herself or another person by possessing or having under his or her custody or control or by purchasing or otherwise acquiring any firearm may file a verified application for an ex parte or extended order.</p> <p>3. A verified application filed pursuant to this section must include, without limitation:</p> <p>(a) The name of the person seeking the order and whether he or she is requesting an ex parte order or an extended order;</p> <p>(b) The name and address, if known, of the person who is alleged to pose a risk pursuant to subsection 1 or 2; and</p> <p>(c) A detailed description of the conduct and acts that constitute high-risk behavior and the dates on which the high-risk behavior occurred.</p> <p>4. Service of an application for an extended order and the notice of hearing thereon must be served upon the adverse party pursuant to the Nevada Rules of Civil Procedure.</p> <p>Sec. 12.</p> <p>1. The court shall issue an ex parte order if the court finds by a preponderance of the evidence from facts shown by a verified application filed pursuant to section 11 of this act:</p> <p>(a) That a person poses an imminent risk of causing personal injury to himself or herself or another person by possessing or having under his or her custody or control or by purchasing or otherwise acquiring any firearm;</p> <p>(b) The person engaged in high-risk behavior; and</p> <p>(c) Less restrictive options have been exhausted or are not effective.</p> <p>2. The court may require the person who filed the verified application or the adverse party, or both, to appear before the court before determining whether to issue an ex parte order.</p> <p>3. An ex parte order may be issued with or without notice to the adverse party.</p> <p>4. Except as otherwise provided in this subsection, a hearing must not be held by telephone. The court shall hold a hearing on the ex parte order and shall issue or deny the ex parte order on the day the verified application is filed or the judicial day immediately following the day the verified application is filed. If the verified application</p>
--	--	---

<p><b>Service procedures:</b> The court shall transmit, by the end of the next business day after an ex parte or extended order is issued or renewed, a copy of the order to the appropriate law enforcement agency. The court shall order the appropriate law enforcement agency to serve, without charge, the adverse party personally with the ex parte or extended order and file with or mail to the clerk of the court proof of service by the end of the next business day after service is made. If, while attempting to serve the adverse party personally pursuant to subsection 2, the health or safety of the officer or the adverse party is put at risk because of any action of the adverse party, the law enforcement officer is under no duty to continue to attempt to serve the adverse party personally and the service shall be deemed unsuccessful. If such service is unsuccessful, the law enforcement agency shall, as soon as practicable after the risk has subsided, attempt to serve the adverse party personally until the ex parte or extended order is successfully served.</p> <p>Service of an application for an extended order and the notice of hearing thereon must be served upon the adverse party pursuant to the Rules of Civil Procedure.</p> <p><b>Notification procedures for people at risk: [silent]</b></p> <p><b>Renewal/Termination:</b> The family or household member or law enforcement officer who filed the verified application or the adverse party may request in writing to appear and move for the dissolution of an ex parte or extended order. Upon a finding by clear and convincing evidence that the adverse party no longer poses a risk of causing personal injury to himself or herself or another person by possessing or having under his or her custody or control or by purchasing or otherwise acquiring any firearm, the court shall</p>	<p>is filed by a law enforcement officer, the court may hold the hearing on the ex parte order by telephone, which must be recorded in the presence of the magistrate or in the immediate vicinity of the magistrate by a certified court reporter or by electronic means. Any such recording must be transcribed, certified by the reporter if the reporter made the recording and certified by the magistrate. The certified transcript must be filed with the clerk of the court.</p> <p>5. A hearing on an application for an ex parte order must be held within 7 calendar days after the date on which the verified application for the order is filed.</p> <p>6. In a county whose population is 100,000 or more, the court shall be available 24 hours a day, 7 days a week, including nonjudicial days and holidays, to receive communications by telephone and for the issuance of an ex parte order pursuant to subsection 4.</p> <p>7. In a county whose population is less than 100,000, the court may be available 24 hours a day, 7 days a week, including nonjudicial days and holidays, to receive communications by telephone and for the issuance of an ex parte order pursuant to subsection 4.</p> <p>8. The clerk of the court shall inform the applicant and the adverse party upon the successful transfer of information concerning the registration to the Central Repository for Nevada Records of Criminal History as required pursuant to <a href="#">NRS 33.095</a>.</p> <p>Sec. 13.</p> <p>1. The court shall issue an extended order if the court finds by clear and convincing evidence from facts shown by a verified application filed pursuant to section 11 of this act:</p> <p>(a) That a person poses a risk of causing personal injury to himself or herself or another person by possessing or having under his or her custody or control or by purchasing or otherwise acquiring any firearm;</p> <p>(b) The person engaged in high-risk behavior; and</p> <p>(c) Less restrictive options have been exhausted or are not effective.</p> <p>2. A hearing on an application for an extended order must be held within 7 calendar days after the date on which the application for the extended order is filed.</p> <p>3. The clerk of the court shall inform the applicant and the adverse party upon the successful transfer of information concerning the registration to the Central Repository for Nevada Records of Criminal History as required pursuant to <a href="#">NRS 33.095</a>.</p> <p>Sec. 14.</p> <p>Each ex parte or extended order issued pursuant to section 12 or 13 of this act must:</p> <p>1. Require the adverse party to surrender any firearm in his or her possession or under his or her custody or control in the manner set forth in section 15 of this act.</p> <p>2. Prohibit the adverse party from possessing or having under his or her custody or control any firearm while the order is in effect.</p> <p>3. Include a provision ordering any law enforcement officer to arrest the adverse party with a warrant, or without a warrant if the officer has probable cause to believe that the person has been served with a copy of the order and has violated a provision of the order.</p> <p>4. State the reasons for the issuance of the order.</p> <p>5. Include instructions for surrendering any firearm as ordered by the court.</p> <p>6. State the time and date on which the order expires.</p> <p>7. Require the adverse party to surrender any permit issued pursuant to <a href="#">NRS 202.3657</a>.</p> <p>8. Include the following statement: WARNING</p>
--	---

	<p>dissolve the order. If the court finds that all parties agree to dissolve the order, the court shall dissolve the order upon a finding of good cause.</p> <p>Not less than 3 months before the expiration of an extended order and upon petition by a family or household member or law enforcement officer, the court may, after notice and a hearing, renew an extended order upon a finding by clear and convincing evidence. Such an order expires within a period, not to exceed 1 year, as the court fixes.</p> <p><b>Filing fees:</b> The order is silent of filing fees. The clerk of the court shall issue, without fee, a copy of the ex parte or extended order to any family or household member who files a verified application or the adverse party.</p> <p><b>Firearm prohibition:</b> Ex Parte or extended order: 1. Require the adverse party to surrender any firearm in his or her possession or under his or her custody or control. 2. Prohibit the adverse party from possessing or having under his or her custody or control any firearm while the order is in effect.</p> <p><b>Firearms relinquishment process:</b> After a court orders an adverse party to surrender any firearm pursuant the adverse party shall, immediately after service of the order: Surrender any firearm in his or her possession or under his or her custody or control to the appropriate law enforcement agency designated by the court in the order; or Surrender any firearm in his or her possession or under his or her custody or control to a person, other than a person who resides with the</p>	<p>This is an official court order. If you disobey this order, you may be arrested and prosecuted for the crime of violating an ex parte or extended order and any other crime that you may have committed in disobeying this order.</p> <p>Sec. 15. 1. After a court orders an adverse party to surrender any firearm pursuant to section 14 of this act, the adverse party shall, immediately after service of the order: (a) Surrender any firearm in his or her possession or under his or her custody or control to the appropriate law enforcement agency designated by the court in the order; or (b) Surrender any firearm in his or her possession or under his or her custody or control to a person, other than a person who resides with the adverse party, designated by the court in the order. 2. If the court orders the adverse party to surrender any firearm to a law enforcement agency pursuant to paragraph (a) of subsection 1, the law enforcement agency shall provide the adverse party with a receipt which includes a description of each firearm surrendered and the adverse party shall, not later than 72 hours or 1 business day, whichever is later, after surrendering any such firearm, provide the original receipt to the court. The law enforcement agency shall store any such firearm or may contract with a licensed firearm dealer to provide storage. 3. If the court orders the adverse party to surrender any firearm to a person designated by the court pursuant to paragraph (b) of subsection 1, the adverse party shall, not later than 72 hours or 1 business day, whichever is later, after surrendering any such firearm, provide to the court and the appropriate law enforcement agency the name and address of the person designated in the order and a written description of each firearm surrendered. 4. If there is probable cause to believe that the adverse party has not surrendered any firearm in his or her possession or under his or her custody or control within the time set forth in subsections 2 and 3, the court may issue and deliver to any law enforcement officer a search warrant which authorizes the officer to enter and search any place where there is probable cause to believe any such firearm is located and seize the firearm. 5. If, while executing a search warrant pursuant to subsection 4, the health or safety of the officer or the adverse party is put at risk because of any action of the adverse party, the law enforcement officer is under no duty to continue to attempt to execute the search warrant and the execution of the warrant shall be deemed unsuccessful. If such execution is unsuccessful, the law enforcement agency shall, as soon as practicable after the risk has subsided, attempt to execute the search warrant until the search warrant is successfully executed. 6. A law enforcement agency shall return any surrendered or seized firearm to the adverse party: (a) In the manner provided by the policies and procedures of the law enforcement agency; (b) After confirming that: (1) The adverse party is eligible to own or possess a firearm under state and federal law; and (2) Any ex parte or extended order issued pursuant to section 12 or 13 of this act is dissolved or no longer in effect; and (c) As soon as practicable but not more than 14 days after the dissolution of an ex parte or extended order. 7. If a person other than the adverse party claims title to any firearm surrendered or seized pursuant to this section and he or she is determined by the law enforcement agency to be the lawful owner, the firearm must be returned to him or her, if: (a) The lawful owner agrees to store the firearm in a manner such that the adverse party does not have access to or control of the firearm; and (b) The law enforcement agency determines that: (1) The firearm is not otherwise unlawfully possessed by the lawful owner; and (2) The person is eligible to own or possess a firearm under state or federal law. 8. As used in this section, "licensed firearm dealer" means a person licensed pursuant to 18 U.S.C. § 923(a).</p>
--	---	--

	<p>adverse party, designated by the court in the order.</p> <p>If the court orders the adverse party to surrender any firearm to a law enforcement agency pursuant to paragraph (a) of subsection 1, the law enforcement agency shall provide the adverse party with a receipt which includes a description of each firearm surrendered and the adverse party shall, not later than 72 hours or 1 business day, whichever is later, after surrendering any such firearm, provide the original receipt to the court. The law enforcement agency shall store any such firearm or may contract with a licensed firearm dealer to provide storage.</p> <p><b>Firearm disposal process:</b> [Silent]</p> <p><b>Limitation on liability for law enforcement:</b> [Silent]</p> <p><b>Return/Transfer of Firearms:</b> A law enforcement agency shall return any surrendered or seized firearm to the adverse party: (a) In the manner provided by the policies and procedures of the law enforcement agency; (b) After confirming that: (1) The adverse party is eligible to own or possess a firearm under state and federal law; and (2) Any ex parte or extended order is dissolved or no longer in effect.</p> <p><b>Warranty authority:</b> If there is probable cause to believe that the adverse party has not surrendered any firearm in his or her possession or under his or her custody or control within the time set forth in subsections 2 and 3, the court may issue and deliver to any law enforcement officer a search warrant which authorizes the officer to enter</p>	<p>Sec. 16. 1. The clerk of the court or other person designated by the court shall provide any family or household member who files a verified application pursuant to section 11 of this act or any adverse party, free of cost, with information about the: (a) Availability of ex parte or extended orders; (b) Procedures for filing an application for such an order; (c) Procedures for modifying, dissolving or renewing such an order; and (d) Right to proceed without counsel. 2. The clerk of the court or other person designated by the court shall assist any person in completing and filing the application, affidavit and any other paper or pleading necessary to initiate or respond to an application for an ex parte or extended order. This assistance does not constitute the practice of law, but the clerk shall not render any advice or service that requires the professional judgment of an attorney.</p> <p>Sec. 17. 1. The court shall transmit, by the end of the next business day after an ex parte or extended order is issued or renewed, a copy of the order to the appropriate law enforcement agency. 2. The court shall order the appropriate law enforcement agency to serve, without charge, the adverse party personally with the ex parte or extended order and file with or mail to the clerk of the court proof of service by the end of the next business day after service is made. 3. If, while attempting to serve the adverse party personally pursuant to subsection 2, the health or safety of the officer or the adverse party is put at risk because of any action of the adverse party, the law enforcement officer is under no duty to continue to attempt to serve the adverse party personally and the service shall be deemed unsuccessful. If such service is unsuccessful, the law enforcement agency shall, as soon as practicable after the risk has subsided, attempt to serve the adverse party personally until the ex parte or extended order is successfully served. 4. A law enforcement agency shall enforce an ex parte or extended order without regard to the county in which the order was issued. 5. The clerk of the court shall issue, without fee, a copy of the ex parte or extended order to any family or household member who files a verified application pursuant to section 11 of this act or the adverse party.</p> <p>Sec. 18. 1. Whether or not a violation of an ex parte or extended order occurs in the presence of a law enforcement officer, the officer may arrest and take into custody an adverse party: (a) With a warrant; or (b) Without a warrant if the officer has probable cause to believe that: (1) An order has been issued pursuant to section 12 or 13 of this act against the adverse party; (2) The adverse party has been served with a copy of the order; and (3) The adverse party is acting in violation of the order. 2. If a law enforcement officer cannot verify that the adverse party was served with a copy of the application and ex parte or extended order, the officer shall: (a) Inform the adverse party of the specific terms and conditions of the order; (b) Inform the adverse party that he or she has notice of the provisions of the order and that a violation of the order will result in his or her arrest; (c) Inform the adverse party of the location of the court that issued the original order and the hours during which the adverse party may obtain a copy of the order; and</p>
--	--	--

	<p>and search any place where there is probable cause to believe any such firearm is located and seize the firearm.</p> <p>If, while executing a search warrant pursuant to subsection 4, the health or safety of the officer or the adverse party is put at risk because of any action of the adverse party, the law enforcement officer is under no duty to continue to attempt to execute the search warrant and the execution of the warrant shall be deemed unsuccessful. If such execution is unsuccessful, the law enforcement agency shall, as soon as practicable after the risk has subsided, attempt to execute the search warrant until the search warrant is successfully executed.</p> <p><b>Venue:</b> <b>[Silent]</b></p>	<p>(d) Inform the adverse party of the date and time set for a hearing on an application for an ex parte or extended order, if any.</p> <p>3. Information concerning the terms and conditions of the ex parte or extended order, the date and time of any notice provided to the adverse party and the name and identifying number of the law enforcement officer who gave the notice must be provided in writing to the applicant and noted in the records of the law enforcement agency and the court.</p> <p>Sec. 19.</p> <p>1. An ex parte order expires within such time, not to exceed 7 days, as the court fixes. If a verified application for an extended order is filed within the period of an ex parte order or at the same time as an application for an ex parte order pursuant to section 11 of this act, the ex parte order remains in effect until the hearing on the extended order is held.</p> <p>2. An extended order expires within such time, not to exceed 1 year, as the court fixes.</p> <p>3. The family or household member or law enforcement officer who filed the verified application or the adverse party may request in writing to appear and move for the dissolution of an ex parte or extended order. Upon a finding by clear and convincing evidence that the adverse party no longer poses a risk of causing personal injury to himself or herself or another person by possessing or having under his or her custody or control or by purchasing or otherwise acquiring any firearm, the court shall dissolve the order. If the court finds that all parties agree to dissolve the order, the court shall dissolve the order upon a finding of good cause.</p> <p>4. Not less than 3 months before the expiration of an extended order and upon petition by a family or household member or law enforcement officer, the court may, after notice and a hearing, renew an extended order upon a finding by clear and convincing evidence. Such an order expires within a period, not to exceed 1 year, as the court fixes.</p> <p>Sec. 20.</p> <p>1. Any time that a court issues an ex parte or extended order or renews an extended order and any time that a person serves such an order or receives any information or takes any other action pursuant to sections 2 to 22, inclusive, of this act, the person shall, by the end of the next business day:</p> <p>(a) Cause to be transmitted, in the manner prescribed by the Central Repository for Nevada Records of Criminal History, any information required by the Central Repository in a manner which ensures that the information is received by the Central Repository; and</p> <p>(b) Transmit a copy of the order to the Attorney General.</p> <p>2. If the Central Repository for Nevada Records of Criminal History receives any information described in subsection 1, the adverse party may petition the court for an order declaring that the basis for the information transmitted no longer exists.</p> <p>3. A petition brought pursuant to subsection 2 must be filed in the court which issued the ex parte or extended order.</p> <p>4. The court shall grant the petition and issue the order described in subsection 2 if the court finds that the basis for the ex parte or extended order no longer exists.</p> <p>5. The court, upon granting the petition and entering an order pursuant to this section, shall cause, on a form prescribed by the Department of Public Safety, a record of the order to be transmitted to the Central Repository for Nevada Records of Criminal History.</p> <p>6. Within 5 business days after receiving a record of an order transmitted pursuant to subsection 5, the Central Repository for Nevada Records of Criminal History shall take reasonable steps to ensure that the information concerning the adverse party is removed from the Central Repository.</p>
--	---	--

		<p>7. If the Central Repository for Nevada Records of Criminal History fails to remove the information as provided in subsection 6, the adverse party may bring an action to compel the removal of the information. If the adverse party prevails in the action, the court may award the adverse party reasonable attorney’s fees and costs incurred in bringing the action.</p> <p>8. If a petition brought pursuant to subsection 2 is denied, the adverse party may petition for a rehearing not sooner than 2 years after the date of the denial of the petition.</p> <p>Sec. 21.</p> <p>1. A person shall not file a verified application for an ex parte or extended order:</p> <p>(a) Which he or she knows or has reason to know is false or misleading; or</p> <p>(b) With the intent to harass the adverse party.</p> <p>2. A person who violates the provisions of subsection 1 is guilty of a misdemeanor.</p> <p>Sec. 22.</p> <p>A person who intentionally violates an ex parte or extended order is, unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order, guilty of a misdemeanor.</p>
<p><b>NEW YORK</b></p> <p><b>Types of orders:</b></p> <p><b>Temporary extreme risk protection order</b></p> <p><b>Final extreme risk protection order</b></p> <p><a href="#">NY CLS CPLR, Art. 63-A</a> <a href="#">Note et. seq.</a></p> <p><a href="#">N.Y. C.P.L.R. § 6340</a></p>	<p><b>Persons eligible to petition:</b></p> <p>Police officer*</p> <p>District Attorney</p> <p>Family or household member, including: (a) persons related by consanguinity or affinity; (b) persons legally married to one another; (c) persons formerly married to one another regardless of whether they still reside in the same household; (d) persons who have a child in common regardless of whether such persons are married or have lived together at any time; (e) unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household; (f) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors that may be considered in determining whether a relationship is an “intimate relationship” include, but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual</p>	<p><b>Article 63-A Extreme Risk Protection Order</b></p> <p><b>N.Y. Crim. Proc. Law § 1.20. Definitions of terms of general use in this chapter</b></p> <p><b>34. *<u>“Police officer.”</u> The following persons are police officers:</b></p> <p>(a) A sworn member of the division of state police;</p> <p>(b) Sheriffs, under-sheriffs and deputy sheriffs of counties outside of New York City;</p> <p>(c) A sworn officer of an authorized county or county parkway police department;</p> <p>(d) A sworn officer of an authorized police department or force of a city, town, village or police district;</p> <p>(e) A sworn officer of an authorized police department of an authority or a sworn officer of the state regional park police in the office of parks and recreation;</p> <p>(f) A sworn officer of the capital police force of the office of general services;</p> <p>(g) An investigator employed in the office of a district attorney;</p> <p>(h) An investigator employed by a commission created by an interstate compact who is, to a substantial extent, engaged in the enforcement of the criminal laws of this state;</p> <p>(i) The chief and deputy fire marshals, the supervising fire marshals and the fire marshals of the bureau of fire investigation of the New York City fire department;</p> <p>(j) A sworn officer of the division of law enforcement in the department of environmental conservation;</p> <p>(k) A sworn officer of a police force of a public authority created by an interstate compact;</p> <p>(l) Long Island railroad police.</p> <p>(m) A special investigator employed in the statewide organized crime task force, while performing his assigned duties pursuant to <a href="#">section seventy-a of the executive law</a>.</p> <p>(n) A sworn officer of the Westchester county department of public safety services who, on or prior to June thirtieth, nineteen hundred seventy-nine was appointed as a sworn officer of the division of Westchester county parkway police or who was appointed on or after July first, nineteen hundred seventy-nine to the title</p>

<p>acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an "intimate relationship"; or (g) any other category of individuals deemed to be a victim of domestic violence as defined by the office of children and family services in regulation.</p> <p>School administrator or their designee employed at a school respondent attended at some time in the last 6 months, where a designee could be: a school teacher, school guidance counselor, school psychologist, school social worker, school nurse, or other school personnel required to hold a teaching or administrative license or certificate, and full or part-time compensated school employee required to hold a temporary coaching license or professional coaching certificate"</p> <p><b>Standard of proof:</b> Temporary ERPO: probable cause</p> <p>Final ERPO: clear and convincing evidence</p> <p><b>Evidence required:</b> Evidence that respondent is likely to engage in conduct that would result in serious harm to himself, herself or others, as defined in paragraph one or two of subdivision (a) of section 9.39 of the mental hygiene law.</p> <p><b>Length of order:</b> Temporary ERPO: until a hearing on a final order (3-6 days after service of temporary order, unless respondent requests up to 6 extra days)</p> <p>Final ERPO: up to one year, as determined by the court</p> <p><b>Service on respondent:</b> Prompt service must be made by an appropriate law enforcement agency with jurisdiction over respondent's residence, unless petitioner voluntarily arranges a different form of service.</p>	<p>of police officer, sergeant, lieutenant, captain or inspector or who, on or prior to January thirty-first, nineteen hundred eighty-three, was appointed as a Westchester county deputy sheriff.</p> <p>(o) A sworn officer of the water-supply police employed by the city of New York, appointed to protect the sources, works, and transmission of water supplied to the city of New York, and to protect persons on or in the vicinity of such water sources, works, and transmission.</p> <p>(p) Persons appointed as railroad police officers pursuant to <u>section eighty-eight of the railroad law</u>.</p> <p>(q) An employee of the department of taxation and finance (i) assigned to enforcement of the taxes imposed under or pursuant to the authority of article twelve-A of the tax law and administered by the commissioner of taxation and finance, taxes imposed under or pursuant to the authority of article eighteen of the tax law and administered by the commissioner, taxes imposed under article twenty of the tax law, or sales or compensating use taxes relating to petroleum products or cigarettes imposed under article twenty-eight or pursuant to the authority of article twenty-nine of the tax law and administered by the commissioner or (ii) designated as a revenue crimes specialist and assigned to the enforcement of the taxes described in paragraph (c) of subdivision four of section 2.10 of this title, for the purpose of applying for and executing search warrants under article six hundred ninety of this chapter, for the purpose of acting as a claiming agent under article thirteen-A of the civil practice law and rules in connection with the enforcement of the taxes referred to above and for the purpose of executing warrants of arrest relating to the respective crimes specified in subdivision four of section 2.10 of this title.</p> <p>(r) Any employee of the Suffolk county department of parks who is appointed as a Suffolk county park police officer.</p> <p>(s) A university police officer appointed by the state university pursuant to paragraph 1 of subdivision two of <u>section three hundred fifty-five of the education law</u>.</p> <p>(t) A sworn officer of the department of public safety of the Buffalo municipal housing authority who has achieved or been granted the status of sworn police officer and has been certified by the division of criminal justice services as successfully completing an approved basic course for police officers.</p> <p>(u) Persons appointed as Indian police officers pursuant to section one hundred fourteen of the Indian law.</p> <p>(v) Supervisor of forest ranger services; assistant supervisor of forest ranger services; forest ranger 3; forest ranger 2; forest ranger 1 employed by the state department of environmental conservation or sworn officer of the division of forest protection and fire management in the department of environmental conservation responsible for wild land search and rescue, wild land fire management in the state as prescribed in subdivision eighteen of section 9-0105 and title eleven of article nine of the environmental conservation law, exercising care, custody and control of state lands administered by the department of environmental conservation.</p> <p><b>NY CLS CPLR § 6340. Definitions.</b></p> <p>For the purposes of this article:</p> <ol style="list-style-type: none"> <li>1. "Extreme risk protection order" means a court-issued order of protection prohibiting a person from purchasing, possessing or attempting to purchase or possess a firearm, rifle or shotgun.</li> <li>2. "Petitioner" means: (a) a police officer, as defined in section 1.20 of the criminal procedure law, or district attorney with jurisdiction in the county or city where the person against whom the order is sought resides; (b) a family or household member, as defined in subdivision two of section four hundred fifty-nine-a of the social services law, of the person against whom the order is sought; or (c) a school administrator as defined in section</li> </ol>
---	---

