

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2227 Session of 2018

INTRODUCED BY STEPHENS, CHARLTON, KULIK, SCHLOSSBERG, DEAN, TOEPEL, FRANKEL, STURLA, YOUNGBLOOD, HILL-EVANS, MURT, HARPER, MARSICO, WATSON, NEILSON, CALTAGIRONE, ROE, NELSON, EVERETT, TOOHL, COMMITTA, KAMPF, D. COSTA, DALEY, CORR, BRIGGS, SOLOMON, RABB, J. McNEILL, RAVENSTAHL, TAI AND DAVIS, APRIL 16, 2018

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 19, 2018

AN ACT

1 ~~Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and <--~~
2 ~~Judicial Procedure) of the Pennsylvania Consolidated~~
3 ~~Statutes, in firearms and other dangerous articles, further~~
4 ~~providing for persons not to possess, use, manufacture,~~
5 ~~control, sell or transfer firearms; in community and~~
6 ~~municipal courts, further providing for masters; and adding~~
7 ~~provisions relating to extreme risk protection orders.~~
8 AMENDING TITLES 18 (CRIMES AND OFFENSES) AND 42 (JUDICIARY AND <--
9 JUDICIAL PROCEDURE) OF THE PENNSYLVANIA CONSOLIDATED
10 STATUTES, IN FIREARMS AND OTHER DANGEROUS ARTICLES, FURTHER
11 PROVIDING FOR PERSONS NOT TO POSSESS, USE, MANUFACTURE,
12 CONTROL, SELL OR TRANSFER FIREARMS; IN COMMUNITY AND
13 MUNICIPAL COURTS, FURTHER PROVIDING FOR MASTERS; AND ADDING
14 PROVISIONS RELATING TO EXTREME RISK PROTECTION ORDERS.
15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:
17 Section 1. ~~Section 6105(a)(2), (a.1) and (f)(4)(i) of Title <--~~
18 ~~18 of the Pennsylvania Consolidated Statutes are amended and~~
19 ~~subsection (c) is amended by adding a paragraph to read:~~
20 ~~§ 6105. Persons not to possess, use, manufacture, control, sell~~
21 ~~or transfer firearms.~~

1 ~~(a) Offense defined.~~

2 * * *

3 ~~(2) (i) A person who is prohibited from possessing,~~
4 ~~using, controlling, selling, transferring or~~
5 ~~manufacturing a firearm under paragraph (1) or subsection~~
6 ~~(b) or (c) shall have a reasonable period of time, not to~~
7 ~~exceed 60 days from the date of the imposition of the~~
8 ~~disability under this subsection, in which to sell or~~
9 ~~transfer that person's firearms to another eligible~~
10 ~~person who is not a member of the prohibited person's~~
11 ~~household.~~

12 ~~(ii) This paragraph shall not apply to any person~~
13 ~~whose disability is imposed pursuant to subsection (c) (6)~~
14 ~~or (10).~~

15 ~~(a.1) Penalty.~~

16 ~~(1) Except as provided under paragraph (1.1), a person