<p><b>Notification of persons at risk:</b> When an order expires, petitioner must be given notice and an opportunity to be heard before any firearm is returned to respondent.</p> <p><b>Renewal/Termination of the order:</b> Termination: respondent may make one request to set aside any part of the order. They must prove by clear and convincing evidence that the circumstances have changed in a way to justify the change to the order.</p> <p>Renewal: anyone eligible to make a petition may request renewal up to 60 days before the order is to expire. The court may issue a temporary order during the time they are considering the request for renewal. The renewal hearing follows the same procedure as the hearing for the original final order.</p> <p><b>Filing fees:</b> Statute is silent</p> <p><b>Relief available:</b> Respondent may not purchase, possess, or attempt to purchase or possess a firearm</p> <p><b>Firearm relinquishment process:</b> Respondent must promptly surrender any firearms to an authorized law enforcement official.</p> <p>A law enforcement officer serving an order must request that respondent immediately surrender all firearms in their possession. The officer will take possession of all firearms that are surrendered, are visible in plain sight, or are discovered as part of a lawful search. The order may also include a search warrant.</p> <p><b>Firearm disposal process:</b> Law enforcement may destroy a firearm pursuant to NY CLS Penal § 400.05 but they must wait at least 2 years before doing so.</p> <p><b>Limitations on liability:</b></p>	<p>eleven hundred twenty-five of the education law, or a school administrator’s designee, of any school in which the person against whom the order is sought is currently enrolled or has been enrolled in the six months immediately preceding the filing of the petition. For purposes of this article, a school administrator’s designee shall be employed at the same school as the school administrator and shall be any of the following who has been designated in writing to file a petition with respect to the person against whom the order is sought: a school teacher, school guidance counselor, school psychologist, school social worker, school nurse, or other school personnel required to hold a teaching or administrative license or certificate, and full or part-time compensated school employee required to hold a temporary coaching license or professional coaching certificate.</p> <p>3. “Respondent” means the person against whom an extreme risk protection order is or may be sought under this article.</p> <p>4. “Possess” shall have the same meaning as defined in subdivision eight of section 10.00 of the penal law.</p> <p><b>§ 6341. Application for an extreme risk protection order. [Effective August 24, 2019]</b></p> <p>In accordance with this article, a petitioner may file an application, which shall be sworn, and accompanying supporting documentation, setting forth the facts and circumstances justifying the issuance of an extreme risk protection order. Such application and supporting documentation shall be filed in the supreme court in the county in which the respondent resides. The chief administrator of the courts shall adopt forms that may be used for purposes of such applications and the court’s consideration of such applications. Such application form shall include inquiry as to whether the petitioner knows, or has reason to believe, that the respondent owns, possesses or has access to a firearm, rifle or shotgun and if so, a request that the petitioner list or describe such firearms, rifles and shotguns, and the respective locations thereof, with as much specificity as possible.</p> <p><b>§ 6342. Issuance of a temporary extreme risk protection order.</b></p> <p>1. Upon application of a petitioner pursuant to this article, the court may issue a temporary extreme risk protection order, ex parte or otherwise, to prohibit the respondent from purchasing, possessing or attempting to purchase or possess a firearm, rifle or shotgun, upon a finding that there is probable cause to believe the respondent is likely to engage in conduct that would result in serious harm to himself, herself or others, as defined in paragraph one or two of subdivision (a) of section 9.39 of the mental hygiene law. Such application for a temporary order shall be determined in writing on the same day the application is filed.</p> <p>2. In determining whether grounds for a temporary extreme risk protection order exist, the court shall consider any relevant factors including, but not limited to, the following acts of the respondent:</p> <ul style="list-style-type: none"> <li>(a) a threat or act of violence or use of physical force directed toward self, the petitioner, or another person;</li> <li>(b) a violation or alleged violation of an order of protection;</li> <li>(c) any pending charge or conviction for an offense involving the use of a weapon;</li> <li>(d) the reckless use, display or brandishing of a firearm, rifle or shotgun;</li> <li>(e) any history of a violation of an extreme risk protection order;</li> </ul>
---	--

	<p>Statute is silent.</p> <p><b>Return/transfer of firearms:</b> When an order expires, respondent may submit a written application to receive their firearms. First, notice must be given to petitioner and any licensing officer responsible for issuing firearms licenses to respondent. Then if there are no legal impediments, the firearms will be returned to respondent.</p> <p><b>Warrant authority:</b> A final order may include a warrant directing an officer to search for firearms.</p> <p><b>Venue:</b> Supreme court in respondent's county of residence</p>	<p>(f) evidence of recent or ongoing abuse of controlled substances or alcohol; or</p> <p>(g) evidence of recent acquisition of a firearm, rifle, shotgun or other deadly weapon or dangerous instrument, or any ammunition therefor.</p> <p>In considering the factors under this subdivision, the court shall consider the time that has elapsed since the occurrence of such act or acts and the age of the person at the time of the occurrence of such act or acts.</p> <p>For the purposes of this subdivision, “recent” means within the six months prior to the date the petition was filed.</p> <p>3. The application of the petitioner and supporting documentation, if any, shall set forth the factual basis for the request and probable cause for issuance of a temporary order. The court may conduct an examination under oath of the petitioner and any witness the petitioner may produce.</p> <p>4. A temporary extreme risk protection order, if warranted, shall issue in writing, and shall include:</p> <p>(a) a statement of the grounds found for the issuance of the order;</p> <p>(b) the date and time the order expires;</p> <p>(c) the address of the court that issued the order;</p> <p>(d) a statement to the respondent: (i) directing that the respondent may not purchase, possess or attempt to purchase or possess a firearm, rifle or shotgun while the order is in effect and that any firearm, rifle or shotgun possessed by such respondent shall be promptly surrendered to any authorized law enforcement official in the same manner as set forth in subdivision five of section 530.14 of the criminal procedure law;</p> <p>(ii) informing the respondent that the court will hold a hearing no sooner than three nor more than six business days after service of the temporary order, to determine whether a final extreme risk protection order will be issued and the date, time and location of such hearing, provided that the respondent shall be entitled to more than six days upon request in order to prepare for the hearing; and (iii) informing the respondent the he or she may seek the advice of an attorney and that an attorney should be consulted promptly; and</p> <p>(e) a form to be completed and executed by the respondent at the time of service of the temporary extreme risk protection order which elicits a list of all firearms, rifles and shotguns possessed by the respondent and the particular location of each firearm, rifle or shotgun listed.</p> <p>5. If the application for a temporary extreme risk protection order is not granted, the court shall notify the petitioner and, unless the application is voluntarily withdrawn by the petitioner, nonetheless schedule a hearing on the application for a final extreme risk protection order. Such hearing shall be scheduled to be held promptly, but in any event no later than ten business days after the date on which such application is served on the respondent, provided, however, that the respondent may request, and the court may grant, additional time to allow the respondent to prepare for the hearing. A notice of such hearing shall be prepared by the court and shall include the date and time of the hearing, the address of the court, and the subject of the hearing.</p> <p>6.</p>
--	---	---

		<p>(a) The court shall, in the manner specified in paragraph (b) of this subdivision, arrange for prompt service of a copy of the temporary extreme risk protection order, if any, the application therefor and, if separately applied for or if a temporary extreme risk protection order was not granted, the application for an extreme risk protection order, any notice of hearing prepared by the court, along with any associated papers including the petition and any supporting documentation, provided, that the court may redact the address and contact information of the petitioner from such application and papers where the court finds that disclosure of such address or other contact information would pose an unreasonable risk to the health or safety of the petitioner.</p> <p>(b) The court shall provide copies of such documents to the appropriate law enforcement agency serving the jurisdiction of the respondent's residence with a direction that such documents be promptly served, at no cost to the petitioner, on the respondent; provided, however, that the petitioner may voluntarily arrange for service of copies of such order and associated papers through a third party, such as a licensed process server.</p> <p>7.</p> <p>(a) The court shall notify the division of state police, any other law enforcement agency with jurisdiction, all applicable licensing officers, and the division of criminal justice services of the issuance of a temporary extreme risk protection order and provide a copy of such order no later than the next business day after issuing the order to such persons or agencies. The court also shall promptly notify such persons and agencies and provide a copy of any order amending or revoking such protection order or restoring the respondent's ability to own or possess firearms, rifles or shotguns no later than the next business day after issuing the order to restore such right to the respondent. The court also shall report such demographic data as required by the state division of criminal justice services at the time such order is transmitted thereto. Any notice or report submitted pursuant to this subdivision shall be in an electronic format, in a manner prescribed by the division of criminal justice services.</p> <p>(b) Upon receiving notice of the issuance of a temporary extreme risk protection order, the division of criminal justice services shall immediately report the existence of such order to the federal bureau of investigation to allow the bureau to identify persons prohibited from purchasing firearms, rifles or shotguns. The division shall also immediately report to the bureau the expiration of any such protection order, any court order amending or revoking such protection order or restoring the respondent's ability to purchase a firearm, rifle or shotgun.</p> <p>8. A law enforcement officer serving a temporary extreme risk protection order shall request that the respondent immediately surrender to the officer all firearms, rifles and shotguns in the respondent's possession and the officer shall conduct any search permitted by law for such firearms. The law enforcement officer shall take possession of all firearms, rifles and shotguns that are surrendered, that are in plain sight, or that are discovered pursuant to a lawful search. As part of the order, the court may also direct a police officer to search for firearms, rifles and shotguns in the respondent's possession in a manner consistent with the procedures of article six hundred ninety of the criminal procedure law.</p> <p>9. Upon issuance of a temporary extreme risk protection order, or upon setting a hearing for a final extreme risk protection order where a temporary order is denied or not requested, the court shall direct the law enforcement agency having jurisdiction to conduct a background investigation and report to the</p>
--	--	---

		<p>court and, subject to any appropriate redactions to protect any person, each party regarding whether the respondent:</p> <ul style="list-style-type: none"> <li>(a) has any prior criminal conviction for an offense involving domestic violence, use of a weapon, or other violence;</li> <li>(b) has any criminal charge or violation currently pending against him or her;</li> <li>(c) is currently on parole or probation;</li> <li>(d) possesses any registered firearms, rifles or shotguns; and</li> <li>(e) has been, or is, subject to any order of protection or has violated or allegedly violated any order of protection.</li> </ul> <p><b>§ 6343. Issuance of a final extreme risk protection order</b></p> <p><b>1.</b> In accordance with this article, no sooner than three business days nor later than six business days after service of a temporary extreme risk protection order and, alternatively, no later than ten business days after service of an application under this article where no temporary extreme risk protection order has been issued, the supreme court shall hold a hearing to determine whether to issue a final extreme risk protection order and, when applicable, whether a firearm, rifle or shotgun surrendered by, or removed from, the respondent should be returned to the respondent. The respondent shall be entitled to more than six business days if a temporary extreme risk protection order has been issued and the respondent requests a reasonable period of additional time to prepare for the hearing. Where no temporary order has been issued, the respondent may request, and the court may grant, additional time beyond the ten days to allow the respondent to prepare for the hearing.</p> <p><b>2.</b> At the hearing pursuant to subdivision one of this section, the petitioner shall have the burden of proving, by clear and convincing evidence, that the respondent is likely to engage in conduct that would result in serious harm to himself, herself or others, as defined in paragraph one or two of subdivision (a) of section 9.39 of the mental hygiene law. The court may consider the petition and any evidence submitted by the petitioner, any evidence submitted by the respondent, any testimony presented, and the report of the relevant law enforcement agency submitted pursuant to subdivision nine of section sixty-three hundred forty-two of this article. The court shall also consider the factors set forth in subdivision two of section sixty-three hundred forty-two of this article.</p> <p><b>3.</b></p> <ul style="list-style-type: none"> <li>(a) After the hearing pursuant to subdivision one of this section, the court shall issue a written order granting or denying the extreme risk protection order and setting forth the reasons for such determination. If the extreme risk protection order is granted, the court shall direct service of such order in the manner and in accordance with the protections for the petitioner set forth in subdivision six of section sixty-three hundred forty-two of this article.</li> <li>(b) Upon issuance of an extreme risk protection order: (i) any firearm, rifle or shotgun removed pursuant to a temporary extreme risk protection order or such extreme risk protection order shall be retained by the law enforcement agency having jurisdiction for the duration of the order, unless ownership of the firearm, rifle or shotgun is legally transferred by the respondent to another individual permitted by law to own and possess such firearm, rifle or shotgun; (ii) the supreme court shall temporarily suspend any existing firearm license possessed by the respondent and order</li> </ul>
--	--	--

		<p>the respondent temporarily ineligible for such a license; (iii) the respondent shall be prohibited from purchasing or possessing, or attempting to purchase or possess, a firearm, rifle or shotgun; and (iv) the court shall direct the respondent to surrender any firearm, rifle or shotgun in his or her possession in the same manner as set forth in subdivision five of section 530.14 of the criminal procedure law.</p> <p>(c) An extreme risk protection order issued in accordance with this section shall extend, as specified by the court, for a period of up to one year from the date of the issuance of such order; provided, however, that if such order was immediately preceded by the issuance of a temporary extreme risk protection order, then the duration of the extreme risk protection order shall be measured from the date of issuance of such temporary extreme risk protection order.</p> <p>(d) A law enforcement officer serving a final extreme risk protection order shall request that the respondent immediately surrender to the officer all firearms, rifles and shotguns in the respondent's possession and the officer shall conduct any search permitted by law for such firearms. The law enforcement officer shall take possession of all firearms, rifles and shotguns that are surrendered, that are in plain sight, or that are discovered pursuant to a lawful search. As part of the order, the court may also direct a police officer to search for firearms, rifles and shotguns in a respondent's possession consistent with the procedures of article six hundred ninety of the criminal procedure law.</p> <p><b>4.</b></p> <p>(a) The court shall notify the division of state police, any other law enforcement agency with jurisdiction, all applicable licensing officers, and the division of criminal justice services of the issuance of a final extreme risk protection order and provide a copy of such order to such persons and agencies no later than the next business day after issuing the order. The court also shall promptly notify such persons and agencies and provide a copy of any order amending or revoking such protection order or restoring the respondent's ability to own or possess firearms, rifles or shotguns no later than the next business day after issuing the order to restore such right to the respondent. Any notice or report submitted pursuant to this subdivision shall be in an electronic format, in a manner prescribed by the division of criminal justice services.</p> <p>(b) Upon receiving notice of the issuance of a final extreme risk protection order, the division of criminal justice services shall immediately report the existence of such order to the federal bureau of investigation to allow the bureau to identify persons prohibited from purchasing firearms, rifles or shotguns. The division shall also immediately report to the bureau the expiration of such protection order and any court order amending or revoking such protection order or restoring the respondent's ability to purchase a firearm, rifle or shotgun.</p> <p><b>5.</b></p> <p>(a) If, in accordance with a temporary extreme risk protection order, a firearm, rifle or shotgun has been surrendered by or removed from the respondent, and the supreme court subsequently finds that the petitioner has not met the required standard of proof, the court's finding shall include a written order, issued to all parties, directing that any firearm, rifle or shotgun surrendered or removed pursuant to such temporary order shall be returned to the respondent, upon a written finding that there is no legal impediment to the respondent's possession of such firearm, rifle or shotgun.</p>
--	--	--

(b) If any other person demonstrates that he or she is the lawful owner of any firearm, rifle or shotgun surrendered or removed pursuant to a protection order issued in accordance with this article, and provided that the court has made a written finding that there is no legal impediment to the person's possession of a surrendered or removed firearm, rifle or shotgun, the court shall direct that such firearm, rifle or shotgun be returned to such lawful owner and inform such person of the obligation to safely store such firearm, rifle, or shotgun in accordance with section 265.45 of the penal law.

6. The respondent shall be notified on the record and in writing by the court that he or she may submit one written request, at any time during the effective period of an extreme risk protection order, for a hearing setting aside any portion of such order. The request shall be submitted in substantially the same form and manner as prescribed by the chief administrator of the courts. Upon such request, the court shall promptly hold a hearing, in accordance with this article, after providing reasonable notice to the petitioner. The respondent shall bear the burden to prove, by clear and convincing evidence, any change of circumstances that may justify a change to the order.

**§ 6344. Surrender and removal of firearms, rifles and shotguns pursuant to an extreme risk protection order.**

1. When a law enforcement officer takes any firearm, rifle or shotgun pursuant to a temporary extreme risk protection order or a final extreme risk protection order, the officer shall give to the person from whom such firearm, rifle or shotgun is taken a receipt or voucher for the property taken, describing the property in detail. In the absence of a person, the officer shall leave the receipt or voucher in the place where the property was found, mail a copy of the receipt or voucher, retaining proof of mailing, to the last known address of the respondent and, if different, the owner of the firearm, rifle or shotgun, and file a copy of such receipt or voucher with the court. All firearms, rifles and shotguns in the possession of a law enforcement official pursuant to this article shall be subject to the provisions of applicable law, including but not limited to subdivision six of section 400.05 of the penal law; provided, however, that any such firearm, rifle or shotgun shall be retained and not disposed of by the law enforcement agency for at least two years unless legally transferred by the respondent to an individual permitted by law to own and possess such firearm, rifle or shotgun.

2. If the location to be searched during the execution of a temporary extreme risk protection order or extreme risk protection order is jointly occupied by two or more parties, and a firearm, rifle or shotgun located during the execution of such order is owned by a person other than the respondent, the court shall, upon a written finding that there is no legal impediment to the person other than the respondent's possession of such firearm, rifle or shotgun, order the return of such firearm, rifle or shotgun to such lawful owner and inform such person of their obligation to safely store their firearm, rifle, or shotgun in accordance with section 265.45 of the penal law.

**§ 6345. Request for renewal of an extreme risk protection order.**

1. If a petitioner believes a person subject to an extreme risk protection order continues to be likely to engage in conduct that would result in serious harm to himself, herself, or others, as defined in paragraph one or two of subdivision (a) of section 9.39 of the mental hygiene law, such petitioner may, at any time within sixty days prior to the expiration of such existing extreme risk protection order,

		<p>initiate a request for a renewal of such order, setting forth the facts and circumstances necessitating the request. The chief administrator of the courts shall adopt forms that may be used for purposes of such applications and the court's consideration of such applications. The court may issue a temporary extreme risk protection order in accordance with section sixty-three hundred forty-two of this article, during the period that a request for renewal of an extreme risk protection order is under consideration pursuant to this section.</p> <p><b>2.</b> A hearing held pursuant to this section shall be conducted in the supreme court, in accordance with section sixty-three hundred forty-three of this article, to determine if a request for renewal of the order shall be granted. The respondent shall be served with written notice of an application for renewal a reasonable time before the hearing, and shall be afforded an opportunity to fully participate in the hearing. The court shall direct service of such application and the accompanying papers in the manner and in accordance with the protections for the petitioner set forth in subdivision six of section sixty-three hundred forty-two of this article.</p> <p><b>1.</b> A protection order issued pursuant to this article, and all records of any proceedings conducted pursuant to this article, shall be sealed upon expiration of such order and the clerk of the court wherein such proceedings were conducted shall immediately notify the commissioner of the division of criminal justice services, the heads of all appropriate police departments, applicable licensing officers, and all other appropriate law enforcement agencies that the order has expired and that the record of such protection order shall be sealed and not be made available to any person or public or private entity, except that such records shall be made available to:</p> <ul style="list-style-type: none"> <li>(a) the respondent or the respondent's designated agent;</li> <li>(b) courts in the unified court system;</li> <li>(c) police forces and departments having responsibility for enforcement of the general criminal laws of the state;</li> <li>(d) any state or local officer or agency with responsibility for the issuance of licenses to possess a firearm, rifle or shotgun, when the respondent has made application for such a license; and</li> <li>(e) any prospective employer of a police officer or peace officer as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of the criminal procedure law, in relation to an application for employment as a police officer or peace officer; provided, however, that every person who is an applicant for the position of police officer or peace officer shall be furnished with a copy of all records obtained under this subparagraph and afforded an opportunity to make an explanation thereto.</li> </ul> <p><b>2.</b> Upon expiration of a protection order issued pursuant to this article and upon written application of the respondent who is the subject of such order, with notice and opportunity to be heard to the petitioner and every licensing officer responsible for issuance of a firearm license to the subject of the order pursuant to article four hundred of the penal law, and upon a written finding that there is no legal impediment to the respondent's possession of a surrendered firearm, rifle or shotgun, the court shall order the return of a firearm, rifle or shotgun not otherwise disposed of in accordance with subdivision one of section sixty-three hundred forty-four of this article. When issuing such order in connection with any firearm subject to a license requirement under article four hundred of the penal law, if the licensing officer informs the court that he or she will seek to revoke the license, the order shall be stayed by the court until the conclusion of any license revocation proceeding.</p>
--	--	--

		<p><b>§ 6346. Expiration of an extreme risk protection order.</b></p> <p><b>1.</b> A protection order issued pursuant to this article, and all records of any proceedings conducted pursuant to this article, shall be sealed upon expiration of such order and the clerk of the court wherein such proceedings were conducted shall immediately notify the commissioner of the division of criminal justice services, the heads of all appropriate police departments, applicable licensing officers, and all other appropriate law enforcement agencies that the order has expired and that the record of such protection order shall be sealed and not be made available to any person or public or private entity, except that such records shall be made available to:</p> <ul style="list-style-type: none"> <li>(a) the respondent or the respondent’s designated agent;</li> <li>(b) courts in the unified court system;</li> <li>(c) police forces and departments having responsibility for enforcement of the general criminal laws of the state;</li> <li>(d) any state or local officer or agency with responsibility for the issuance of licenses to possess a firearm, rifle or shotgun, when the respondent has made application for such a license; and</li> <li>(e) any prospective employer of a police officer or peace officer as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of the criminal procedure law, in relation to an application for employment as a police officer or peace officer; provided, however, that every person who is an applicant for the position of police officer or peace officer shall be furnished with a copy of all records obtained under this subparagraph and afforded an opportunity to make an explanation thereto.</li> </ul> <p><b>2.</b> Upon expiration of a protection order issued pursuant to this article and upon written application of the respondent who is the subject of such order, with notice and opportunity to be heard to the petitioner and every licensing officer responsible for issuance of a firearm license to the subject of the order pursuant to article four hundred of the penal law, and upon a written finding that there is no legal impediment to the respondent’s possession of a surrendered firearm, rifle or shotgun, the court shall order the return of a firearm, rifle or shotgun not otherwise disposed of in accordance with subdivision one of section sixty-three hundred forty-four of this article. When issuing such order in connection with any firearm subject to a license requirement under article four hundred of the penal law, if the licensing officer informs the court that he or she will seek to revoke the license, the order shall be stayed by the court until the conclusion of any license revocation proceeding.</p> <p><b>§ 6347. Effect of findings and determinations in subsequent proceedings. [Effective August 24, 2019]</b></p> <p>Notwithstanding any contrary claim based on common law or a provision of any other law, no finding or determination made pursuant to this article shall be interpreted as binding, or having collateral estoppel or similar effect, in any other action or proceeding, or with respect to any other determination or finding, in any court, forum or administrative proceeding.</p>
<p><b>OREGON</b></p> <p><b>Types of orders:</b></p>	<p><b>Persons eligible to petition:</b> Family or household member (Spouse, Intimate Partner, Mother Father, Child or Sibling of the</p>	<p><b>166.525 Definitions.</b></p> <p>As used in sections 1 to 8 of this 2017 Act:</p>

<p><b>Ex Parte Extreme Risk Protection Order</b></p> <p><b>Extreme Risk Protection Order</b></p> <p><a href="#">ORS § 166.525</a></p>	<p>Respondent or any person living within the same household as the respondent)</p> <p>Law Enforcement (Oregon State Police, Sheriff, Municipal Police Officer, or authorized Tribal Police Officer)</p> <p><b>Standard of proof:</b> Clear and convincing evidence</p> <p><b>Evidence required:</b> Evidence that respondent presents a risk in the near future, including an imminent risk, of suicide or of causing physical injury to another person</p> <p><b>Length of order:</b> Ex parte order: until a hearing is held</p> <p>Extreme risk protection order: one year</p> <p><b>Service on respondent:</b> Ex parte order: Respondent must be personally served. Statute is silent on who is eligible to serve. If the person attempting service cannot complete it within 10 days, they must notify petitioner that they have been unable to do so.</p> <p>Extreme risk protection order: No service is required if respondent was present at the hearing. Otherwise, the statute is silent.</p> <p><b>Notification of persons at risk:</b> Statute is silent</p> <p><b>Renewal/Termination of the order:</b> Termination: petitioner or respondent may each submit up to one written request to terminate during each 12-month period the order is in effect. The party who submitted the request has the burden of proving by clear and convincing evidence that respondent no longer presents a risk in the near future of suicide or of causing physical injury to another person.</p>	<p>(1) “Deadly weapon” means:</p> <p>(a) Any instrument, article or substance specifically designed for and presently capable of causing death or serious physical injury; or</p> <p>(b) A firearm, whether loaded or unloaded.</p> <p>(2) “Family or household member” means a spouse, intimate partner, mother, father, child or sibling of the respondent, or any person living within the same household as the respondent.</p> <p>(3) “Gun dealer” has the meaning given that term in ORS 166.412.</p> <p>(4) “Law enforcement agency” means an agency or department of the State of Oregon or of a political subdivision of the State of Oregon whose principal function is the apprehension of criminal offenders.</p> <p>(5) “Law enforcement officer” means a member of the Oregon State Police, a sheriff, a municipal police officer or an authorized tribal police officer as defined in ORS 181A.680.</p> <p>(6) “Petitioner” means a person who petitions for an order under sections 1 to 8 of this 2017 Act.</p> <p>(7) “Respondent” means a person against whom an order is filed under sections 1 to 8 of this 2017 Act.</p> <p><b>166.527 Petition for ex parte order; issuance and service of order; request for hearing.</b></p> <p>(1) A law enforcement officer or a family or household member of a person may file a petition requesting that the court issue an extreme risk protection order enjoining the person from having in the person’s custody or control, owning, purchasing, possessing or receiving, or attempting to purchase or receive, a deadly weapon.</p> <p>(2) An extreme risk protection order petition shall be heard by the court and issued or denied on the same day the petition is submitted to the court or on the judicial business day immediately following the day the petition is filed.</p> <p>(3) The petition for an extreme risk protection order must be supported by a written affidavit signed by the petitioner under oath, or an oral statement taken under oath by the petitioner or any other witness the petitioner may produce.</p> <p>(4) In determining whether to issue an extreme risk protection order, the court shall consider the following:</p> <p>(a) A history of suicide threats or attempts or acts of violence by the respondent directed against another person;</p> <p>(b) A history of use, attempted use or threatened use of physical force by the respondent against another person;</p> <p>(c) A previous conviction for:</p> <p>(A) A misdemeanor involving violence as defined in ORS 166.470;</p> <p>(B) A stalking offense under ORS 163.732 or 163.750, or a similar offense in another jurisdiction;</p>
---	--	--

<p>Renewal: a person who was eligible to be a petitioner (not necessarily the original petitioner) may request a renewal up to 90 days before the order is to expire. The person requesting renewal has the burden of proving by clear and convincing evidence that the respondent continues to present a risk in the near future, including an imminent risk, of suicide or of causing physical injury to another person. Respondent must be personally served with the renewed order unless they were present at the renewal hearing.</p> <p><b>Filing fees:</b> A filing fee, service fee or hearing fee may not be charged for proceedings under this section or section 3 or 4 of this 2017 Act.</p> <p><b>Relief available:</b> Respondent may not have in their custody or control, own, purchase, possess or receive, or attempt to purchase or receive, a deadly weapon.</p> <p><b>Firearm relinquishment process:</b> Ex parte order: Respondent has 24 hours to surrender all deadly weapons in their custody, possession, or control to a law enforcement agency, a gun dealer, or a third party. Respondent also has 24 hours to surrender any concealed handgun license to a law enforcement agency.</p> <p>Extreme risk protection order: Respondent must immediately surrender all deadly weapons in their custody, possession, or control to a law enforcement agency, a gun dealer, or a third party. Respondent must also immediately surrender any concealed handgun license to a law enforcement agency.</p> <p>Ex parte order: If respondent is served by a law enforcement officer, the officer must request that respondent immediately surrender all deadly weapons and concealed handgun</p>	<p>(C) An offense constituting domestic violence as defined in ORS 135.230;</p> <p>(D) Driving under the influence of intoxicants under ORS 813.010 or 813.011; or</p> <p>(E) An offense involving cruelty or abuse of animals;</p> <p>(d) Evidence of recent unlawful use of controlled substances;</p> <p>(e) Previous unlawful and reckless use, display or brandishing of a deadly weapon by the respondent;</p> <p>(f) A previous violation by the respondent of a court order issued pursuant to ORS 107.716 or 107.718;</p> <p>(g) Evidence of an acquisition or attempted acquisition within the previous 180 days by the respondent of a deadly weapon; and</p> <p>(h) Any additional information the court finds to be reliable, including a statement by the respondent.</p> <p>(5)</p> <p>(a) The petitioner has the burden of proof at the ex parte hearing.</p> <p>(b) The petitioner may appear in person or by electronic video transmission.</p> <p>(c) The court may continue a hearing under this section upon a showing of good cause.</p> <p>(6)</p> <p>(a) The court shall issue an extreme risk protection order if the court finds by clear and convincing evidence, based on the petition and supporting documentation and after considering a statement by the respondent, if provided, that the respondent presents a risk in the near future, including an imminent risk, of suicide or of causing physical injury to another person. The court may not include in the findings any mental health diagnosis or any connection between the risk presented by the respondent and mental illness.</p> <p>(b) Upon making the findings described in paragraph (a) of this subsection, the court shall issue an extreme risk protection order prohibiting the respondent from having in the respondent's custody or control, owning, purchasing, possessing or receiving, or attempting to purchase or receive, a deadly weapon.</p> <p>(7) An extreme risk protection order issued under this section must include:</p> <p>(a) A statement of the evidence and the court's findings supporting issuance of the order;</p> <p>(b) The date and time the order was issued;</p> <p>(c) A description of the manner in which the respondent may request a hearing described in subsection (9) of this section;</p> <p>(d) The address of the court to which a request for a hearing must be sent;</p> <p>(e) A description of the requirements for surrender of deadly weapons in the respondent's possession under section 6 of this 2017 Act; and</p> <p>(f) A statement in substantially the following form:</p>
--	---

	<p>licenses. The officer shall take possession of all deadly weapons appearing to be in the custody, control or possession of the respondent that are surrendered by the respondent.</p> <p>Extreme risk protection order: If respondent is served by a law enforcement officer, the officer must request that respondent immediately surrender all deadly weapons and concealed handgun licenses. The officer may conduct any search permitted by law for deadly weapons in the custody, control or possession of the respondent and shall take possession of all deadly weapons appearing to be in the custody, control or possession of the respondent that are surrendered, in plain sight or discovered pursuant to a lawful search.</p> <p><b>Firearm termination process:</b> Statute is silent</p> <p><b>Limitations on liability:</b> Statute is silent</p> <p><b>Return/transfer of firearms:</b> If respondent requests return of a deadly weapon or concealed handgun license after the order is no longer in effect, the law enforcement agency holding it will return it after conducting a background check and confirming that the order has actually ended.</p> <p><b>Warrant authority:</b> Statute is silent</p> <p><b>Venue:</b> Statute is silent</p>	<p>To the subject of this protection order: An extreme risk protection order has been issued by the court and is now in effect. You are required to surrender all deadly weapons in your custody, control or possession. You may not have in your custody or control, purchase, possess, receive, or attempt to purchase or receive, deadly weapons while this order is in effect. You must, within 24 hours, surrender all deadly weapons in your custody, control or possession to (insert name of local law enforcement agency), a gun dealer or a third party who may lawfully possess the deadly weapons. You must, within 24 hours, surrender to (insert name of local law enforcement agency) any concealed handgun license issued to you. You may request a hearing to contest this order. If you do not request a hearing, the extreme risk protection order against you will be in effect for one year unless terminated by the court. You have the right to request one hearing to terminate this order during the 12 months that this order is in effect starting from the date of this order. You may seek the advice of an attorney as to any matter connected with this order.</p> <p>(8)</p> <p>(a) The respondent shall be personally served with both a copy of the extreme risk protection order and a hearing request form described in subsection (9) of this section.</p> <p>(b) Whenever an extreme risk protective order is served on a respondent, the person serving the order shall immediately deliver to the county sheriff a true copy of proof of service, on which it is stated that personal service of the order was made on the respondent, and a copy of the order. Proof of service may be made by affidavit or by declaration under penalty of perjury in the form required by ORCP 1 E.</p> <p>(c) If the person serving the order cannot complete service within 10 days, the person shall notify the petitioner, at the address provided by the petitioner, that the documents have not been served. If the petitioner does not respond within 10 days, the person shall hold the order and petition for future service and file a return to the clerk of the court showing that service was not completed.</p> <p>(d) Upon receipt of a copy of the order and notice of completion of service by a member of a law enforcement agency, the county sheriff shall immediately enter the order into the Law Enforcement Data System maintained by the Department of State Police and request that the order be entered into the databases of the National Crime Information Center of the United States Department of Justice. If the order was served on the respondent by a person other than a member of a law enforcement agency, the county sheriff shall enter the order into the Law Enforcement Data System, and shall request that the information be entered into the databases of the National Crime Information Center, upon receipt of a true copy of proof of service. The sheriff shall provide the petitioner with a true copy of the proof of service. Entry into the Law Enforcement Data System constitutes notice to all law enforcement agencies of the existence of the order. Law enforcement agencies shall establish procedures adequate to ensure that an officer at the scene of an alleged violation of the order may be informed of the existence and terms of the order. The order is fully enforceable in any county in this state.</p> <p>(9)</p> <p>(a) Within 30 days after an extreme risk protection order is served on the respondent under this section, the respondent may request a court hearing using a form prescribed by the State Court Administrator.</p> <p>(b) If the respondent requests a hearing under paragraph (a) of this subsection, the clerk of the court shall notify the petitioner and the respondent of the date and time of the hearing and shall supply the</p>
--	--	---

		<p>petitioner with a copy of the respondent’s request for a hearing. The petitioner and the respondent shall give to the clerk of the court information sufficient to allow such notification.</p> <p>(c) The hearing shall occur within 21 days of the date of the respondent’s request for a hearing.</p> <p>(10) If the respondent fails to request a hearing within 30 days after an extreme risk protection order is served, the protection order is confirmed by operation of law and is effective for a period of one year from the date the original order was issued or until the order is terminated, whichever is sooner.</p> <p>(11) A filing fee, service fee or hearing fee may not be charged for proceedings under this section or section 3 or 4 of this 2017 Act.</p> <p>(12) If the court declines to issue an extreme risk protection order under this section, the court shall state with particularity the reasons for the denial on the record.</p> <p><b>166.530 Hearing on order; continuation or termination of order.</b></p> <p>(1) At a hearing on an extreme risk protection order requested by the respondent under section 2 (9) of this 2017 Act, the court may:</p> <p>(a) Examine under oath the petitioner, the respondent and any witness either party may produce, including a mental health professional selected by the respondent, or, in lieu of examination, consider sworn affidavits of the petitioner, the respondent or a witness of either party; and</p> <p>(b) Ensure that a reasonable search has been conducted for criminal history records related to the respondent.</p> <p>(2)</p> <p>(a) The Oregon Evidence Code shall apply in a hearing under this section.</p> <p>(b) The court may continue a hearing under this section upon a showing of good cause. If the court continues a hearing under this paragraph, the extreme risk protection order shall remain in effect until the next hearing date.</p> <p>(3)</p> <p>(a) At the hearing, the court shall determine:</p> <p>(A) Whether to terminate the extreme risk protection order or continue the order for a duration of one year; and</p> <p>(B) Whether any deadly weapons surrendered to a law enforcement agency pursuant to section 6 of this 2017 Act shall be returned to the respondent or retained by the law enforcement agency.</p> <p>(b) The petitioner has the burden of proving, by clear and convincing evidence, that the respondent presents a risk in the near future, including an imminent risk, of suicide or of causing physical injury to another person.</p> <p>(c) If the court finds that the petitioner has met the burden of proof, the court shall:</p>
--	--	---

		<p>(A) Order that the extreme risk protection order continue for the duration of one year from the date the original order was issued.</p> <p>(B) Order that any deadly weapons surrendered to a law enforcement agency pursuant to section 6 of this 2017 Act remain in the custody of the law enforcement agency while the order is in effect.</p> <p>(d) The court may not include in findings made under this subsection any mental health diagnosis or any connection between the risk presented by the respondent and mental illness.</p> <p>(4) An extreme risk protection order continued under this section must include:</p> <p>(a) A statement of the evidence and the court’s findings supporting issuance of the order;</p> <p>(b) The date and time the order was issued;</p> <p>(c) The date and time of the expiration of the order;</p> <p>(d) A description of the requirements for surrender of deadly weapons in the respondent’s possession under section 6 of this 2017 Act; and</p> <p>(e) A statement in substantially the following form:</p> <p>To the subject of this protection order: This order is valid until the date and time noted above. If you have not done so already, you are required to surrender all deadly weapons in your custody. You must immediately surrender all deadly weapons in your custody, control or possession to (insert name of local law enforcement agency), a gun dealer or a third party who may lawfully possess the deadly weapons. You must immediately surrender to (insert name of local law enforcement agency) any concealed handgun license issued to you. You may not have in your custody or control, purchase, possess, receive, or attempt to purchase or receive, a deadly weapon while this order is in effect. You have the right to request one hearing to terminate this order during the 12 months that this order is in effect starting from the date of this order. You may seek the advice of an attorney as to any matter connected with this order.</p> <p>(5) When the court continues an extreme risk protection order under this section, the court shall inform the respondent that the respondent is entitled to request termination of the order in the manner described in section 4 of this 2017 Act. The court shall provide the respondent with a form with which to request a termination hearing.</p> <p>(6) The respondent need not be served if an order of the court indicates that the respondent appeared in person before the court.</p> <p>(7) If the court terminates an extreme risk protection order after a hearing under this section:</p> <p>(a) The court shall state with particularity the reasons for the termination on the record.</p> <p>(b) The clerk of the court shall immediately deliver a copy of the termination order to the county sheriff with whom the original order was filed. Upon receipt of the termination order, the county sheriff shall promptly remove the original order from the Law Enforcement Data System and shall request that the order be removed from the databases of the National Crime Information Center of the United States Department of Justice.</p>
--	--	---

**166.533 Hearing to terminate order.**

(1) The petitioner or the respondent of an extreme risk protection order issued or continued under section 2 or 3 of this 2017 Act may each submit a written request once during the 12-month effective period of the order, and once during any 12-month effective period of an order renewed under section 5 of this 2017 Act, for a hearing to terminate the order. A hearing under this section is in addition to any hearing requested under section 2 of this 2017 Act.

(2) Upon receipt of a request described in subsection (1) of this section, the court shall schedule a termination hearing and provide notice of the hearing to both parties at least five days before the hearing.

(3)

(a) The person filing the termination request has the burden of proving, by clear and convincing evidence, that the respondent no longer presents a risk in the near future, including an imminent risk, of suicide or of causing physical injury to another person.

(b) The Oregon Evidence Code shall apply in a hearing under this section.

(c) The court may continue a hearing under this section upon a showing of good cause. If the court continues a hearing under this paragraph, the extreme risk protection order shall remain in effect until the next hearing date.

(4)

(a) If the court finds that the petitioner has met the burden of proof as described in subsection (3) of this section, the court shall terminate the extreme risk protection order.

(b) The court may not include in findings made under this subsection any mental health diagnosis or any connection between the risk presented by the respondent and mental illness.

(5) When an extreme risk protection order is terminated by order of the court, the clerk of the court shall immediately deliver a copy of the termination order to the county sheriff with whom the original order was filed. Upon receipt of the termination order, the county sheriff shall promptly remove the original order from the Law Enforcement Data System and shall request that the order be removed from the databases of the National Crime Information Center of the United States Department of Justice.

**166.535 Renewal of order**

(1) A law enforcement officer or a family or household member of a respondent, including but not limited to the law enforcement officer or family or household member who petitioned the court for the original extreme risk protection order issued under section 2 of this 2017 Act, may request a renewal of the order within 90 days before the expiration date of the order by filing a written request with the court.

(2) Upon receipt of the request for renewal described in subsection (1) of this section, the court shall schedule a hearing and provide notice of the hearing to both parties at least 14 days before the hearing.

		<p>(3) At a hearing to determine whether to renew an extreme risk protection order under this section, the court may:</p> <p>(a) Examine under oath the petitioner, the respondent and any witness either party may produce or, in lieu of examination, consider sworn affidavits of the petitioner, the respondent or a witness of either party; and</p> <p>(b) Ensure that a reasonable search has been conducted for criminal history records related to the respondent.</p> <p>(4) The person requesting the renewal of the extreme risk protection order has the burden of proving, by clear and convincing evidence, that the respondent continues to present a risk in the near future, including an imminent risk, of suicide or of causing physical injury to another person.</p> <p>(5)</p> <p>(a) The Oregon Evidence Code shall apply in a hearing under this section.</p> <p>(b) The court may continue a hearing under this section upon a showing of good cause. If the court continues a hearing under this paragraph, the original extreme risk protection order shall remain in effect until the next hearing date.</p> <p>(c) The petitioner may appear in person or by electronic video transmission.</p> <p>(6)</p> <p>(a) If the court finds that the petitioner has met the burden of proof, the court may renew the extreme risk protection order for a duration of up to one year.</p> <p>(b) The court may not include in findings made under this subsection any mental health diagnosis or any connection between the risk presented by the respondent and mental illness.</p> <p>(7) An extreme risk protection order renewed under this section must include:</p> <p>(a) A statement of the evidence and the court’s findings supporting issuance of the order;</p> <p>(b) The date and time the order was issued;</p> <p>(c) The date and time of the expiration of the order;</p> <p>(d) A description of the requirements for surrender of deadly weapons in the respondent’s possession under section 6 of this 2017 Act; and</p> <p>(e) A statement in substantially the following form:</p> <p>To the subject of this protection order: This renewed order is valid until the date and time noted above. If you have not done so already, you are required to surrender all deadly weapons in your custody. You must immediately surrender all deadly weapons in your custody, control or possession to (insert name of local law enforcement agency), a gun dealer or a third party who may lawfully possess the deadly weapons. You must immediately surrender to (insert name of local law enforcement agency) any concealed handgun license issued to you. You may not have in your custody or control, purchase, possess, receive, or attempt to purchase or receive, a deadly weapon while this order is in effect. You have the right to request one hearing to terminate this renewed order every 12 months that this order is</p>
--	--	--

		<p>in effect, starting from the date of this order. You may seek the advice of an attorney as to any matter connected with this order.</p> <p>(8) When the court renews an extreme risk protection order, the court shall inform the respondent that the respondent is entitled to request termination of the renewed order in the manner described in section 4 of this 2017 Act. The court shall provide the respondent with a form with which to request a termination hearing.</p> <p>(9)</p> <p>(a) Service of a renewed extreme risk protective order shall be made by personal delivery of a copy of the order to the respondent. The respondent need not be served if an order of the court indicates that the respondent appeared in person before the court.</p> <p>(b) Whenever a renewed extreme risk protective order is served on a respondent, the person serving the order shall immediately deliver to the county sheriff a true copy of proof of service, on which it is stated that personal service of the order was made on the respondent, and a copy of the order. Proof of service may be made by affidavit or by declaration under penalty of perjury in the form required by ORCP 1 E.</p> <p>(c) If service of the order is not required under paragraph (a) of this subsection, a copy of the order must be delivered to the sheriff by the court.</p> <p>(d) Upon receipt of a copy of the order and notice of completion of any required service by a member of a law enforcement agency, the county sheriff shall immediately enter the order into the Law Enforcement Data System maintained by the Department of State Police and request that the order be entered into the databases of the National Crime Information Center of the United States Department of Justice. If the order was served on the respondent by a person other than a member of a law enforcement agency, the county sheriff shall enter the order into the Law Enforcement Data System and request that the order be entered into the databases of the National Crime Information Center upon receipt of a true copy of proof of service. The sheriff shall provide the petitioner with a true copy of any required proof of service. Entry into the Law Enforcement Data System constitutes notice to all law enforcement agencies of the existence of the order. Law enforcement agencies shall establish procedures adequate to ensure that an officer at the scene of an alleged violation of the order may be informed of the existence and terms of the order. The order is fully enforceable in any county in this state.</p> <p>(10) If the court declines to renew an extreme risk protection order, the court shall state with particularity the reasons for the denial on the record.</p> <p>(11) A renewed extreme risk protection order may be further renewed as described in this section.</p> <p><b>166.537 Surrender of deadly weapons pursuant to order.</b></p> <p>(1) Upon issuance of an extreme risk protection order under section 2 of this 2017 Act, the court shall further order that the respondent:</p> <p>(a) Within 24 hours surrender all deadly weapons in the respondent’s custody, control or possession to a law enforcement agency, a gun dealer or a third party who may lawfully possess the deadly weapons; and</p>
--	--	--

		<p>(b) Within 24 hours surrender to a law enforcement agency any concealed handgun license issued to the respondent under ORS 166.291 and 166.292.</p> <p>(2) Upon continuance of an extreme risk protection order after a hearing under section 3 of this 2017 Act, or renewal of an extreme risk protection order under section 5 of this 2017 Act, the court shall further order that the respondent:</p> <p>(a) Immediately surrender all deadly weapons in the respondent’s custody, control or possession to a law enforcement agency, a gun dealer or a third party who may lawfully possess the deadly weapons; and</p> <p>(b) Immediately surrender to a law enforcement agency any concealed handgun license issued to the respondent under ORS 166.291 and 166.292.</p> <p>(3)</p> <p>(a) A law enforcement officer serving an extreme risk protection order issued under section 2 of this 2017 Act shall request that the respondent immediately surrender to the officer all deadly weapons in the respondent’s custody, control or possession and any concealed handgun license issued to the respondent under ORS 166.291 and 166.292. The law enforcement officer shall take possession of all deadly weapons appearing to be in the custody, control or possession of the respondent that are surrendered by the respondent. If the respondent indicates an intention to surrender the deadly weapons to a gun dealer or a third party, the law enforcement officer shall request that the respondent identify the gun dealer or third party.</p> <p>(b) A law enforcement officer serving an extreme risk protection order continued after a hearing under section 3 of this 2017 Act, or renewed under section 5 of this 2017 Act, shall request that the respondent immediately surrender to the officer all deadly weapons in the respondent’s custody, control or possession and any concealed handgun license issued to the respondent under ORS 166.291 and 166.292. The officer may conduct any search permitted by law for deadly weapons in the custody, control or possession of the respondent and shall take possession of all deadly weapons appearing to be in the custody, control or possession of the respondent that are surrendered, in plain sight or discovered pursuant to a lawful search.</p> <p>(4) At the time of the surrender of any deadly weapons or concealed handgun licenses under subsection (3) of this section, the law enforcement officer taking possession shall issue a receipt identifying all surrendered items and provide a copy of the receipt to the respondent. Within 72 hours after service of the order, the law enforcement officer serving the order shall file the original receipt with the court and shall ensure that the law enforcement agency employing the law enforcement officer retains a copy of the receipt.</p> <p>(5) If a third party claims lawful ownership or right of possession of a deadly weapon surrendered pursuant to this section, the law enforcement agency may return the deadly weapon to the third party if the third party provides proof of lawful ownership or right of possession of the deadly weapon, in a sworn affidavit, affirms that:</p> <p>(a) The third party may lawfully possess the deadly weapon;</p> <p>(b) The third party did not consent to the prior possession of the deadly weapon by the respondent; and</p>
--	--	--

		<p>(c) The third party will prevent the respondent from accessing or possessing the deadly weapon in the future.</p> <p><b>166.540 Return of surrendered deadly weapons.</b></p> <p>(1) If an extreme risk protection order is terminated or expires without renewal, a law enforcement agency holding any deadly weapon or concealed handgun license that has been surrendered pursuant to the order shall return the surrendered items as requested by the respondent of the order only after:</p> <p>(a) Confirming through a criminal background check, if the deadly weapon is a firearm, that the respondent is legally eligible to own or possess firearms under state and federal law; and</p> <p>(b) Confirming that the extreme risk protection order is no longer in effect.</p> <p>(2) The owner of a deadly weapon, if the deadly weapon is a firearm, in the custody of a law enforcement agency pursuant to section 6 of this 2017 Act who does not wish to have the firearm returned is entitled to sell or transfer title of any firearm to a licensed gun dealer as defined in ORS 166.412, provided that the firearm is lawful to own or possess and the person has a legal right to transfer title of the firearm.</p> <p>(3) A deadly weapon surrendered by a person pursuant to section 6 of this 2017 Act that remains unclaimed by the owner shall be disposed of in accordance with the law enforcement agency's policies and procedures for the disposal of deadly weapons in the agency's custody.</p> <p><b>166.543 Criminal penalties.</b></p> <p>(1) A person commits a Class A misdemeanor if:</p> <p>(a) The person knowingly possesses a deadly weapon; and</p> <p>(b) The person is prohibited from possessing deadly weapons pursuant to an extreme risk protection order:</p> <p>(A) Issued after notice and a hearing under section 3 of this 2017 Act;</p> <p>(B) Confirmed by operation of law after the person failed to request a hearing under section 2 (9) of this 2017 Act; or</p> <p>(C) Renewed under section 5 of this 2017 Act.</p> <p>(2) A person convicted under subsection (1) of this section shall be prohibited from having in the person's custody or control, owning, purchasing, possessing or receiving, or attempting to purchase or receive, any firearms for a five-year period beginning when the extreme risk protection order expires or is terminated, or the judgment of conviction is entered, whichever occurs later.</p> <p>(3) A person who files a petition for any extreme risk protection order under sections 1 to 8 of this 2017 Act with the intent to harass the respondent, or knowing that the information in the petition is false, is guilty of a Class A misdemeanor.</p>
--	--	---

<p><b>PITTSBURGH, PENNSYLVANIA</b></p> <p><b>Note:</b> This statute was determined to be void and unenforceable. See FOAC, et al. v. City of Pittsburgh, et al</p> <p>Pennsylvania does not have a state-wide ERPO statute.</p> <p><b>Types of orders:</b></p> <ul style="list-style-type: none"> <li>Interim extreme risk protection order</li> <li>Extreme risk protection order issued after a hearing</li> </ul> <p><a href="#">Pittsburgh, Pennsylvania Code of Ordinances Sec. 699.01</a></p>	<p><b>Persons eligible to petition:</b></p> <p>Law enforcement officer, including: City of Pittsburgh police officer, or an attorney authorized to prosecute an offense defined in this chapter</p> <p>Family or household member, including: spouse, former spouse, person who lived as a spouse, person who formerly lived as a spouse, parent, child, other person related by first-degree consanguinity or affinity, current sexual or intimate partner, former sexual or intimate partner, or person who shares biological parenthood</p> <p><b>Standard of proof:</b></p> <p>Interim order: preponderance of the evidence</p> <p>Order after hearing: clear and convincing evidence</p> <p><b>Evidence required:</b></p> <p>Interim order: the court must find (1) that respondent presents a risk of suicide or of causing the death of, or serious bodily injury to, another person through the use of a firearm, and (2) that the risk is imminent and the circumstances would not make it safe to proceed without an interim order.</p> <p>Order after hearing: the court must find that respondent presents a risk of suicide or of causing the death of, or serious bodily injury to, another person through the use of a firearm.</p> <p>The court may consider evidence of the following factors:</p> <ul style="list-style-type: none"> <li>Suicide threats or attempts;</li> <li>Threats, attempts, or acts of violence;</li> <li>Domestic abuse, including violation of a protective order;</li> <li>Cruelty to animals;</li> <li>Abuse of controlled substances or alcohol;</li> <li>Unlawful or reckless brandishing of a firearm;</li> </ul>	<p><b>§ Sec. 699.02 DEFINITIONS.</b></p> <p>A. Applicable definitions set forth in Sections 695.01, 696.01 and 697.01, and not otherwise expressly defined in this Chapter 699, shall also apply in this Chapter 699.</p> <p>B. COURT. The Pittsburgh Municipal Court.</p> <p>C. EXTREME RISK PROTECTION ORDER. A court order prohibiting a person from having in the person's possession or control, purchasing or receiving or attempting to purchase or receive, a firearm, based upon a finding that the person presents a risk of suicide or of causing the death of, or serious bodily injury to, another person through the use of a firearm.</p> <p>D. FAMILY OR HOUSEHOLD MEMBER. Spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by first-degree consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.</p> <p>E. FIREARMS DEALER OR DEALER. A person licensed to sell firearms under 18 Pa. C.S. 6113 (relating to licensing of dealers).</p> <p>F. FIREARMS LICENSE OR LICENSE. A concealed carry license issued under 18 Pa. C.S. 6109 (relating to licenses), safekeeping license issued under 23 Pa. C.S. 6108.3 (relating to relinquishment to third party for safekeeping), hunting license required under 34 Pa. C.S. 2701 (relating to license requirements) or any similar license issued pursuant to the laws of another state.</p> <p>G. LAW ENFORCEMENT OFFICER . A City of Pittsburgh Police Officer who is empowered by law to conduct investigations of or to make an arrest for an offense enumerated in this Chapter 699 or an equivalent crime in another jurisdiction and an attorney authorized by law to prosecute or participate in the prosecution of such offense.</p> <p>H. SERIOUS BODILY INJURY. Bodily injury that creates a substantial risk of death or causes serious, permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ.</p> <p><b>§ Sec. 699.03 PRELIMINARY MATTERS</b></p> <p>A. The following individuals shall have standing to file a petition requesting that the court issue an extreme risk protection order or renew an existing extreme risk protection order:</p> <ol style="list-style-type: none"> <li>1. A law enforcement officer; or</li> <li>2. A family or household member of a person believed to present a risk of suicide or of causing the death of, or extreme bodily injury to, another person through the use of a firearm.</li> </ol> <p>B. No filing fee may be charged for a petition under this Chapter 699.</p> <p>C. An extreme risk protection order is effective at the time of service.</p> <p>D. A respondent under this Chapter 699 shall have the right to be represented by counsel. If the respondent cannot afford an attorney and meets the income guidelines applicable to representation by a public defender in a criminal case, the court shall appoint counsel upon the request of the respondent.</p> <p><b>§ Sec. 699.04 PETITION FOR EXTREME RISK PROTECTION ORDER</b></p>
---	--	---

	<p>Recent acquisition or attempted acquisition of a firearm;  Possession, use, or control of a firearm as part of respondent's employment;  Any additional information found to be relevant.</p> <p><b>Length of order:</b>  Interim order: until a hearing is held (which must be no more than 10 days after the interim order is issued)</p> <p>Order after hearing: at least 3 months but no more than 1 year</p> <p><b>Service on respondent:</b>  Service must be made in person by the sheriff or a law enforcement officer as defined in § 699.02.</p> <p><b>Notification of persons at risk:</b>  Petitioner must be given notice when respondent is served.</p> <p><b>Renewal/Termination:</b>  Renewal: petitioner may petition to renew an ERPO but must do so at least 60 days before the order is set to expire. If the court finds by clear and convincing evidence that respondent still meets the criteria for an ERPO, the court may renew it for a period between 3 months and 1 year.</p> <p>An order may not be renewed more than twice.</p> <p>Termination: respondent may submit up to 1 written request during the effective period of an ERPO to terminate the order. The respondent has the burden of proving by clear and convincing evidence that they no longer meet the criteria for an ERPO.</p> <p><b>Filing fees:</b>  No filing fee may be charged for a petition under this Chapter 699.</p>	<p>A. A petition for an extreme risk protection order shall set forth facts that demonstrate the risk presented by the respondent's ability to purchase firearms or have possession or control of firearms, and shall describe the number, types and locations of any firearms known or believed to be owned by the respondent or known or believed to be in the respondent's possession or control.</p> <p>B. A petition for an extreme risk protection order, at the time of the filing, shall also identify all known restraining orders, orders of protection, and pending lawsuits, complaints, petitions, or actions pending, active, or filed within one (1) year prior to the petition for an extreme risk protection order involving the respondent, including, but not limited to, an order entered pursuant to 23 Pa. C.S. Ch. 61 (relating to protection from abuse).</p> <p>C. The court may consider all relevant evidence, but in no case shall an order be issued under Section 699.05 (relating to interim extreme risk protection order) or Section 699.09 (relating to order after hearing) absent a demonstration of risk due to behaviors or events occurring in the preceding twenty-four (24) months.</p> <p>D. In determining whether grounds exist to issue an extreme risk protection order, the court shall consider evidence of the following factors and the recency of any behaviors or events:</p> <ol style="list-style-type: none"> <li>1. Suicide threats or attempts.</li> <li>2. Threats or acts of violence or attempted acts of violence.</li> <li>3. Domestic abuse, including any violation of a protection from abuse order, under 23 Pa. C.S. Ch. 61 (relating to protection from abuse) or a similar law in another state.</li> <li>4. Cruelty to animals under 18 Pa. C.S. Ch. 55 Subch. B (relating to cruelty to animals) or a similar law in another state.</li> <li>5. Abuse of controlled substances or alcohol, or any criminal offense that involves controlled substances or alcohol.</li> <li>6. Unlawful or reckless use, display or brandishing of a firearm.</li> <li>7. Recent acquisition or attempted acquisition of a firearm.</li> <li>8. The possession, use or control of a firearm as a part of the respondent's employment.</li> <li>9. Any additional information the court finds to be reliable, including a statement by the respondent.</li> </ol> <p>E. For purposes of this Section, the term "brandishing" means, with respect to a firearm, to display all or part of the firearm, or otherwise make the presence of the firearm known to another person, in order to intimidate that person, regardless of whether the firearm is directly visible to that person.</p> <p><b>§ Sec. 699.05 INTERIM EXTREME RISK PROTECTION ORDER</b></p> <p>A. The court reviewing a petition shall issue an interim extreme risk protection order if it finds, by a preponderance of the evidence, that:</p> <ol style="list-style-type: none"> <li>1. The respondent presents a risk of suicide or of causing the death of, or serious bodily injury to, another person through the use of a firearm; and</li> <li>2. The risk is imminent and other circumstances that would make it safe to proceed by ordering a hearing under Section 699.06 (relating to hearing on petition) without issuing an interim extreme risk protection order do not exist.</li> </ol> <p>B. An interim extreme risk protection order shall include:</p> <ol style="list-style-type: none"> <li>1. The date and time the order was issued.</li> <li>2. Instructions for relinquishment of any firearm or firearms license that the respondent owns or that is in the respondent's possession or control.</li> <li>3. Notification of the penalties for violating the order.</li> </ol>
--	--	--

	<p><b>Relief available:</b> Interim and final ERPOs both require the respondent to relinquish all firearms that they own, possess, or control.</p> <p><b>Firearm relinquishment process:</b> After being served with an order, respondent has 24 hours to relinquish their firearms, either to the sheriff or to a firearms dealer.</p> <p>If a sheriff or law enforcement officer serves the respondent, the sheriff or officer will request that the respondent immediately relinquish all firearms in their possession.</p> <p><b>Firearm disposal process:</b> Statute is silent.</p> <p><b>Limitations on liability:</b> Statute is silent.</p> <p><b>Return/Transfer of firearm:</b> If the court vacates an interim order after a hearing, the court will order the immediate return of all firearms to the respondent.</p> <p>When a final ERPO is terminated or expires, the respondent may request the return of their firearms. If they do so, the sheriff or firearms dealer in possession of respondent's firearms must return them as soon as possible, but no later than the next business day.</p> <p>If a firearm is in the custody of the sheriff, the respondent may request that the firearm be transferred to a firearms dealer for sale.</p> <p><b>Warrant authority:</b> Statute is silent.</p> <p><b>Venue:</b> Petitions must be filed in the Pittsburgh Municipal Court.</p>	<p>4. If the order was issued by a court and a hearing is scheduled under Section 699.05(D), the order shall include:</p> <ol style="list-style-type: none"> <li>a. Notice of the time, date and location of the hearing;</li> <li>b. Notice of the right to request a continuance, and instructions on requesting a continuance or waiving the hearing;</li> <li>c. Notice of the fact that, at the hearing, or if the hearing is waived, the court may extend the order for up to one (1) year; and</li> <li>d. Notice of the right to an attorney under Section 699.03 (relating to preliminary matters).</li> </ol> <p>C. An interim extreme risk protection order issued by a court shall be in effect until following a hearing it is either vacated or terminated.</p> <p>D. If the court orders an interim extreme risk protection order under Section 699.06(A), the court shall schedule a hearing on the petition to be held no more than ten (10) days from the date of the order.</p> <p>E. The respondent may request a continuance on a hearing scheduled to take place after the issuance of an interim order, which the court shall grant. No hearing shall be continued except with the consent of the respondent.</p> <p><b>§ Sec. 699.06 HEARING ON PETITION</b></p> <p>A. Upon reviewing a petition filed under Section 699.04 (relating to petition for extreme risk protection order), the court may issue an order for a hearing on the petition, which shall be scheduled to be held no more than ten (10) days from the date of the petition.</p> <p>B. If the hearing is scheduled to take place fewer than three (3) business days after service of the order, the court shall grant a continuance until at least three (3) business days after service, if requested by the respondent. The court shall notify the respondent of the respondent's right to a continuance under this Section 699.06.</p> <p>C. If the respondent waives the right to be present at a hearing or fails to appear for a hearing on a petition scheduled under this Section 699.06, the court may proceed with the hearing and may issue an extreme risk protection order in the respondent's absence.</p> <p><b>§ Sec. 699.07 NOTICE TO LAW ENFORCEMENT</b></p> <p>A. The court issuing an extreme risk protection order, an order for a hearing, or an order renewing, vacating or terminating an extreme risk protection order shall cause a copy of the order to be delivered to the sheriff, the local law enforcement agency and the Pennsylvania State Police.</p> <p>B. Upon receipt of an extreme risk protection order or an order renewing, vacating or terminating an extreme risk protection order, the City of Pittsburgh Bureau of Police shall advise the Pennsylvania State Police and request or cause the Pennsylvania State Police to enter the order into the appropriate database so that notice of the order is provided through the Pennsylvania Instant Check System and the Federal Bureau of Investigation National Instant Criminal Background Check System.</p> <p><b>§ Sec. 699.08 SERVICE</b></p> <p>A. Service of an extreme risk protection order or an order for a hearing shall be made in person by the sheriff or a Law Enforcement Officer, as directed by the court issuing the order. At the time of service, the sheriff or Law Enforcement Officer shall provide the respondent with a copy of the petition.</p> <p>B. Immediately upon completion of service of an extreme risk protection order, the sheriff or Law Enforcement Officer completing service shall make a return of service to the court and shall provide a copy of the return of service to the petitioner.</p>
--	--	--

**§ Sec. 699.09 ORDER AFTER HEARING**

A. The court shall issue an extreme risk protection order after conducting a hearing ordered under Section 699.05 (relating to interim extreme risk protection order) or Section 699.06 (relating to hearing on petition), or after the respondent waives the right to a hearing under Section 699.05, if the court finds by clear and convincing evidence that the respondent presents a risk of suicide or of causing the death of, or serious bodily injury to, another person through the use of a firearm.

B. An extreme risk protection order issued after a hearing shall be made effective for no less than three (3) months nor more than one (1) year.

C. The order shall include:

1. The date and time the order was issued.
2. The time frame and manner in which the respondent may request a termination hearing.
3. Instructions for relinquishment of any firearm that the respondent owns or that is in the respondent's possession or control, and any firearms license that is issued to the respondent.
4. Notification of the penalties for violating the order.

**§ Sec. 699.10 TERMINATION HEARING**

A. A respondent subject to an extreme risk protection order may submit one (1) written request at any time during the effective period of the order for a hearing to determine whether the order should be terminated.

B. Upon receipt of a request for a termination hearing, the court shall set a date for the hearing and shall provide notice of the hearing to the petitioner, the City of Pittsburgh Bureau of Police or other appropriate local law enforcement agency and the Pennsylvania State Police.

C. At a termination hearing, the respondent seeking termination of the order shall have the burden of proving, by clear and convincing evidence, that the respondent does not present a risk of suicide or of causing the death of, or serious bodily injury to, another person through the use of a firearm.

**§ Sec. 699.11 RENEWAL OF ORDER**

A. A petition to renew an extreme risk protection order shall set forth facts that support a renewal of the order. The court may deny the petition based on the information set forth in the petition or may schedule a hearing. The court shall provide notice of the hearing to the petitioner, the respondent, the local law enforcement agency and the Pennsylvania State Police.

B. If the court finds by clear and convincing evidence, based on factors set forth under Section 699.04 (relating to petition for extreme risk protection order), that the respondent continues to present a risk of suicide or of causing the death of, or serious bodily injury to, another person through the use of a firearm, the court may renew the extreme risk protection order for a duration of no fewer than three (3) months and no more than one (1) year from the date of the order.

C. The following limitations shall apply:

1. A petition under this Section 699.11 must be filed at least sixty (60) days prior to the expiration of the order.
2. A renewal hearing shall take place no later than thirty (30) days prior to the expiration date set in an existing order.
3. No extreme risk protection order may be renewed more than twice under this Section 699.11.

**§ Sec. 699.12 RELINQUISHMENT OF FIREARMS.**

A. An extreme risk protection order issued under Section 699.05 (relating to interim extreme risk protection order) or Section 699.09 (relating to order after hearing) shall require the relinquishment of

		<p>all firearms owned by the respondent or in the respondent's possession or control within twenty-four (24) hours following service of the order, except for cause shown, in which case the court issuing the order shall specify the time for relinquishment of any or all of the respondent's firearms.</p> <p>B. A law enforcement officer or sheriff serving an extreme risk protection order shall request that all firearms and any firearms license in the respondent's possession or control be immediately relinquished into the custody of the law enforcement officer or sheriff. A law enforcement officer taking custody of a firearm or firearms license under Section 699.12(B) shall transfer the firearm or firearms license to the sheriff or to a firearms dealer for safekeeping.</p> <p>C. A respondent shall, within the time frame specified in the order, relinquish to the sheriff or a firearms dealer any firearm or license remaining in the respondent's possession or control after the time of service. A respondent relinquishing a firearm directly to a dealer shall, within the time frame specified in the order, provide to the law enforcement agency or sheriff a copy of the affidavit described in Section 699.12(F) in lieu of the firearm listed in the affidavit. A sheriff accepting an affidavit in lieu of a firearm shall file a copy with the court.</p> <p>D. A sheriff or Law Enforcement Officer taking custody of a firearm or license from a respondent shall provide the respondent with a copy of a signed and dated receipt. The receipt shall include a detailed description indicating the serial number and condition of each firearm and notification that firearms will be deemed abandoned when the conditions under 18 Pa. C.S. 6128(a) (relating to abandonment of firearm, weapon or ammunition) are satisfied, and may then be disposed of in accordance with 18 Pa. C.S. 6128. The sheriff or Law Enforcement Officer issuing the receipt shall file the original with the court.</p> <p>1. In addition, the appropriate law enforcement agency shall be liable to the lawful owner of said confiscated, seized or relinquished firearm for any loss, damage or substantial decrease in value of said firearm that is a direct result of a lack of reasonable care by the appropriate law enforcement agency.</p> <p>E. A respondent whose firearm is in the custody of a sheriff may request that the firearm be transferred to a firearms dealer for consignment sale, lawful transfer or safekeeping. Upon receiving the request, the sheriff shall transport the firearm to a dealer at no cost to the respondent or the dealer.</p> <p>F. A firearms dealer accepting custody of a firearm under this Chapter 699 shall provide the respondent, sheriff or Law Enforcement Officer from which the dealer accepts custody with an affidavit. A sheriff or Law Enforcement Officer delivering custody of a firearm to a dealer shall file a copy of the affidavit with the court.</p> <p>G. The affidavit shall include the following:</p> <ol style="list-style-type: none"> <li>1. The caption of the case in which the extreme risk protection order was issued.</li> <li>2. The name, address, date of birth and Social Security number of the respondent.</li> <li>3. A list of all firearms relinquished to the dealer and a detailed description of each firearm, including its condition and, if applicable, the manufacturer, model and serial number.</li> <li>4. The name and license number of the dealer and the address of the licensed premises.</li> <li>5. An acknowledgment that the dealer will not return a firearm to the respondent while the respondent is subject to an extreme risk protection order.</li> <li>6. An acknowledgment that the firearm, if sold or transferred, will be sold or transferred in compliance with 18 Pa. C.S. Ch. 61 (relating to firearms and other dangerous articles), and that no firearm will be returned to a respondent or any third party until the dealer has independently confirmed that the person requesting return of the firearm is legally eligible to possess firearms under federal and state law.</li> </ol>
--	--	---

**§ Sec. 699.13 RETURN OF FIREARMS.**

A. Subject to Section 699.13(C), if, following a hearing, a court vacates an interim extreme risk protection order, the court shall order the immediate return of all relinquished firearms and licenses to the respondent. Upon termination or expiration of an extreme risk protection order, the respondent may request that the sheriff or firearms dealer in possession of a relinquished firearm or license return the firearm or license. Subject to Section 699.13(C), the sheriff or dealer shall return the firearm or license to the respondent as soon as possible but not later than the end of the next business day after the day on which the respondent makes the request.

B. A third party may request the return of a relinquished firearm at any time by providing proof of ownership and a sworn affidavit. Proof of ownership may consist of a statement in the affidavit. The affidavit shall affirm the following:

1. The third party will not intentionally or knowingly return a firearm to a person subject to an extreme risk protection order nor intentionally or knowingly allow a person subject to an extreme risk protection order to have access to a firearm.
2. The third party understands that intentionally or knowingly allowing a person subject to an extreme risk protection order to have access to a firearm constitutes a violation of Section 699.16(C) of this Chapter, resulting in a fine of up to one thousand dollars (\$1,000.00) and costs for each offense.
3. If the third party is a member of the household of a person who is subject to an extreme risk protection order, that any firearm returned to the third party will be stored either in a gun safe to which the person does not have and will not be permitted to access, or in a location outside the home to which the person does not have access.

C. Prior to returning a firearm to any person, the sheriff or firearms dealer in possession of the firearm shall independently confirm that the person requesting return of the firearm is legally eligible to possess firearms under federal and state law. The sheriff or dealer receiving a request under Section 699.13(A) shall conduct the required background check as soon as possible, but not later than the end of the next business day after the day on which the respondent makes the request.

**§ Sec. 699.14 ABUSE OF PROCESS**

A. A person who files a petition for an extreme risk protection order knowing the information in the petition to be materially false, or with the intent to harass another, shall be fined one thousand dollars (\$1,000.00) and costs for each offense.

B. A person determined to have violated Section 699.14(A) or determined by the court to have acted in bad faith for the purpose of harassing the respondent shall be ordered to pay full restitution to the respondent. For purposes of this Section 699.14(B), restitution shall include, but not be limited to, reasonable attorney fees, costs of storage and other expenses incurred by the respondent as a result of the false reporting or false swearing.

**§ Sec. 699.15 MENTAL HEALTH AND CHEMICAL DEPENDENCY SERVICES**

A. During any proceeding under this Chapter 699, the court shall consider whether a mental health or chemical dependency evaluation is necessary, and may order such an evaluation as it deems necessary.

**§ Sec. 699.16 PENALTIES FOR VIOLATIONS**

A. A person who is the subject of an extreme risk protection order issued pursuant to Section 699.05 (relating to interim extreme risk protection order) or Section 699.09 (relating to order after hearing), if

		<p>he intentionally or knowingly fails to relinquish a firearm or firearms license as required by the order, shall be fined up to one thousand dollars (\$1,000.00) and costs for each offense.</p> <p>B. A person who intentionally or knowingly accepts possession of a firearm from a person he knows is the subject of an extreme risk protection order issued pursuant to Section 699.05 (relating to interim extreme risk protection order) or Section 699.09 (relating to order after hearing) shall be fined up to one thousand dollars (\$1,000.00) and costs for each offense.</p> <ol style="list-style-type: none"> <li>1. Section 699.16(B) shall not apply to a firearms dealer or subsequent purchaser from a firearms dealer who accepts possession of a firearm pursuant to this Chapter 699.</li> <li>2. It shall be an affirmative defense to any prosecution under Section 699.16(B) that the person accepting possession of a firearm in violation of Section 699.16(B): <ol style="list-style-type: none"> <li>a. Notified the sheriff or Law Enforcement Officer as soon as practicable that he has taken possession; and</li> <li>b. Relinquished possession of any firearm in violation of Section 699.16(B) as directed by the sheriff or Law Enforcement Officer.</li> </ol> </li> </ol> <p>C. A person who has accepted possession of a firearm or firearms license pursuant to this Chapter 699, if he intentionally or knowingly returns a firearm or firearms license to a respondent or intentionally or knowingly allows a respondent to have access to the firearm or firearms license prior to the expiration of an extreme risk protection order or the issuance of a court order that vacates or terminates an extreme risk protection order under this Chapter 699, shall be fined up to one thousand dollars (\$1,000.00) and costs for each offense.</p> <p><b>§ Sec. 699.17 EFFECTIVE DATE</b></p> <p>A. This Chapter shall take effect one hundred eighty (180) days after its enactment.</p> <p><b>§ Sec. 699.18 INTERPRETATION CONSISTENT WITH STATE LAW</b></p> <p>A. This Chapter 699 shall be interpreted to be consistent with any legislation enacted by the Pennsylvania General Assembly addressing the same subject matter.</p> <p><b>§ Sec. 699.19 SEVERABILITY</b></p> <p>A. is intended throughout and within the provisions of this Article XI: Weapons. If any section, subsection, sentence, clause, phrase, or portion of this Article XI: Weapons is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Chapter or this Article XI: Weapons, nor shall any finding that this Chapter or any portion thereof is invalid or unconstitutional affect the validity of any other chapter that is a part of this Article XI: Weapons.</p> <p><b>§ Sec. 699.20 FINDINGS AND PURPOSE</b></p> <p>A. For the purposes of this Chapter, the City Council does hereby find that:</p> <ol style="list-style-type: none"> <li>1. The first duty of the governments of the City of Pittsburgh and the Commonwealth of Pennsylvania is to protect their people; and</li> <li>2. Gun violence and gun suicides present a public health and public safety crisis in the United States; and</li> <li>3. From 2013 to 2017, the Centers for Disease Control and Prevention reported that the average number of firearm deaths for all ages was thirty-six thousand three hundred eighty-three (36,383) per year, and the average number of firearm deaths for persons under eighteen (18) years old was one thousand four hundred ninety-nine (1,499) per year; and</li> </ol>
--	--	---

		<p>4. From 2013 to 2017, seven thousand five hundred seventeen (7,517) Pennsylvania residents died from a firearm injury, including three hundred one (301) children under the age of eighteen (18); and</p> <p>5. From 2013 to 2017, a child or teen under the age of eighteen (18) was killed by gunfire in Pennsylvania every six (6) days, on average; and</p> <p>6. Law enforcement agencies in Pittsburgh and Allegheny County have partnered with the National Shooting Sports Foundation to distribute free gun locks to Pittsburgh residents through Project ChildSafe; and</p> <p>7. A February 2018 Politico/Morning Consult poll found that seventy-six (76) percent of registered voters across America supported requiring that all gun owners store their guns in a safe storage unit; and</p> <p>8. Every year in the United States, on average, more than two hundred fifty (250) children under eighteen (18) gain access to a gun and unintentionally shoot themselves or someone else, and nearly six hundred (600) more die by suicide performed with a gun; and</p> <p>9. Storing household guns locked, unloaded, or separate from the ammunition is associated with reductions in the risk of self-inflicted shootings among, and unintentional shootings by, children and teenagers; and</p> <p>10. An estimated 4.6 million American children and teens under eighteen (18) still live in homes with at least one (1) gun that is loaded and unlocked despite the lifesaving effect that responsible gun storage can have; and</p> <p>11. Available evidence, as compiled by the RAND Corporation, indicates that child access prevention laws or safe storage laws reduce self-inflicted fatal or nonfatal firearm injuries among youth and reduce unintentional firearm injuries or unintentional firearm deaths among children; and</p> <p>12. Over twenty-two thousand (22,000) Americans every year, including over one thousand (1,000) children and teens, die by firearm suicide; and</p> <p>13. A meta-analysis of fourteen (14) different scientific studies concluded that access to a firearm triples the risk of death by suicide of anyone in the household; and</p> <p>14. Among commonly used methods of self-harm, firearms are by far the most lethal, with a fatality rate of approximately eighty-five (85) percent, compared to less than five (5) percent with other methods, such that while firearms are used in less than six (6) percent of suicide attempts, over half of suicide deaths result from suicide attempts performed with firearms; and</p> <p>15. Extreme risk protection order laws have been shown to help prevent firearm suicides, as shown by the empirical evidence of reduced suicide rates under Connecticut's and Indiana's laws; and</p> <p>16. Extreme risk protection order laws can also prevent gun crimes, as an analysis of mass shootings from 2009 to 2017 revealed that in 51 percent of incidents the shooter exhibited warning signs that he posed a danger to himself or others before the shooting; and</p> <p>17. The City Council recognizes that 18 Pa. C.S. 6120(a) and 53 Pa. C.S. 2962(g) restrict municipal regulation of ownership, possession, transfer, and transportation of firearms, and, as to 18 Pa. C.S. 6120, Ammunition, and Ammunition components; and</p> <p>18. The City Council also recognizes its responsibility to respect governing law, and thus may not impose a prohibition on ownership, possession, transfer, or transportation of firearms, and, as to 18 Pa. C.S. 6120, ammunition, and ammunition components unless and until governing law allows it to become effective; and</p>
--	--	--

		<p>19. Senate Bill No. 90, a proposed statewide Extreme Risk Protection Order law dated February 14, 2019, was introduced to the General Assembly of Pennsylvania in the Session of 2019 by a bipartisan group of legislators; and</p> <p>20. The City Council calls upon the Pennsylvania General Assembly to protect all Pennsylvanians by enacting Senate Bill No. 90; and</p> <p>21. The United States Supreme Court has recognized that the right protected by the Second Amendment is not absolute. The Pennsylvania Supreme Court has recognized likewise with regard to Article I, section 21 of the Pennsylvania Constitution; and</p> <p>22. The City Council has authority to legislate regarding the use of firearms, as distinguished from their ownership, possession, transfer, or transportation, in order to protect members of the public.</p>
<p><b>RHODE ISLAND</b></p> <p><b>Types of orders:</b></p> <p>Temporary extreme risk protection order</p> <p>One-year extreme risk protection order</p> <p><a href="#">R.I. Gen. Laws § 8-8.3-1</a></p>	<p><b>Persons eligible to petition:</b> Law enforcement agency</p> <p><b>Standard of proof:</b> Temporary order: probable cause</p> <p>One-year order: clear and convincing evidence</p> <p><b>Evidence required:</b> Temporary order: must show that respondent poses a significant danger of causing imminent personal injury to self or others by having in his or her custody or control, or by purchasing, possessing, or receiving, a firearm before notice can be served and a hearing held.</p> <p>One-year order: must show that respondent poses a significant danger of causing imminent personal injury to self or others by having in his or her custody or control, or by purchasing, possessing, or receiving, a firearm.</p> <p><b>Length of order:</b> Temporary order: up to 14 days, until a hearing is held to determine if a one-year order should be issued.</p> <p>One-year order: one year</p> <p><b>Service on respondent:</b> Temporary order: First, petitioner should try to make timely personal service. If timely service can't be made, the hearing will be rescheduled and the court will either require additional attempts at personal service or will allow alternate service. Alternate service could be:</p>	<p><b>§ 8-8.3-1. Definitions</b></p> <p>When used in this chapter, the following words and phrases shall have the following meanings:</p> <p>(1) "Court" means the superior court in the county in which the respondent resides.</p> <p>(2) "Extreme risk protection order" means either a temporary order or a one-year order granted under this chapter.</p> <p>(3) "Family or household member" means present and former family members (as defined in § 15-15-1), parents (as defined in § 15-15-1), stepparents, legal guardians, persons who are or have been in a substantive dating or engagement relationship within the past one year (as defined in § 15-15-1), and cohabitants (as defined in § 8-8.1-1).</p> <p>(4) "Firearm" means and includes any machine gun, pistol, rifle, air rifle, air pistol, "blank gun", "BB gun", or other instrument from which steel or metal projectiles are propelled, or that may readily be converted to expel a projectile, except crossbows, recurve, compound, or longbows, and except instruments propelling projectiles that are designed or normally used for a primary purpose other than as a weapon. The frame or receiver of the weapon shall be construed as a firearm pursuant to the provisions of this section.</p> <p>(5) "Law enforcement agency" means the police department of any city or town, and the division of the Rhode Island state police established pursuant to chapter 28 of title 42.</p> <p>(6) "Law enforcement officer" means a sworn member of a law enforcement agency as defined herein.</p> <p>(7) "One-year extreme risk protection order" means an extreme risk protection order granted pursuant to the provisions of § 8-8.3-5 or renewed pursuant to the provisions of § 8-8.3-7.</p> <p>(8) "Petitioner" means a law enforcement agency that petitions for an order pursuant to this chapter.</p> <p>(9) "Respondent" means the person who is identified as the respondent in a petition filed pursuant to this chapter.</p> <p>(10) "Social media" means any cell phone- or internet-based tools and applications that are used to share and distribute information.</p> <p>(11) "Temporary extreme risk protection order" means an extreme risk protection order issued pursuant to the provisions of § 8-8.3-4.</p>

	<p>regular and certified mail; leaving copies at respondent's home with a person of suitable age and discretion; or attaching the documents to respondent's door.</p> <p>One-year extreme risk protection order: First, the sheriff should try to make timely personal service. If that can't be done within 7 days, the sheriff will notify petitioner and the court. Petitioner then seeks an order for alternate service as described above.</p> <p><b>Notification of persons at risk:</b> If requested by petitioner or the court, the law enforcement agency holding respondent's firearms must notify family members and any other interested parties before returning any firearms to respondent. The notice follows the same procedures as service of one-year orders.</p> <p><b>Renewal/Termination of the order:</b> Termination: respondent can submit one written request in each 12-month period the order is in effect. If they do so, there will be a hearing at which respondent will have to prove by clear and convincing evidence that they do not pose a significant danger of causing imminent personal injury to self or others by having a firearm in his or her custody or control, or by purchasing, possessing, or receiving a firearm.</p> <p>Renewal: petitioner can move to renew an order up to 14 days before the order is to expire. Respondent is to be personally served with notice of the motion unless the court orders otherwise. When considering whether to renew the order, the court generally follows the same procedures as they did when initially issuing the order. However, if the motion to renew is uncontested then the court may grant it based only the motion and an affidavit from petitioner stating that there has been no material change in circumstances.</p> <p><b>Filing fees:</b></p>	<p><b>§ 8-8.3-2. Filing of petition</b></p> <p>Proceedings under this chapter shall be filed, heard, and determined in the superior court of the county in which the respondent resides. Any proceedings under this chapter shall not preclude any other available civil or criminal remedies. A party filing a petition under this chapter may do so without payment of any filing fee. There shall be no minimum residence requirements for the filing of a petition under this chapter. All matters filed under this chapter, as well as any documents submitted in conjunction with proceedings under this chapter, shall be maintained as confidential or non-public by the superior court.</p> <p><b>§ 8-8.3-3. Contents of petition</b></p> <p>(a) A petition for an extreme risk protection order shall be filed only by a law enforcement agency.</p> <p>(b) A petitioner may file a petition with the court requesting an extreme risk protection order that shall enjoin the respondent from having in his or her possession, custody, or control any firearms and shall further enjoin the respondent from purchasing, receiving, or attempting to purchase or receive, any firearms while the order is in effect. The petitioner shall concurrently file a sworn affidavit for a search warrant pursuant to chapter 5 of title 12 for the search of any firearms in the possession, custody, or control of the respondent.</p> <p>(c) A petitioner shall file a petition upon receipt of credible information that the respondent poses a significant danger of causing imminent personal injury to self or others by having in his or her custody or control, or by purchasing, possessing, or receiving, a firearm.</p> <p>(d) A petition must state the specific statements, actions, or facts that support the belief that the respondent poses a significant danger of causing imminent personal injury to self or others by having in his or her custody or control, or by purchasing, possessing, or receiving, a firearm.</p> <p>(e) A petition for an extreme risk protection order must be supported by a written affidavit signed by the petitioner under oath. The petitioner may produce sworn statements or testimony of other witnesses to support the petition.</p> <p>(f) If the petitioner believes there are firearms in the respondent's current ownership, possession, custody, or control, the petition and search warrant affidavit shall identify the number, types, and locations of all such firearms, if known.</p> <p>(g) A petitioner for an extreme risk protection order, at the time of the filing, shall identify all known restraining orders, orders of protection, and pending lawsuits, complaints, petitions, or actions pending, active, or filed within one year prior to the petition involving the respondent, including, but not limited to, an order entered pursuant to chapter 8.1 of title 8 or chapter 15 of title 15.</p> <p><b>§ 8-8.3-4. Temporary orders – Proceedings</b></p> <p>(a) Upon the filing of a petition under this chapter, the court may enter a temporary order if the court finds there is probable cause from specific facts shown by the petition that the respondent poses a significant danger of causing imminent personal injury to self or others by having in his or her custody</p>
--	---	--

<p>A party filing a petition under this chapter may do so without payment of any filing fee</p> <p><b>Firearm prohibitions:</b> Respondent cannot have any firearm in their possession, custody, or control, and cannot purchase, receive, or attempt to purchase or receive any firearm.</p> <p><b>Firearm relinquishment process:</b> Respondent has a duty to immediately contact petitioner to arrange for the surrender of any firearms not seized during execution of the warrant.</p> <p><b>Firearm disposal process:</b> State police are authorized to develop procedures for termination of seized firearms.</p> <p><b>Limitations on liability:</b> Except in the case of filing a petition that is known to be materially false or is intended to harass, there is no liability for any action taken by law enforcement agency, law enforcement officer, or the attorney general in relation to obtaining an order. That includes but is not limited to reporting, declining to report, investigating, declining to investigate, filing, or declining to file a petition.</p> <p><b>Return/transfer of firearms:</b> Respondent must contact the law enforcement agency holding the firearms. If respondent can provide documentation from the court saying that the order has expired or been terminated, then the agency has 10 days to return the firearms. Before returning the firearms, the agency must run a national criminal records check to determine if respondent is otherwise prohibited from receiving the firearms. The agency must also, if requested by petitioner or the court, notify family members or other interested parties before returning the firearms.</p> <p>During the time of the order, respondent may also request that the agency transfer possession</p>	<p>or control, or by purchasing, possessing, or receiving, a firearm before notice can be served and a hearing held.</p> <p>(b) If the court finds probable cause under subsection (a) of this section and from the sworn affidavit, a search warrant shall issue pursuant to chapter 5 of title 12 for the search for any firearms in the possession, custody, or control of the respondent. The warrant shall be executed pursuant to chapter 5 of title 12.</p> <p>(c) When the court is unavailable after the close of business, a petition and affidavit may be filed before any available superior court judge.</p> <p>(d) Any order and warrant issued under this section, and any documentation in support of an order and warrant, shall be filed immediately with the clerk of the superior court. The filing shall have the effect of commencing proceedings under this chapter and invoking the other provisions of this chapter.</p> <p>(e) A temporary extreme risk protection order must include:</p> <ol style="list-style-type: none"> <li>(1) A statement of the grounds supporting the issuance of the order;</li> <li>(2) The date and time the order was issued;</li> <li>(3) A statement that the order shall continue until such time as a court considers the petition pursuant to § 8-8.3-5 at a hearing;</li> <li>(4) The address of the court that issued the order and in which any responsive pleading should be filed;</li> <li>(5) The date and time of the scheduled hearing;</li> <li>(6) The following statement: "To the subject of this protection order: This order will continue until the hearing scheduled on the date and time noted above. If any of your firearms have not been seized by the petitioner, you are under an obligation to immediately contact the petitioner to arrange for the surrender of any other firearms that you own and/or are in your custody, control, or possession, that have not been seized. You must surrender to the petitioner all firearms that you own and/or are in your custody, control, or possession, and also immediately surrender to the licensing authority or the attorney general any concealed carry permit issued to you pursuant to § 11-47-11 or § 11-47-18. While this order is in effect, it is illegal for you to have any firearm in your possession, custody, or control or for you to purchase, receive, or attempt to purchase or receive any firearm. You may seek the advice of an attorney as to any matter connected with this order. If you believe you cannot afford an attorney, you are hereby referred to the public defender for an intake interview, and if eligible, the court shall appoint an attorney for you."</li> <li>(7) Any temporary extreme risk protection order issued pursuant to this section shall continue until the time of the hearing pursuant to § 8-8.3-5. If the court continues a hearing pursuant to § 8-8.3-5, the temporary order shall remain in effect until the next hearing date.</li> </ol> <p>(f) The court shall schedule a hearing within fourteen (14) days of the issuance of a temporary extreme risk protection order to determine if a one-year extreme risk protection order should be issued under this chapter.</p> <p>(g) A temporary extreme risk protection order shall be immediately personally served by the petitioner along with supporting documents that formed the basis of the order, the notice of hearing, and the petition for the one-year extreme protection order. Alternative service shall be in accordance with § 8-</p>
--	---

	<p>to a federally licensed firearms dealer chosen by respondent. Respondent may then instruct the dealer to sell the firearms to a qualified named individual who is not a member of respondent's dwelling. That individual is prohibited from giving the firearms to respondent until the order has expired or been terminated. The owner of the firearms will receive any money made from the sale.</p> <p><b>Warrant authority:</b> When an order is issued, an accompanying warrant is also issued for search of all firearms in respondent's possession, custody, or control.</p> <p><b>Venue:</b> Superior court in the respondent's county of residence</p>	<p>8.3-6. Service issued under this section takes precedence over the service of other documents, unless the other documents are of a similar emergency nature. If timely personal service cannot be made, the court shall set a new hearing date and shall require additional attempts at obtaining personal service or permit alternative service as provided in this chapter.</p> <p>(h) If the court declines to issue a temporary extreme risk protection order, the court shall state in writing the reasons for the denial.</p> <p><b>§ 8-8.3-5. Hearings on petition -- Grounds for issuance -- Contents of order</b></p> <p>(a) Upon hearing the matter, if the court finds by clear and convincing evidence that the respondent poses a significant danger of causing imminent personal injury to self or others by having in his or her custody or control, or by purchasing, possessing, or receiving, a firearm, the court shall issue a one-year extreme risk protection order. An extreme risk protection order issued by the court shall be for a fixed period of one year, at the expiration of which time the court may renew the extreme risk protection order as set forth in § 8-8.3-7.</p> <p>(b) In determining whether grounds for an extreme risk protection order exist, the court may consider any or all of the following, including, but not limited to:</p> <ol style="list-style-type: none"> <li>(1) A recent act or threat of violence by the respondent against self or others, regardless of whether the act or threat of violence involves a firearm;</li> <li>(2) A pattern of acts or threats of violence by the respondent within the past twelve (12) months, including, but not limited to, acts or threats of violence against self or others;</li> <li>(3) The respondent's mental health history;</li> <li>(4) Evidence of the respondent's abuse of controlled substances or alcohol;</li> <li>(5) Previous violations by the respondent of any court order including, but not limited to, restraining orders, no-contact orders issued pursuant to chapter 29 of title 12, and protective orders issued pursuant to chapter 8.1 of title 8 or chapter 15 of title 15;</li> <li>(6) Previous extreme risk protection orders issued against the respondent;</li> <li>(7) The unlawful, threatening, or reckless use or brandishing of a firearm by the respondent, including, but not limited to, such act taken or displayed through social media;</li> <li>(8) The respondent's ownership of, access to, or intent to possess firearms;</li> <li>(9) The respondent's criminal history, including, but not limited to, arrests and convictions for felony offenses, crimes of violence as defined in § 11-47-2, violent misdemeanor offenses, crimes involving domestic violence as defined in § 12-29-2, and stalking;</li> <li>(10) The history, use, attempted use, or threatened use of physical violence by the respondent against another person, or the respondent's history of stalking another person, or evidence of cruelty to animals by the respondent, including, but not limited to, evidence of violations or convictions pursuant to the provisions of chapter 1 of title 4; and</li> <li>(11) Evidence of recent acquisition or attempts at acquisition of firearms by the respondent.</li> </ol>
--	--	---

		<p>(c) In determining whether grounds for a one-year extreme risk protection order exist, the court may also consider any other relevant and credible evidence presented by the petitioner, respondent, and any witnesses they may produce.</p> <p>(d) The court may continue a hearing under this section upon a showing of good cause, including, but not limited to, whether service was effectuated less than seven (7) days from the date of the scheduled hearing. If the court continues a hearing under this subsection in a matter in which a temporary extreme risk protection order has been issued under § 8-8.3-4, the temporary extreme risk protection order shall remain in effect until the next hearing date.</p> <p>(e) During the hearing the court may consider whether a mental health evaluation or substance abuse evaluation is appropriate, and may recommend that the respondent seek the evaluation if appropriate.</p> <p>(f) An extreme risk protection order must include:</p> <ol style="list-style-type: none"> <li>(1) A statement of the grounds supporting the issuance of the order;</li> <li>(2) The date and time the order was issued;</li> <li>(3) The date and time the order expires;</li> <li>(4) Information pertaining to any recommendation by the court for mental health and/or substance abuse evaluations, if applicable;</li> <li>(5) The address of the court that issued the order and in which any responsive pleading should be filed; and</li> </ol> <p>(6) The following statement: "To the subject of this protection order: This order will continue until the date and time noted above unless terminated earlier by court order. If any of your firearms have not been seized by the petitioner, you are under an obligation to immediately contact the petitioner to arrange for the surrender of any other firearms that you own and/or are in your custody, control, or possession, that have not been seized. You must surrender to the petitioner all firearms that you own and/or are in your custody, control, or possession, and also immediately surrender to the licensing authority or the attorney general any concealed carry permit issued to you pursuant to § 11-47-11 or § 11-47-18. While this order is in effect, it is illegal for you to have any firearm in your possession, custody, or control or for you to purchase, receive, or attempt to purchase or receive any firearm. You have the right to request one hearing to terminate this order within each twelve-month (12) period that this order, or any renewal order, is in effect. You may seek the advice of an attorney as to any matter connected with this order. If you believe you cannot afford an attorney, you are hereby referred to the public defender for an intake interview, and if eligible, the court shall appoint an attorney for you."</p> <p>(g) Upon the issuance of a one-year extreme risk protection order, the court shall inform the respondent that he or she is entitled to request termination of the order in the manner prescribed by § 8-8.3-7. The court shall provide the respondent with a form to request a termination hearing. The court shall also schedule a review hearing of the matter, which hearing shall be scheduled within thirty (30) calendar days before the date the one-year extreme risk protection order is set to expire.</p> <p>(h) If the court declines to issue a one-year extreme risk protection order, the court shall state in writing the particular reasons for the court's denial and shall also order the return of weapons to the respondent. The return should be effectuated consistent with the provisions of § 8-8.3-8.</p>
--	--	---

**§ 8-8.3-6. Service of one-year extreme risk protection orders**

(a) A one-year extreme risk protection order issued under this chapter shall be personally served upon the respondent by the division of sheriffs. Provided, the division of sheriffs may request the assistance of the state police with the service as needed. If the division of sheriffs cannot complete service of the one-year extreme risk protection order upon the respondent within seven (7) days of the order's issuance, the deputy sheriff shall notify the petitioner and the court. The petitioner shall then seek an order for alternative service pursuant to this chapter.

(b) If the court determines that after diligent effort, personal service on the respondent with or of any documents as required pursuant to this chapter cannot be made, then the court may order an alternative method of service designed to give reasonable notice to the respondent. Alternative service may include, but shall not be limited to: service by certified and regular mail at respondent's last-known address or place of employment; leaving copies at the respondent's dwelling or usual place of abode with a person of suitable age and discretion residing therein; or by affixing a summons to the door of the respondent's residence. Provided, due to the nature of these proceedings, notice shall not be given by publication in a newspaper.

(c) In the event personal service of any order, notice, or other document issued pursuant to this chapter cannot be obtained, the court shall have discretion to continue any extreme risk protection order, and hearing thereon, as the court deems appropriate, until service can be made upon the respondent.

(d) Upon receipt of alternative service of any order, notice, or other document issued pursuant to this chapter, the respondent shall comply with the order, notice, or document as if personally served.

**§ 8-8.3-7. Termination -- Expiration -- Renewal of orders**

(a) Termination of order. The respondent may submit a single written request for a hearing to terminate a one-year extreme risk protection order issued under this chapter within the twelve-month (12) period that the order, or any renewal order, is in effect.

(1) Upon receipt of the request for a hearing to terminate a one-year extreme risk protection order, the court shall set a date for a hearing. The respondent shall cause a copy of the notice of the request to be served on the original petitioner. A hearing on this motion shall be scheduled not later than thirty (30) days from the date of filing the request.

(2) At a hearing to terminate a one-year extreme risk protection order prior to its scheduled date of expiration, the respondent shall have the burden of proving by clear and convincing evidence that the respondent does not pose a significant danger of causing imminent personal injury to self or others by having a firearm in his or her custody or control, or by purchasing, possessing, or receiving a firearm. The court may consider any relevant evidence, including evidence of the considerations enumerated in § 8-8.3-5. In addition, the court may consider whether the respondent complied with the court's recommendation that the respondent undergo a mental health and/or substance abuse evaluation.

		<p>(3) If the court finds after the hearing that the respondent has met his or her burden by clear and convincing evidence, the court shall terminate the one-year order and order return of the firearms consistent with the provisions of § 8-8.3-8.</p> <p>(b) Notice of impending expiration. The original petitioner shall notify in writing all interested parties, including but not limited to family or household members of the respondent, of the impending expiration of any one-year extreme risk protection order within fourteen (14) calendar days before the date the order expires.</p> <p>(c) Motion for renewal of order. The petitioner may by motion request a renewal of a one-year extreme risk protection order at any time within fourteen (14) calendar days before the date the order expires.</p> <p>(1) Upon receipt of a motion to renew a one-year extreme risk protection order, the court shall order that a hearing be held not later than fourteen (14) days from the date the motion is filed. The respondent shall be personally served with notice of the motion, unless otherwise ordered by the court.</p> <p>(2) In determining whether to renew a one-year extreme risk protection order under this section, the court shall consider all relevant evidence presented by the petitioner and follow the same procedures provided in § 8-8.3-5. The court may also consider whether the respondent complied with any court recommendation for a mental health and/or substance abuse evaluation.</p> <p>(3) If the court finds by clear and convincing evidence that the requirements for issuance of a one-year extreme risk protection order as provided in § 8-8.3-5 continue to be met, the court shall renew the order for another year. Further, if, after notice, the motion for renewal is uncontested and the petitioner seeks no modification of the order, the order may be renewed on the basis of the petitioner's motion and affidavit stating that there has been no material change in relevant circumstances since entry of the order that is subject to renewal.</p> <p>(4) A renewal of a one-year extreme risk protection order shall be for another fixed period of one year, subject to termination as provided in subsection (a) of this section or future renewal by order of the court pursuant to this subsection.</p> <p><b>§ 8-8.3-8. Firearms return – Disposal</b></p> <p>(a) Any firearm seized or surrendered in accordance with this chapter shall be returned to the respondent upon his or her request, within ten (10) days, when:</p> <p>(1) The respondent produces documentation issued by the court indicating that any extreme risk protective order issued pursuant to this chapter has expired, terminated, or has not been renewed. Respondent shall not be required to acquire any additional court order granting the return of seized or surrendered firearms; and</p> <p>(2) The law enforcement agency in possession of the firearms conducts a national criminal records check and determines that the respondent is not otherwise prohibited from possessing a firearm under state or federal law.</p>
--	--	--

		<p>(b) A law enforcement agency shall, if requested by the court or the petitioner, provide prior notice to any interested party, including but not limited to family or household members of the respondent, of the impending return of a firearm to a respondent, in the manner provided in § 8-8.3-6.</p> <p>(c) Upon written request of the respondent, any law enforcement agency storing firearm(s) shall transfer possession of the firearm(s) to a federally licensed firearms dealer, who or that may be designated by the respondent if so desired.</p> <p>(1) The respondent may instruct the federally licensed firearms dealer designated by the respondent where applicable to sell the firearm(s) or to transfer ownership or possession in accordance with state and federal law, to a qualified named individual who is not a member of the person's dwelling house, and who is not prohibited from possessing firearms under state or federal law. The owner of any firearm(s) sold shall receive any financial value received from its sale, less the cost associated with taking possession of, storing, and transferring of the firearm(s).</p> <p>(2) Any individual to whom possession of a firearm(s) is transferred pursuant to this subsection shall be prohibited from transferring or returning any firearm(s) to the respondent while the extreme risk protective order is in effect and shall be informed of this prohibition. Any knowing violation of this subsection is a felony that shall be punishable by imprisonment for a term of not more than five (5) years, or by a fine of not more than one thousand dollars (\$ 1,000), or both.</p> <p>(3) An individual to whom possession of a firearm(s) is transferred pursuant to this subsection shall only return a firearm(s) to the respondent if the respondent provides court documentation that the extreme risk protection order issued pursuant to this chapter has expired or been withdrawn or terminated and has not been renewed.</p> <p>(d) The Rhode Island state police are authorized to develop rules and procedures pertaining to the storage and return of firearms seized by or surrendered to the local law enforcement agency or the state police pursuant to the provisions of this chapter or chapter 8.1 of title 8. The state police may consult with the Rhode Island Police Chiefs' Association in developing rules and procedures to effectuate this section.</p> <p><b>§ 8-8.3-9. Reporting of orders</b></p> <p>(a) The clerk of the court shall enter any one-year extreme risk protection order or temporary extreme risk protection order issued pursuant to this chapter into a statewide judicial information system on the same day the order is issued.</p> <p>(b) The clerk of the court shall forward a copy of any order issued, renewed, or terminated under this chapter the same day the order is issued to the appropriate law enforcement agency specified in the order and the attorney general.</p> <p>(1) Upon receipt of the copy of an extreme risk protection order, the attorney general shall enter the order into:</p> <p>(i) The National Instant Criminal Background Check System, also known as the NICS database;</p>
--	--	---

		<p>(ii) All federal or state computer-based systems and databases used by law enforcement or others to identify prohibited purchasers of firearms; and</p> <p>(iii) All computer-based criminal intelligence information systems and databases available in this state used by law enforcement agencies.</p> <p>(2) The order must remain in each system for the period stated in the order, and the law enforcement agency shall only remove orders from the systems upon notice that they have been terminated or expired. Entry into the computer-based criminal intelligence information system constitutes notice to all law enforcement agencies of the existence of the order. The order shall be fully enforceable in any city or town in the state.</p> <p>(c) The issuing court shall, within three (3) business days after issuance of a one-year extreme risk protection order or temporary extreme risk protection order, forward a copy of the respondent's driver's license, or comparable information, along with the date of order issuance, to the attorney general and the appropriate licensing authority. Upon receipt of the information, the attorney general or the appropriate licensing authority shall determine if the respondent has a concealed carry permit. If the respondent does have a concealed carry permit, the attorney general or the appropriate licensing authority shall immediately revoke the license.</p> <p>(d) If any extreme risk protection order is terminated before its expiration date, the clerk of the court shall forward, on the same day, a copy of the termination order to the office of the attorney general and the petitioner. Upon receipt of the order, the attorney general shall promptly remove the order from any computer-based system into which it was entered pursuant to subsection (b) of this section.</p> <p><b>§ 8-8.3-10. Penalties</b></p> <p>(a) Any violation of any extreme risk protection order shall subject the violator to being found in contempt of court. The contempt order shall not be exclusive and shall not preclude any other available civil or criminal remedies.</p> <p>(b) Any violation of an extreme risk protection order issued under this chapter of which the respondent has actual notice shall be a felony and, upon conviction, shall be punished by imprisonment for not more than ten (10) years, or a fine of not more than ten thousand dollars (\$ 10,000), or both.</p> <p>(c) Filing a petition or providing information pursuant to this chapter knowing the information in or for such petition to be materially false, or with intent to harass the respondent, shall be a felony that shall be punished by imprisonment for not more than five (5) years, or a fine of not more than five thousand dollars (\$ 5,000), or both.</p> <p><b>§ 8-8.3-11. Liability</b></p> <p>Except as provided in §§ 8-8.3-8 and 8-8.3-10, this chapter does not impose criminal or civil liability on a law enforcement agency, law enforcement officer, or the attorney general or a member of that department, for acts or omissions related to obtaining any extreme risk protection order including, but not limited to, reporting, declining to report, investigating, declining to investigate, filing, or declining to file a petition under this chapter.</p>
--	--	--

		<p><b>§ 8-8.3-12. Required notice on orders -- Confidentiality of proceedings</b></p> <p>(a) Any extreme risk protection order form shall include, in a conspicuous location, notice of penalties resulting from violation of the order, and the following statement: "You have the sole responsibility to avoid or refrain from violating this order's provisions. Only the court can change the order and only upon written application."</p> <p>(b) All filings, petitions, orders, warrants, affidavits, evidence, and any other document filed pursuant to this chapter shall be deemed confidential documents and shall not be available for public inspection or disclosure absent a court order. This section shall not prohibit the entry of orders into appropriate databases as required pursuant to § 8-8.3-9.</p> <p><b>§ 8-8.3-13. Appeal</b></p> <p>Any order under this chapter shall remain in effect during the pendency of an appeal to the supreme court unless the order is stayed by a justice of the supreme court.</p> <p><b>§ 8-8.3-14. Severability</b></p> <p>If any section of this chapter or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of the chapter and the application of the section to other persons or circumstances shall not be affected. The invalidity or unconstitutionality of any section or sections or part of any section or sections of this chapter shall not affect the validity of the remainder of this chapter and to this end the sections of this chapter are severable.</p>
<p><b>VERMONT</b></p> <p><b>Types of orders:</b>  <b>Temporary Ex Parte Extreme Risk Protection Order</b></p> <p><b>Final Extreme Risk Protection Order</b></p> <p><a href="#">13 V.S.A. § 4051</a> et seq.</p>	<p><b>Persons eligible to petition:</b>  A State's Attorney or the Office of the Attorney General</p> <p><b>Standard of proof:</b>  Temporary Ex Parte Extreme Risk Protection Order: preponderance of the evidence</p> <p>Final Extreme Risk Protection Order: clear and convincing evidence</p> <p><b>Evidence required:</b>  Must show extreme risk to self or others by possessing a firearm.</p> <p>Extreme risk to self can be shown by establishing that respondent has threatened or attempted suicide or serious bodily harm.</p> <p>Extreme risk to others can be shown by establishing that respondent has (1) inflicted or attempted to inflict bodily harm on another, (2)</p>	<p><b>§ 4051. Definitions</b></p> <p>As used in this subchapter:</p> <p>(1) "Court" means the Family Division of the Superior Court.</p> <p>(2) "Dangerous weapon" means an explosive or a firearm.</p> <p>(3) "Explosive" means dynamite, or any explosive compound of which nitroglycerin forms a part, or fulminate in bulk or dry condition, or blasting caps, or detonating fuses, or blasting powder or any other similar explosive. The term does not include a firearm or ammunition therefor or any components of ammunition for a firearm, including primers, smokeless powder, or black gunpowder.</p> <p>(4) "Federally licensed firearms dealer" means a licensed importer, licensed manufacturer, or licensed dealer required to conduct national instant criminal background checks under <a href="#">18 U.S.C. § 922(t)</a>.</p> <p>(5) "Firearm" shall have the same meaning as in subsection 4017(d) of this title.</p> <p>(6) "Law enforcement agency" means the Vermont State Police, a municipal police department, or a sheriff's department.</p> <p><b>§ 4052. Jurisdiction and venue</b></p> <p>(a) The Family Division of the Superior Court shall have jurisdiction over proceedings under this subchapter.</p> <p>(b) Emergency orders under section 4054 of this title may be issued by a judge of the Criminal, Civil, or Family Division of the Superior Court.</p>

	<p>by threats or actions placed others in reasonable fear of bodily harm, or (3) by actions or inactions presented a danger to persons in their care.</p> <p><b>Length of order:</b>  Temporary Ex Parte Extreme Risk Protection Order: up to 14 days, until the court grants or denies a final order</p> <p>Final Extreme Risk Protection Order: up to 6 months</p> <p><b>Service on respondent:</b>  May be served by any law enforcement officer and must be done at the earliest possible time.  Must be served in a way to ensure the safety of the parties.</p> <p>If respondent is present at a hearing and is given notice on the record, they are considered served.</p> <p><b>Notification of persons at risk:</b>  Statute is silent.</p> <p><b>Renewal/Termination of the order:</b>  Termination: respondent can move to terminate up to once within an order's effective period. The state has the burden of proving by clear and convincing evidence that respondent continues to pose a risk.</p> <p>Renewal: a State's Attorney or the Office of the Attorney General can move to renew the order for another 6 months. The motion must be made at least 14 days and no more than 30 days before the order is to expire. The state has the burden of proving by clear and convincing evidence that respondent continues to pose a risk.</p> <p><b>Filing fees:</b>  No filing fee shall be required for a petition filed under this section.</p>	<p>(c) Proceedings under this chapter shall be commenced in the county where the law enforcement agency is located, the county where the respondent resides, or the county where the events giving rise to the petition occur.</p> <p><b>§ 4053. Petition for extreme risk protection order</b></p> <p>(a) A State's Attorney or the Office of the Attorney General may file a petition requesting that the court issue an extreme risk protection order prohibiting a person from purchasing, possessing, or receiving a dangerous weapon or having a dangerous weapon within the person's custody or control. The petitioner shall submit an affidavit in support of the petition.</p> <p>(b) Except as provided in section 4054 of this title, the court shall grant relief only after notice to the respondent and a hearing. The petitioner shall have the burden of proof by clear and convincing evidence.</p> <p>(c)</p> <ol style="list-style-type: none"> <li>(1) A petition filed pursuant to this section shall allege that the respondent poses an extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent's custody or control.</li> <li>(2) (A) An extreme risk of harm to others may be shown by establishing that: <ol style="list-style-type: none"> <li>(i) the respondent has inflicted or attempted to inflict bodily harm on another; or</li> <li>(ii) by his or her threats or actions the respondent has placed others in reasonable fear of physical harm to themselves; or</li> <li>(iii) by his or her actions or inactions the respondent has presented a danger to persons in his or her care.</li> </ol> (B) An extreme risk of harm to himself or herself may be shown by establishing that the respondent has threatened or attempted suicide or serious bodily harm.</li> <li>(3) The affidavit in support of the petition shall state: <ol style="list-style-type: none"> <li>(A) the specific facts supporting the allegations in the petition;</li> <li>(B) any dangerous weapons the petitioner believes to be in the respondent's possession, custody, or control; and</li> <li>(C) whether the petitioner knows of an existing order with respect to the respondent under 15 V.S.A. chapter 21 (abuse prevention orders) or 12 V.S.A. chapter 178 (orders against stalking or sexual assault).</li> </ol> </li> </ol> <p>(d) The court shall hold a hearing within 14 days after a petition is filed under this section. Notice of the hearing shall be served pursuant to section 4056 of this title concurrently with the petition and any ex parte order issued under section 4054 of this title.</p> <p>(e)</p> <ol style="list-style-type: none"> <li>(1) The court shall grant the petition and issue an extreme risk protection order if it finds by clear and convincing evidence that the respondent poses an extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent's custody or control.</li> <li>(2) An order issued under this subsection shall prohibit a person from purchasing, possessing, or receiving a dangerous weapon or having a dangerous weapon within the person's custody or control for a period of up to six months. The order shall be signed by the judge and include the following provisions: <ol style="list-style-type: none"> <li>(A) A statement of the grounds for issuance of the order.</li> <li>(B) The name and address of the court where any filings should be made, the names of the parties, the date of the petition, the date and time of the order, and the date and time the order expires.</li> </ol> </li> </ol>
--	---	--

	<p><b>Firearm prohibitions:</b> Respondent is not allowed to purchase, possess, or receive a dangerous weapon, attempt to purchase, possess, or receive a dangerous weapon, or have a dangerous weapon in their custody or control.</p> <p><b>Firearm relinquishment process:</b> Generally, respondent must immediately surrender all firearms to law enforcement or federally licensed firearms dealers once they are served with the order. The court may order the respondent to surrender the firearms to another third party unless the court finds that doing so would not adequately protect the safety of any person.</p> <p>Law enforcement officers are authorized to collect firearms or make arrests as needed to enforce these orders.</p> <p><b>Firearm disposal process:</b> If respondent fails to claim their firearms 90 days after a court order releasing them, they may be sold for fair market value.</p> <p><b>Limitations on liability:</b> There will be no liability for any damage done to firearms while they are in law enforcement custody, unless the damage was intentional or a result of recklessness or gross negligence.</p> <p><b>Return/transfer of firearms:</b> Firearms can only be released with a court order.</p> <p><b>Warrant authority:</b> A warrant may be granted if necessary to enforce an order.</p> <p><b>Venue:</b> The petition must be filed in the Family division of the Superior Court in the county where the law enforcement agency is located, the county where the respondent resides, or the</p>	<p>(C) A description of how to appeal the order. (D) A description of the requirements for relinquishment of dangerous weapons under section 4059 of this title. (E) A description of how to request termination of the order under section 4055 of this title. The court shall include with the order a form for a motion to terminate the order. (F) A statement directing the law enforcement agency, approved federally licensed firearms dealer, or other person in possession of the firearm to release it to the owner upon expiration of the order. (G) A statement in substantially the following form:</p> <ul style="list-style-type: none"> <li>• "To the subject of this protection order: This order shall be in effect until the date and time stated above. If you have not done so already, you are required to surrender all dangerous weapons in your custody, control, or possession to [insert name of law enforcement agency], a federally licensed firearms dealer, or a person approved by the court. While this order is in effect, you are not allowed to purchase, possess, or receive a dangerous weapon; attempt to purchase, possess, or receive a dangerous weapon; or have a dangerous weapon in your custody or control. You have the right to request one hearing to terminate this order during the period that this order is in effect, starting from the date of this order. You may seek the advice of an attorney regarding any matter connected with this order."</li> </ul> <p>(f) If the court denies a petition filed under this section, the court shall state the particular reasons for the denial in its decision. (g) No filing fee shall be required for a petition filed under this section. (h) Form petitions and form orders shall be provided by the Court Administrator and shall be maintained by the clerks of the courts. (i) When findings are required under this section, the court shall make either written findings of fact or oral findings of fact on the record. (j) Every final order issued under this section shall bear the following language: "VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY <a href="#">13 V.S.A. § 4058</a>, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH." (k) Affidavit forms required pursuant to this section shall bear the following language: "MAKING A FALSE STATEMENT IN THIS AFFIDAVIT IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY <a href="#">13 V.S.A. § 4058</a>."</p> <p><b>§ 4054. Emergency relief; temporary ex parte order</b> (a)</p> <ol style="list-style-type: none"> <li>(1) A State's Attorney or the Office of the Attorney General may file a motion requesting that the court issue an extreme risk protection order ex parte, without notice to the respondent. A law enforcement officer may notify the court that an ex parte extreme risk protection order is being requested pursuant to this section, but the court shall not issue the order until after the motion is submitted.</li> <li>(2) The petitioner shall submit an affidavit in support of the motion alleging that the respondent poses an imminent and extreme risk of causing harm to himself or herself or another person by purchasing,</li> </ol>
--	--	--

	<p>county where the events giving rise to the petition occur.</p> <p>Note: Emergency orders under section 4054 of this title may be issued by a judge of the Criminal, Civil, or Family Division of the Superior Court</p>	<p>possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent's custody or control. The affidavit shall state:</p> <ul style="list-style-type: none"> <li>(A) the specific facts supporting the allegations in the motion, including the imminent danger posed by the respondent; and</li> <li>(B) any dangerous weapons the petitioner believes to be in the respondent's possession, custody, or control.</li> </ul> <p>(b)</p> <p>(1) The court shall grant the motion and issue a temporary ex parte extreme risk protection order if it finds by a preponderance of the evidence that at the time the order is requested the respondent poses an imminent and extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent's custody or control. The petitioner shall cause a copy of the order to be served on the respondent pursuant to section 4056 of this title, and the court shall deliver a copy to the holding station.</p> <p>(2) (A) An extreme risk of harm to others may be shown by establishing that:</p> <ul style="list-style-type: none"> <li>(i) the respondent has inflicted or attempted to inflict bodily harm on another; or</li> <li>(ii) by his or her threats or actions the respondent has placed others in reasonable fear of physical harm to themselves; or</li> <li>(iii) by his or her actions or inactions the respondent has presented a danger to persons in his or her care.</li> </ul> <p>(B) An extreme risk of harm to himself or herself may be shown by establishing that the respondent has threatened or attempted suicide or serious bodily harm.</p> <p>(c)</p> <p>(1) Unless the petition is voluntarily dismissed pursuant to subdivision (2) of this subsection, the court shall hold a hearing within 14 days after the issuance of a temporary ex parte extreme risk protection order to determine if a final extreme risk protection order should be issued. If not voluntarily dismissed, the temporary ex parte extreme risk protection order shall expire when the court grants or denies a motion for an extreme risk protection order under section 4053 of this title.</p> <p>(2) The prosecutor may voluntarily dismiss a motion filed under this section at any time prior to the hearing if the prosecutor determines that the respondent no longer poses an extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent's custody or control. If the prosecutor voluntarily dismisses the motion pursuant to this subdivision, the court shall vacate the temporary ex parte extreme risk protection order and direct the person in possession of the dangerous weapon to return it to the respondent consistent with section 4059 of this title.</p> <p>(d) (1) An order issued under this section shall prohibit a person from purchasing, possessing, or receiving a dangerous weapon or having a dangerous weapon within the person's custody or control for a period of up to 14 days. The order shall be in writing and signed by the judge and shall include the following provisions:</p> <ul style="list-style-type: none"> <li>(A) A statement of the grounds for issuance of the order.</li> <li>(B) The name and address of the court where any filings should be made, the names of the parties, the date of the petition, the date and time of the order, and the date and time the order expires.</li> <li>(C) The date and time of the hearing when the respondent may appear to contest the order before the court. This opportunity to contest shall be scheduled as soon as reasonably possible, which in no event shall be more than 14 days after the date of issuance of the order.</li> <li>(D) A description of the requirements for relinquishment of dangerous weapons under section 4059 of this title.</li> <li>(E) A statement in substantially the following form:</li> </ul>
--	--	--

		<ul style="list-style-type: none"> <li>• "To the subject of this protection order: This order shall be in effect until the date and time stated above. If you have not done so already, you are required to surrender all dangerous weapons in your custody, control, or possession to [insert name of law enforcement agency], a federally licensed firearms dealer, or a person approved by the court. While this order is in effect, you are not allowed to purchase, possess, or receive a dangerous weapon; attempt to purchase, possess, or receive a dangerous weapon; or have a dangerous weapon in your custody or control. A hearing will be held on the date and time noted above to determine if a final extreme risk prevention order should be issued. Failure, to appear at that hearing may result in a court making an order against you that is valid for up to six months. You may seek the advice of an attorney regarding any matter connected with this order."</li> </ul> <p>(2) (A) The court may issue an ex parte extreme risk protection order by telephone or by reliable electronic means pursuant to this subdivision if requested by the petitioner.</p> <p>(B) Upon receipt of a request for electronic issuance of an ex parte extreme risk protection order, the judicial officer shall inform the petitioner that a signed or unsigned motion and affidavit may be submitted electronically. The affidavit shall be sworn to or affirmed by administration of the oath over the telephone to the petitioner by the judicial officer. The administration of the oath need not be made part of the affidavit or recorded, but the judicial officer shall note on the affidavit that the oath was administered.</p> <p>(C) The judicial officer shall decide whether to grant or deny the motion and issue the order solely on the basis of the contents of the motion and the affidavit or affidavits provided. If the motion is granted, the judicial officer shall immediately sign the original order, enter on its face the exact date and time it is issued, and transmit a copy to the petitioner by reliable electronic means. The petitioner shall cause a copy of the order to be served on the respondent pursuant to section 4056 of this title.</p> <p>(D) On or before the next business day after the order is issued:</p> <ul style="list-style-type: none"> <li>(i) the petitioner shall file the original motion and affidavit with the court; and</li> <li>(ii) the judicial officer shall file the signed order, the motion, and the affidavit with the clerk. The clerk shall enter the documents on the docket immediately after filing.</li> </ul> <p>(e) Form motions and form orders shall be provided by the Court Administrator and shall be maintained by the clerks of the courts.</p> <p>(f) Every order issued under this section shall bear the following language: "VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY <a href="#">13 V.S.A. § 4058</a>, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH."</p> <p>(g) Affidavit forms required pursuant to this section shall bear the following language: "MAKING A FALSE STATEMENT IN THIS AFFIDAVIT IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY <a href="#">13 V.S.A. § 4058</a>."</p> <p>(h) If the court denies a petition filed under this section, the court shall state the particular reasons for the denial in its decision.</p>
--	--	--

**§ 4055. Termination and renewal motions**

(a)

(1) The respondent may file a motion to terminate an extreme risk protection order issued under section 4053 of this title or an order renewed under subsection (b) of this section. A motion to terminate shall not be filed more than once during the effective period of the order. The State shall have the burden of proof by clear and convincing evidence.

(2) The court shall grant the motion and terminate the extreme risk protection order unless it finds by clear and convincing evidence that the respondent continues to pose an extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent's custody or control.

(b)

(1) A State's Attorney or the Office of the Attorney General may file a motion requesting that the court renew an extreme risk protection order issued under this section or section 4053 of this title for an additional period of up to six months. The motion shall be accompanied by an affidavit and shall be filed not more than 30 days and not less than 14 days before the expiration date of the order. The motion and affidavit shall comply with the requirements of subsection 4053(c) of this title, and the moving party shall have the burden of proof by clear and convincing evidence.

(2) The court shall grant the motion and renew the extreme risk protection order for an additional period of up to six months if it finds by clear and convincing evidence that the respondent continues to pose an extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent's custody or control. The order shall comply with the requirements of subdivision 4053(e)(2) and subsections 4053(j) and (k) of this title.

(c) The court shall hold a hearing within 14 days after a motion to terminate or a motion to renew is filed under this section. Notice of the hearing shall be served pursuant to section 4056 of this title concurrently with the motion.

(d) If the court denies a motion filed under this section, the court shall state the particular reasons for the denial in its decision.

(e) Form termination and form renewal motions shall be provided by the Court Administrator and shall be maintained by the clerks of the courts.

(f) When findings are required under this section, the court shall make either written findings of fact or oral findings of fact on the record.

**§ 4056. Service**

(a) A petition, ex parte temporary order, or final order issued under this subchapter shall be served in accordance with the Vermont Rules of Civil Procedure and may be served by any law enforcement officer. A court that issues an order under this chapter during court hours shall promptly transmit the order electronically or by other means to a law enforcement agency for service, and shall deliver a copy to the holding station.

(b) A respondent who attends a hearing held under section 4053, 4054, or 4055 of this title at which a temporary or final order under this subchapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A respondent notified by the court on the record shall be required to adhere immediately to the provisions of the order. However,

		<p>even when the court has previously notified the respondent of the order, the court shall transmit the order for additional service by a law enforcement agency.</p> <p>(c) Extreme risk protection orders shall be served by the law enforcement agency at the earliest possible time and shall take precedence over other summonses and orders. Orders shall be served in a manner calculated to ensure the safety of the parties. Methods of service that include advance notification to the respondent shall not be used. The person making service shall file a return of service with the court stating the date, time, and place at which the order was delivered personally to the respondent.</p> <p>(d) If service of a notice of hearing issued under section 4053 or 4055 of this title cannot be made before the scheduled hearing, the court shall continue the hearing and extend the terms of the order upon request of the petitioner for such additional time as it deems necessary to achieve service on the respondent.</p> <p><b>§ 4057. Procedure</b></p> <p>(a) Except as otherwise specified, proceedings commenced under this subchapter shall be in accordance with the Vermont Rules for Family Proceedings and shall be in addition to any other available civil or criminal remedies.</p> <p>(b) The Court Administrator shall establish procedures to ensure access to relief after regular court hours or on weekends and holidays. The Court Administrator is authorized to contract with public or private agencies to assist petitioners to seek relief and to gain access to Superior Courts. Law enforcement agencies shall assist in carrying out the intent of this section.</p> <p>(c) The Court Administrator shall ensure that the Superior Court has procedures in place so that the contents of orders and pendency of other proceedings can be known to all courts for cases in which an extreme risk protection order proceeding is related to a criminal proceeding.</p> <p><b>§ 4058. Enforcement; criminal penalties</b></p> <p>(a) Law enforcement officers are authorized to enforce orders issued under this chapter. Enforcement may include collecting and disposing of dangerous weapons pursuant to section 4059 of this title and making an arrest in accordance with the provisions of Rule 3 of the Vermont Rules of Criminal Procedure.</p> <p>(b)</p> <ol style="list-style-type: none"> <li>(1) A person who intentionally commits an act prohibited by a court or fails to perform an act ordered by a court, in violation of an extreme risk protection order issued pursuant to section 4053, 4054, or 4055 of this title, after the person has been served with notice of the contents of the order as provided for in this subchapter, shall be imprisoned not more than one year or fined not more than \$ 1,000.00, or both.</li> <li>(2) A person who files a petition for an extreme risk protection order under this subchapter, or who submits an affidavit accompanying the petition, knowing that information in the petition or the affidavit is false, or that the petition or affidavit is submitted with the intent to harass the respondent, shall be imprisoned for not more than one year or fined not more than \$ 1,000.00, or both.</li> </ol> <p>(c) In addition to the provisions of subsections (a) and (b) of this section, violation of an order issued under this subchapter may be prosecuted as criminal contempt under Rule 42 of Vermont Rules of Criminal Procedure. The</p>
--	--	--

prosecution for criminal contempt may be initiated by the State's Attorney in the county in which the violation occurred. The maximum penalty that may be imposed under this subsection shall be a fine of \$ 1,000.00 or imprisonment for six months, or both. A sentence of imprisonment upon conviction for criminal contempt may be stayed, in the discretion of the court, pending the expiration of the time allowed for filing notice of appeal or pending appeal if any appeal is taken.

**§ 4059. Relinquishment, storage, and return of dangerous weapons**

(a) A person who is required to relinquish a dangerous weapon other than a firearm in the person's possession, custody, or control by an extreme risk protection order issued under section 4053, 4054, or 4055 of this title shall upon service of the order immediately relinquish the dangerous weapon to a cooperating law enforcement agency. The law enforcement agency shall transfer the weapon to the Bureau of Alcohol, Tobacco, Firearms and Explosives for proper disposition.

(b)

(1) A person who is required to relinquish a firearm in the person's possession, custody, or control by an extreme risk protection order issued under section 4053, 4054, or 4055 of this title shall, unless the court orders an alternative relinquishment pursuant to subdivision (2) of this subsection, upon service of the order immediately relinquish the firearm to a cooperating law enforcement agency or an approved federally licensed firearms dealer.

(2) (A) The court may order that the person relinquish a firearm to a person other than a cooperating law enforcement agency or an approved federally licensed firearms dealer unless the court finds that relinquishment to the other person will not adequately protect the safety of any person.

(B) A person to whom a firearm is relinquished pursuant to subdivision (A) of this subdivision (2) shall execute an affidavit on a form approved by the Court Administrator stating that the person:

(i) acknowledges receipt of the firearm;

(ii) assumes responsibility for storage of the firearm until further order of the court and specifies the manner in which he or she will provide secure storage;

(iii) is not prohibited from owning or possessing firearms under State or federal law; and

(iv) understands the obligations and requirements of the court order, including the potential for the person to be subject to civil contempt proceedings pursuant to subdivision (C) of this subdivision (2) if the person permits the firearm to be possessed, accessed, or used by the person who relinquished the item or by any other person not authorized by law to do so.

(C) A person to whom a firearm is relinquished pursuant to subdivision (A) of this subdivision (2) shall be subject to civil contempt proceedings under 12 V.S.A. chapter 5 if the person permits the firearm to be possessed, accessed, or used by the person who relinquished the item or by any other person not authorized by law to do so. In the event that the person required to relinquish the firearm or any other person not authorized by law to possess the relinquished item obtains access to, possession of, or use of a relinquished item, all relinquished items shall be immediately transferred to the possession of a law enforcement agency or approved federally licensed firearms dealer pursuant to subdivision (b)(1) of this section.

(c) A law enforcement agency or an approved federally licensed firearms dealer that takes possession of a firearm pursuant to subdivision (b)(1) of this section shall photograph, catalogue, and store the item in accordance with standards and guidelines established by the Department of Public Safety pursuant to 20 V.S.A. § 2307(i)(3).

(d) Nothing in this section shall be construed to prohibit the lawful sale of firearms or other items.

(e) An extreme risk protection order issued pursuant to section 4053 of this title or renewed pursuant to section 4055 of this title shall direct the law enforcement agency, approved federally licensed firearms dealer, or other person in possession of a firearm under subsection (b) of this section to release it to the owner upon expiration of the order.

(f)

(1) A law enforcement agency, an approved federally licensed firearms dealer, or any other person who takes possession of a firearm for storage purposes pursuant to this section shall not release it to the owner without a court order unless the firearm is to be sold pursuant to subdivision (2)(A) of this subsection. If a court orders the release of a firearm stored under this section, the law enforcement agency or firearms dealer in possession of the firearm shall make it available to the owner within three business days after receipt of the order and in a manner consistent with federal law.

(2) (A) If the owner fails to retrieve the firearm within 90 days after the court order releasing it, the firearm may be sold for fair market value. Title to the firearm shall pass to the law enforcement agency or firearms dealer for the purpose of transferring ownership, except that the Vermont State Police shall follow the procedure described in 20 V.S.A. § 2305.

(ii) The law enforcement agency or firearms dealer shall make a reasonable effort to notify the owner of the sale before it occurs. In no event shall the sale occur until after the court issues a final extreme risk protection order pursuant to section 4053 of this title.

(iii) As used in this subdivision (2)(A), "reasonable effort" shall mean notice shall be served as provided for by Rule 4 of the Vermont Rules of Civil Procedure.

(B) Proceeds from the sale of a firearm pursuant to subdivision (A) of this subdivision (2) shall be apportioned as follows:

(i) associated costs, including the costs of sale and of locating and serving the owner, shall be paid to the law enforcement agency or firearms dealer that incurred the cost; and

(ii) any proceeds remaining after payment is made to the law enforcement agency or firearms dealer pursuant to subdivision (i) of this subdivision (2)(B) shall be paid to the original owner.

(g) A law enforcement agency shall be immune from civil or criminal liability for any damage or deterioration of a firearm stored or transported pursuant to this section. This subsection shall not apply if the damage or deterioration occurred as a result of recklessness, gross negligence, or intentional misconduct by the law enforcement agency.

(h) This section shall be implemented consistent with the standards and guidelines established by the Department of Public Safety under 20 V.S.A. § 2307(i).

(i) Notwithstanding any other provision of this chapter:

(1) A dangerous weapon shall not be returned to the respondent if the respondent's possession of the weapon would be prohibited by state or federal law.

(2) A dangerous weapon shall not be taken into possession pursuant to this section if it is being or may be used as evidence in a pending criminal matter.

**§ 4060. Appeals**

An extreme risk protection order issued by the court under section 4053 or 4055 of this title shall be treated as a final order for the purposes of appeal. Appeal may be taken by either party to the Supreme Court under the Vermont Rules of Appellate Procedure, and the appeal shall be determined forthwith.

		<p><b>§ 4061. Effect on other laws</b></p> <p>This chapter shall not be construed to prevent a court from prohibiting a person from possessing firearms under any other provision of law.</p>
<p>WASHINGTON</p> <p><b>Types of orders:</b>  <b>Ex parte temporary extreme risk protection order</b></p> <p><b>Extreme risk protection order</b></p> <p><a href="#">Rev. Code Wash. (ARCW) § 7.94.010</a></p>	<p><b>Persons eligible for petition:</b>  Law enforcement;  People related by blood, marriage or adoption; dating partners; a person who has a child with respondent; a person who has lived with respondent within the past /year; domestic partner; person with a biological or legal parent/child relationship;  Legal guardians</p> <p><b>Standard of proof:</b>  Extreme risk protection order: preponderance of the evidence  Ex parte temporary extreme risk protection order: reasonable cause</p> <p><b>Evidence required:</b>  Must show that respondent poses a significant danger of causing personal injury to self or others by having in his or her custody or control, purchasing, possessing, or receiving a firearm</p> <p><b>Duration of order:</b>  Extreme risk protection order: one year  Ex parte temporary extreme risk protection order: up to 14 days, until a hearing is held</p> <p><b>Service on respondent:</b>  Respondent should be personally served at least 5 days before the hearing. If personal service can't be made on time, then the court can either</p>	<p><b>This version of the statute is effective until July 28, 2019. At that time a revised version will go into effect.</b></p> <p><b>7.94.900. Short title — 2017 c 3 (Initiative Measure No. 1491).</b></p> <p>Chapter 3, Laws of 2017 may be known and cited as the extreme risk protection order act.</p> <p><b>7.94.010. Purpose — Intent.</b></p> <p>(1) Chapter 3, Laws of 2017 is designed to temporarily prevent individuals who are at high risk of harming themselves or others from accessing firearms by allowing family, household members, and police to obtain a court order when there is demonstrated evidence that the person poses a significant danger, including danger as a result of a dangerous mental health crisis or violent behavior.</p> <p>(2) Every year, over one hundred thousand people are victims of gunshot wounds and more than thirty thousand of those victims lose their lives. Over the last five years for which data is available, one hundred sixty-four thousand eight hundred twenty-one people in America were killed with firearms — an average of ninety-one deaths each day.</p> <p>(3) Studies show that individuals who engage in certain dangerous behaviors are significantly more likely to commit violence toward themselves or others in the near future. These behaviors, which can include other acts or threats of violence, self-harm, or the abuse of drugs or alcohol, are warning signs that the person may soon commit an act of violence.</p> <p>(4) Individuals who pose a danger to themselves or others often exhibit signs that alert family, household members, or law enforcement to the threat. Many mass shooters displayed warning signs prior to their killings, but federal and state laws provided no clear legal process to suspend the shooters' access to guns, even temporarily.</p> <p>(5) In enacting this initiative [chapter 3, Laws of 2017], it is the purpose and intent of the people to reduce gun deaths and injuries, while respecting constitutional rights, by providing a court procedure for family, household members, and law enforcement to obtain an order temporarily restricting a person's access to firearms. Court orders are intended to be limited to situations in which the person poses a significant danger of harming themselves or others by possessing a firearm and include standards and safeguards to protect the rights of respondents and due process of law.</p>

	<p>delay the hearing or allow service by publication or mail.</p> <p><b>Notification of persons at risk:</b> If petitioner is law enforcement, they must make good faith efforts to notify persons at risk. The notice must include referrals to appropriate mental health, domestic violence, and counseling services.</p> <p><b>Renewal/Termination:</b> Termination: respondent can request termination up to one time per 12-month period the order is in effect. To terminate, respondent must show by a preponderance of the evidence that their possession of a firearm would not pose a significant danger to themselves or others.</p> <p>Renewal: petitioner can request a renewal up to 105 days before the order expires. If respondent contests renewal, then petitioner must meet the same burden as they did in the initial order. If respondent does not contest renewal, then it is enough for petitioner to state by motion or affidavit that there has been no material change in the circumstances.</p> <p><b>Filing fees:</b> No fees for filing or service of process may be charged by a court or any public agency to petitioners seeking relief under this chapter. Petitioners shall be provided the necessary number of certified copies, forms, and instructional brochures free of charge.</p> <p><b>Firearm prohibitions:</b> Respondent cannot have custody or control, purchase, possess, or receive a firearm</p> <p><b>Firearm relinquishment process:</b> If respondent is not personally served by law enforcement, then respondent must surrender all firearms to law enforcement within 48 hours of being served (or if respondent got notice by</p>	<p><b>7.94.020. Definitions.</b></p> <p>The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.</p> <p>(1) “Extreme risk protection order” means an ex parte temporary order or a final order granted under this chapter.</p> <p>(2) “Family or household member” means, with respect to a respondent, any: (a) Person related by blood, marriage, or adoption to the respondent; (b) Dating partners of the respondent; (c) Person who has a child in common with the respondent, regardless of whether such person has been married to the respondent or has lived together with the respondent at any time; (d) Person who resides or has resided with the respondent within the past year; (e) Domestic partner of the respondent; (f) Person who has a biological or legal parent-child relationship with the respondent, including stepparents and stepchildren and grandparents and grandchildren; and (g) Person who is acting or has acted as the respondent’s legal guardian.</p> <p>(3) “Petitioner” means the person who petitions for an order under this chapter.</p> <p>(4) “Respondent” means the person who is identified as the respondent in a petition filed under this chapter.</p> <p><b>7.94.030. Petition for order</b></p> <p>There shall exist an action known as a petition for an extreme risk protection order.</p> <p>(1) A petition for an extreme risk protection order may be filed by (a) a family or household member of the respondent or (b) a law enforcement officer or agency.</p> <p>(2) An action under this chapter must be filed in the county where the petitioner resides or the county where the respondent resides.</p> <p>(3) A petition must:</p> <p>(a) Allege that the respondent poses a significant danger of causing personal injury to self or others by having in his or her custody or control, purchasing, possessing, or receiving a firearm, and be accompanied by an affidavit made under oath stating the specific statements, actions, or facts that give rise to a reasonable fear of future dangerous acts by the respondent;</p> <p>(b) Identify the number, types, and locations of any firearms the petitioner believes to be in the respondent’s current ownership, possession, custody, or control;</p> <p>(c) Identify whether there is a known existing protection order governing the respondent, under chapter 7.90, 7.92, 10.14, 9A.46, 10.99, 26.50, or 26.52 RCW or under any other applicable statute; and</p> <p>(d) Identify whether there is a pending lawsuit, complaint, petition, or other action between the parties to the petition under the laws of Washington.</p>
--	--	---

	<p>being present at an emergency hearing, within 48 hours of that hearing).</p> <p>If respondent is personally served by law enforcement, then the officer must request that respondent immediately turn over all firearms in their possession or control, as well as any concealed pistol license. The officer may also conduct any otherwise-lawful search necessary to reveal such firearms.</p> <p>If probable cause exists to believe that respondent has failed to surrender all firearms, the court can issue a warrant to search for firearms.</p> <p><b>Firearm disposal process:</b> If respondent does not claim their firearms after the order ends, then the law enforcement agency holding them must dispose of them under the agency's own procedures.</p> <p><b>Limitations on liability:</b> There will be liability for any person for acts or omissions relating to obtaining an order (including reporting, not reporting, investigating, not investigating, filing, or declining to file).</p> <p><b>Return/transfer of firearms:</b> If someone other than respondent claims to be the owner of a surrendered firearm, it will be returned to them as long as (1) it will be removed from respondent's control, and the owner agrees to store it in a way that respondent will not be able to access it, and (2) the claimed owner is actually a lawful owner.</p> <p>If the order ends, then law enforcement must return all firearms after (1) checking with the court to make sure the order has actually ended, and (2) doing a background check to ensure the respondent is eligible to own the firearms again.</p> <p><b>Warrant authority:</b></p>	<p>(4) The court administrator shall verify the terms of any existing order governing the parties. The court may not delay granting relief because of the existence of a pending action between the parties or the necessity of verifying the terms of an existing order. A petition for an extreme risk protection order may be granted whether or not there is a pending action between the parties.</p> <p>(5) If the petitioner is a law enforcement officer or agency, the petitioner shall make a good faith effort to provide notice to a family or household member of the respondent and to any known third party who may be at risk of violence. The notice must state that the petitioner intends to petition the court for an extreme risk protection order or has already done so, and include referrals to appropriate resources, including mental health, domestic violence, and counseling resources. The petitioner must attest in the petition to having provided such notice, or attest to the steps that will be taken to provide such notice.</p> <p>(6) If the petition states that disclosure of the petitioner's address would risk harm to the petitioner or any member of the petitioner's family or household, the petitioner's address may be omitted from all documents filed with the court. If the petitioner has not disclosed an address under this subsection, the petitioner must designate an alternative address at which the respondent may serve notice of any motions. If the petitioner is a law enforcement officer or agency, the address of record must be that of the law enforcement agency.</p> <p>(7) Within ninety days of receipt of the master copy from the administrative office of the courts, all court clerk's offices shall make available the standardized forms, instructions, and informational brochures required by RCW 7.94.150. Any assistance or information provided by clerks under this section does not constitute the practice of law and clerks are not responsible for incorrect information contained in a petition.</p> <p>(8) No fees for filing or service of process may be charged by a court or any public agency to petitioners seeking relief under this chapter. Petitioners shall be provided the necessary number of certified copies, forms, and instructional brochures free of charge.</p> <p>(9) A person is not required to post a bond to obtain relief in any proceeding under this section.</p> <p>(10) The superior courts of the state of Washington have jurisdiction over proceedings under this chapter. Additionally, district and municipal courts have limited jurisdiction over issuance and enforcement of ex parte extreme risk protection orders issued under RCW 7.94.050. The district or municipal court shall set the full hearing provided for in RCW 7.94.040 in superior court and transfer the case. If the notice and order are not served on the respondent in time for the full hearing, the issuing court has concurrent jurisdiction with the superior court to extend the ex parte extreme risk protection order.</p> <p><b>7.94.040. Hearings on petition — Grounds for order issuance.</b></p> <p>(1) Upon receipt of the petition, the court shall order a hearing to be held not later than fourteen days from the date of the order and issue a notice of hearing to the respondent for the same.</p> <p>(a) The court may schedule a hearing by telephone pursuant to local court rule, to reasonably accommodate a disability, or in exceptional circumstances to protect a petitioner from potential harm. The court shall require assurances of the petitioner's identity before conducting a telephonic hearing.</p>
--	---	--

	<p>If probable cause exists to believe that respondent has failed to surrender all firearms, the court can issue a warrant for search and seizure of firearms.</p> <p><b>Venue:</b> Statute is silent.</p>	<p>(b) The court clerk shall cause a copy of the notice of hearing and petition to be forwarded on or before the next judicial day to the appropriate law enforcement agency for service upon the respondent.</p> <p>(c) Personal service of the notice of hearing and petition shall be made upon the respondent by a law enforcement officer not less than five court days prior to the hearing. Service issued under this section takes precedence over the service of other documents, unless the other documents are of a similar emergency nature. If timely personal service cannot be made, the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication or mail as provided in RCW 7.94.070. The court shall not require more than two attempts at obtaining personal service and shall permit service by publication or mail after two attempts at obtaining personal service unless the petitioner requests additional time to attempt personal service. If the court issues an order permitting service by publication or mail, the court shall set the hearing date not later than twenty-four days from the date the order issues.</p> <p>(d) The court may, as provided in RCW 7.94.050, issue an ex parte extreme risk protection order pending the hearing ordered under this subsection (1). Such ex parte order must be served concurrently with the notice of hearing and petition.</p> <p>(2) Upon hearing the matter, if the court finds by a preponderance of the evidence that the respondent poses a significant danger of causing personal injury to self or others by having in his or her custody or control, purchasing, possessing, or receiving a firearm, the court shall issue an extreme risk protection order for a period of one year.</p> <p>(3) In determining whether grounds for an extreme risk protection order exist, the court may consider any relevant evidence including, but not limited to, any of the following:</p> <ul style="list-style-type: none"> <li>(a) A recent act or threat of violence by the respondent against self or others, whether or not such violence or threat of violence involves a firearm;</li> <li>(b) A pattern of acts or threats of violence by the respondent within the past twelve months including, but not limited to, acts or threats of violence by the respondent against self or others;</li> <li>(c) Any dangerous mental health issues of the respondent;</li> <li>(d) A violation by the respondent of a protection order or a no-contact order issued under chapter 7.90, 7.92, 10.14, 9A.46, 10.99, 26.50, or 26.52 RCW;</li> <li>(e) A previous or existing extreme risk protection order issued against the respondent;</li> <li>(f) A violation of a previous or existing extreme risk protection order issued against the respondent;</li> <li>(g) A conviction of the respondent for a crime that constitutes domestic violence as defined in RCW 10.99.020;</li> <li>(h) The respondent's ownership, access to, or intent to possess firearms;</li> <li>(i) The unlawful or reckless use, display, or brandishing of a firearm by the respondent;</li> <li>(j) The history of use, attempted use, or threatened use of physical force by the respondent against another person, or the respondent's history of stalking another person;</li> </ul>
--	--	---

		<p>(k) Any prior arrest of the respondent for a felony offense or violent crime;</p> <p>(l) Corroborated evidence of the abuse of controlled substances or alcohol by the respondent; and</p> <p>(m) Evidence of recent acquisition of firearms by the respondent.</p> <p>(4) The court may:</p> <p>(a) Examine under oath the petitioner, the respondent, and any witnesses they may produce, or, in lieu of examination, consider sworn affidavits of the petitioner, the respondent, and any witnesses they may produce; and</p> <p>(b) Ensure that a reasonable search has been conducted for criminal history records related to the respondent.</p> <p>(5) In a hearing under this chapter, the rules of evidence apply to the same extent as in a domestic violence protection order proceeding under chapter 26.50 RCW.</p> <p>(6) During the hearing, the court shall consider whether a mental health evaluation or chemical dependency evaluation is appropriate, and may order such evaluation if appropriate.</p> <p>(7) An extreme risk protection order must include:</p> <p>(a) A statement of the grounds supporting the issuance of the order;</p> <p>(b) The date and time the order was issued;</p> <p>(c) The date and time the order expires;</p> <p>(d) Whether a mental health evaluation or chemical dependency evaluation of the respondent is required;</p> <p>(e) The address of the court in which any responsive pleading should be filed;</p> <p>(f) A description of the requirements for relinquishment of firearms under RCW 7.94.090; and</p> <p>(g) The following statement: “To the subject of this protection order: This order will last until the date and time noted above. If you have not done so already, you must surrender to the (insert name of local law enforcement agency) all firearms in your custody, control, or possession and any concealed pistol license issued to you under RCW 9.41.070 immediately. You may not have in your custody or control, purchase, possess, receive, or attempt to purchase or receive, a firearm while this order is in effect. You have the right to request one hearing to terminate this order every twelve-month period that this order is in effect, starting from the date of this order and continuing through any renewals. You may seek the advice of an attorney as to any matter connected with this order.”</p> <p>(8) When the court issues an extreme risk protection order, the court shall inform the respondent that he or she is entitled to request termination of the order in the manner prescribed by RCW 7.94.080. The court shall provide the respondent with a form to request a termination hearing.</p> <p>(9) If the court declines to issue an extreme risk protection order, the court shall state the particular reasons for the court's denial.</p>
--	--	--

**7.94.050. Ex parte orders**

- (1) A petitioner may request that an ex parte extreme risk protection order be issued before a hearing for an extreme risk protection order, without notice to the respondent, by including in the petition detailed allegations based on personal knowledge that the respondent poses a significant danger of causing personal injury to self or others in the near future by having in his or her custody or control, purchasing, possessing, or receiving a firearm.
- (2) In considering whether to issue an ex parte extreme risk protection order under this section, the court shall consider all relevant evidence, including the evidence described in RCW 7.94.040(3).
- (3) If a court finds there is reasonable cause to believe that the respondent poses a significant danger of causing personal injury to self or others in the near future by having in his or her custody or control, purchasing, possessing, or receiving a firearm, the court shall issue an ex parte extreme risk protection order.
- (4) The court shall hold an ex parte extreme risk protection order hearing in person or by telephone on the day the petition is filed or on the judicial day immediately following the day the petition is filed.
- (5) In accordance with RCW 7.94.040(1), the court shall schedule a hearing within fourteen days of the issuance of an ex parte extreme risk protection order to determine if a one-year extreme risk protection order should be issued under this chapter.
- (6) An ex parte extreme risk protection order shall include:
  - (a) A statement of the grounds asserted for the order;
  - (b) The date and time the order was issued;
  - (c) The date and time the order expires;
  - (d) The address of the court in which any responsive pleading should be filed;
  - (e) The date and time of the scheduled hearing;
  - (f) A description of the requirements for surrender of firearms under RCW 7.94.090; and
  - (g) The following statement: “To the subject of this protection order: This order is valid until the date and time noted above. You are required to surrender all firearms in your custody, control, or possession. You may not have in your custody or control, purchase, possess, receive, or attempt to purchase or receive, a firearm while this order is in effect. You must surrender to the (insert name of local law enforcement agency) all firearms in your custody, control, or possession and any concealed pistol license issued to you under RCW 9.41.070 immediately. A hearing will be held on the date and at the time noted above to determine if an extreme risk protection order should be issued. Failure to appear at that hearing may result in a court making an order against you that is valid for one year. You may seek the advice of an attorney as to any matter connected with this order.”
- (7) Any ex parte extreme risk protection order issued expires upon the hearing on the extreme risk protection order.

(8) An ex parte extreme risk protection order shall be served by a law enforcement officer in the same manner as provided for in RCW 7.94.040 for service of the notice of hearing and petition, and shall be served concurrently with the notice of hearing and petition.

(9) If the court declines to issue an ex parte extreme risk protection order, the court shall state the particular reasons for the court’s denial.

**7.94.060. Service of orders**

(1) An extreme risk protection order issued under RCW 7.94.040 must be personally served upon the respondent, except as otherwise provided in this chapter.

(2) The law enforcement agency with jurisdiction in the area in which the respondent resides shall serve the respondent personally, unless the petitioner elects to have the respondent served by a private party.

(3) If service by a law enforcement agency is to be used, the clerk of the court shall cause a copy of the order issued under this chapter to be forwarded on or before the next judicial day to the law enforcement agency specified in the order for service upon the respondent. Service of an order issued under this chapter takes precedence over the service of other documents, unless the other documents are of a similar emergency nature.

(4) If the law enforcement agency cannot complete service upon the respondent within ten days, the law enforcement agency shall notify the petitioner. The petitioner shall provide information sufficient to permit such notification.

(5) If an order entered by the court recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of that order is not necessary.

(6) If the court previously entered an order allowing service of the notice of hearing and petition, or an ex parte extreme risk protection order, by publication or mail under RCW 7.94.070, or if the court finds there are now grounds to allow such alternate service, the court may permit service by publication or mail of the extreme risk protection order issued under this chapter as provided in RCW 7.94.070. The court order must state whether the court permitted service by publication or service by mail.

(7) Returns of service under this chapter must be made in accordance with the applicable court rules.

**7.94.070. Service by publication or mail**

(1) The court may order service by publication or service by mail under the circumstances permitted for such service in RCW 7.90.052, 7.90.053, 26.50.123, or 26.50.085, except any summons must be essentially in the following form:

In the ..... court of the state of Washington for the county of .....  
....., Petitioner

		<p>vs. No. ....</p> <p>....., Respondent</p> <p>The state of Washington to ..... (respondent):</p> <p>You are hereby summoned to appear on the ..... day of ....., (year) ....., at ..... a.m./p.m., and respond to the petition. If you fail to respond, an extreme risk protection order may be issued against you pursuant to the provisions of the extreme risk protection order act, chapter 7.94 RCW, for one year from the date you are required to appear. (An ex parte extreme risk protection order has been issued against you, restraining you from having in your custody or control, purchasing, possessing, or receiving any firearms. You must surrender to the (insert name of local law enforcement agency) all firearms in your custody, control, or possession and any concealed pistol license issued to you under RCW 9.41.070 within forty-eight hours. A copy of the notice of hearing, petition, and ex parte extreme risk protection order has been filed with the clerk of this court.) (A copy of the notice of hearing and petition has been filed with the clerk of this court.)</p> <p style="text-align: right;">..... Petitioner</p> <p>(2) If the court orders service by publication or mail for notice of an extreme risk protection order hearing, it shall also reissue the ex parte extreme risk protection order, if issued, to expire on the date of the extreme risk protection order hearing.</p> <p>(3) Following completion of service by publication or by mail for notice of an extreme risk protection order hearing, if the respondent fails to appear at the hearing, the court may issue an extreme risk protection order as provided in RCW 7.94.040.</p> <p><b>7.94.080. Termination and renewal of orders</b></p> <p>(1) The respondent may submit one written request for a hearing to terminate an extreme risk protection order issued under this chapter every twelve-month period that the order is in effect, starting from the date of the order and continuing through any renewals.</p> <p>(a) Upon receipt of the request for a hearing to terminate an extreme risk protection order, the court shall set a date for a hearing. Notice of the request must be served on the petitioner in accordance with RCW 4.28.080. The hearing shall occur no sooner than fourteen days and no later than thirty days from the date of service of the request upon the petitioner.</p> <p>(b) The respondent shall have the burden of proving by a preponderance of the evidence that the respondent does not pose a significant danger of causing personal injury to self or others by having in his or her custody or control, purchasing, possessing, or receiving a firearm. The court may consider any relevant evidence, including evidence of the considerations listed in RCW 7.94.040(3).</p> <p>(c) If the court finds after the hearing that the respondent has met his or her burden, the court shall terminate the order.</p>
--	--	--

		<p>(2) The court must notify the petitioner of the impending expiration of an extreme risk protection order. Notice must be received by the petitioner one hundred five calendar days before the date the order expires.</p> <p>(3) A family or household member of a respondent or a law enforcement officer or agency may by motion request a renewal of an extreme risk protection order at any time within one hundred five calendar days before the expiration of the order.</p> <p>(a) Upon receipt of the motion to renew, the court shall order that a hearing be held not later than fourteen days from the date the order issues.</p> <p>(i) The court may schedule a hearing by telephone in the manner prescribed by RCW 7.94.040(1)(a).</p> <p>(ii) The respondent shall be personally served in the same manner prescribed by RCW 7.94.040(1) (b) and (c).</p> <p>(b) In determining whether to renew an extreme risk protection order issued under this section, the court shall consider all relevant evidence presented by the petitioner and follow the same procedure as provided in RCW 7.94.040.</p> <p>(c) If the court finds by a preponderance of the evidence that the requirements for issuance of an extreme risk protection order as provided in RCW 7.94.040 continue to be met, the court shall renew the order. However, if, after notice, the motion for renewal is uncontested and the petitioner seeks no modification of the order, the order may be renewed on the basis of the petitioner’s motion or affidavit stating that there has been no material change in relevant circumstances since entry of the order and stating the reason for the requested renewal.</p> <p>(d) The renewal of an extreme risk protection order has a duration of one year, subject to termination as provided in subsection (1) of this section or further renewal by order of the court.</p> <p><b>7.94.090. Firearms — Surrender</b></p> <p>(1) Upon issuance of any extreme risk protection order under this chapter, including an ex parte extreme risk protection order, the court shall order the respondent to surrender to the local law enforcement agency all firearms in the respondent’s custody, control, or possession and any concealed pistol license issued under RCW 9.41.070.</p> <p>(2) The law enforcement officer serving any extreme risk protection order under this chapter, including an ex parte extreme risk protection order, shall request that the respondent immediately surrender all firearms in his or her custody, control, or possession and any concealed pistol license issued under RCW 9.41.070, and conduct any search permitted by law for such firearms. The law enforcement officer shall take possession of all firearms belonging to the respondent that are surrendered, in plain sight, or discovered pursuant to a lawful search. Alternatively, if personal service by a law enforcement officer is not possible, or not required because the respondent was present at the extreme risk protection order hearing, the respondent shall surrender the firearms in a safe manner to the control of the local</p>
--	--	---

		<p>law enforcement agency within forty-eight hours of being served with the order by alternate service or within forty-eight hours of the hearing at which the respondent was present.</p> <p>(3) At the time of surrender, a law enforcement officer taking possession of a firearm or concealed pistol license shall issue a receipt identifying all firearms that have been surrendered and provide a copy of the receipt to the respondent. Within seventy-two hours after service of the order, the officer serving the order shall file the original receipt with the court and shall ensure that his or her law enforcement agency retains a copy of the receipt.</p> <p>(4) Upon the sworn statement or testimony of the petitioner or of any law enforcement officer alleging that the respondent has failed to comply with the surrender of firearms as required by an order issued under this chapter, the court shall determine whether probable cause exists to believe that the respondent has failed to surrender all firearms in his or her possession, custody, or control. If probable cause exists, the court shall issue a warrant describing the firearms and authorizing a search of the locations where the firearms are reasonably believed to be and the seizure of any firearms discovered pursuant to such search.</p> <p>(5) If a person other than the respondent claims title to any firearms surrendered pursuant to this section, and he or she is determined by the law enforcement agency to be the lawful owner of the firearm, the firearm shall be returned to him or her, provided that:</p> <ul style="list-style-type: none"> <li>(a) The firearm is removed from the respondent's custody, control, or possession and the lawful owner agrees to store the firearm in a manner such that the respondent does not have access to or control of the firearm; and</li> <li>(b) The firearm is not otherwise unlawfully possessed by the owner.</li> </ul> <p>(6) Upon the issuance of a one-year extreme risk protection order, the court shall order a new hearing date and require the respondent to appear not later than three judicial days from the issuance of the order. The court shall require a showing that the person subject to the order has surrendered any firearms in his or her custody, control, or possession. The court may dismiss the hearing upon a satisfactory showing that the respondent is in compliance with the order.</p> <p>(7) All law enforcement agencies must develop policies and procedures by June 1, 2017, regarding the acceptance, storage, and return of firearms required to be surrendered under this chapter.</p> <p><b>7.94.100. Firearms — Return — Disposal</b></p> <p>(1) If an extreme risk protection order is terminated or expires without renewal, a law enforcement agency holding any firearm that has been surrendered pursuant to this chapter shall return any surrendered firearm requested by a respondent only after confirming, through a background check, that the respondent is currently eligible to own or possess firearms under federal and state law and after confirming with the court that the extreme risk protection order has terminated or has expired without renewal.</p> <p>(2) A law enforcement agency must, if requested, provide prior notice of the return of a firearm to a respondent to family or household members of the respondent in the manner provided in RCW 9.41.340 and 9.41.345.</p>
--	--	--

(3) Any firearm surrendered by a respondent pursuant to RCW 7.94.090 that remains unclaimed by the lawful owner shall be disposed of in accordance with the law enforcement agency's policies and procedures for the disposal of firearms in police custody.

**7.94.110. Reporting of orders**

(1) The clerk of the court shall enter any extreme risk protection order or ex parte extreme risk protection order issued under this chapter into a statewide judicial information system on the same day such order is issued.

(2) The clerk of the court shall forward a copy of an order issued under this chapter the same day such order is issued to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order, the law enforcement agency shall enter the order into the national instant criminal background check system, any other federal or state computer-based systems used by law enforcement or others to identify prohibited purchasers of firearms, and any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order must remain in each system for the period stated in the order, and the law enforcement agency shall only expunge orders from the systems that have expired or terminated. Entry into the computer-based criminal intelligence information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(3) The issuing court shall, within three judicial days after issuance of an extreme risk protection order or ex parte extreme risk protection order, forward a copy of the respondent's driver's license or identicard, or comparable information, along with the date of order issuance, to the department of licensing. Upon receipt of the information, the department of licensing shall determine if the respondent has a concealed pistol license. If the respondent does have a concealed pistol license, the department of licensing shall immediately notify the license-issuing authority which, upon receipt of such notification, shall immediately revoke the license.

(4) If an extreme risk protection order is terminated before its expiration date, the clerk of the court shall forward the same day a copy of the termination order to the department of licensing and the appropriate law enforcement agency specified in the termination order. Upon receipt of the order, the law enforcement agency shall promptly remove the order from any computer-based system in which it was entered pursuant to subsection (2) of this section.

**7.94.120. Penalties**

(1) Any person who files a petition under this chapter knowing the information in such petition to be materially false, or with intent to harass the respondent, is guilty of a gross misdemeanor.

(2) Any person who has in his or her custody or control, purchases, possesses, or receives a firearm with knowledge that he or she is prohibited from doing so by an order issued under this chapter is guilty of a gross misdemeanor, and further is prohibited from having in his or her custody or control, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm for a period of five

years from the date the existing order expires. However, such person is guilty of a class C felony if the person has two or more previous convictions for violating an order issued under this chapter.

**7.94.130. Other authority retained**

This chapter does not affect the ability of a law enforcement officer to remove a firearm or concealed pistol license from any person or conduct any search and seizure for firearms pursuant to other lawful authority.

**7.94.140. Liability.**

Except as provided in RCW 7.94.120, this chapter does not impose criminal or civil liability on any person or entity for acts or omissions related to obtaining an extreme risk protection order or ex parte extreme risk protection [order] including, but not limited to, reporting, declining to report, investigating, declining to investigate, filing, or declining to file a petition under this chapter.

**7.94.150. Instructional and informational material**

(1) The administrative office of the courts shall develop and prepare instructions and informational brochures, standard petitions and extreme risk protection order forms, and a court staff handbook on the extreme risk protection order process. The standard petition and order forms must be used after June 1, 2017, for all petitions filed and orders issued under this chapter. The instructions, brochures, forms, and handbook shall be prepared in consultation with interested persons, including representatives of gun violence prevention groups, judges, and law enforcement personnel. Materials must be based on best practices and available electronically online to the public.

- (a) The instructions must be designed to assist petitioners in completing the petition, and must include a sample of a standard petition and order for protection forms.
- (b) The instructions and standard petition must include a means for the petitioner to identify, with only lay knowledge, the firearms the respondent may own, possesses [possess], receive, or have in his or her custody or control. The instructions must provide pictures of types of firearms that the petitioner may choose from to identify the relevant firearms, or an equivalent means to allow petitioners to identify firearms without requiring specific or technical knowledge regarding the firearms.
- (c) The informational brochure must describe the use of and the process for obtaining, modifying, and terminating an extreme risk protection order under this chapter, and provide relevant forms.
- (d) The extreme risk protection order form must include, in a conspicuous location, notice of criminal penalties resulting from violation of the order, and the following statement: “You have the sole responsibility to avoid or refrain from violating this order’s provisions. Only the court can change the order and only upon written application.”

		<p>(e) The court staff handbook must allow for the addition of a community resource list by the court clerk.</p> <p>(2) All court clerks may create a community resource list of crisis intervention, mental health, substance abuse, interpreter, counseling, and other relevant resources serving the county in which the court is located. The court may make the community resource list available as part of or in addition to the informational brochures described in subsection (1) of this section.</p> <p>(3) The administrative office of the courts shall distribute a master copy of the petition and order forms, instructions, and informational brochures to all court clerks and shall distribute a master copy of the petition and order forms to all superior, district, and municipal courts. Distribution of all documents shall, at a minimum, be in an electronic format or formats accessible to all courts and court clerks in the state.</p> <p>(4) For purposes of this section, “court clerks” means court administrators in courts of limited jurisdiction and elected court clerks.</p> <p>(5) The administrative office of the courts shall determine the significant non-English-speaking or limited-English-speaking populations in the state. The administrator shall then arrange for translation of the instructions and informational brochures required by this section, which shall contain a sample of the standard petition and order for protection forms, into the languages spoken by those significant non-English-speaking populations and shall distribute a master copy of the translated instructions and informational brochures to all court clerks by December 1, 2017.</p> <p>(6) The administrative office of the courts shall update the instructions, brochures, standard petition and extreme risk protection order forms, and court staff handbook as necessary, including when changes in the law make an update necessary.</p>
--	--	--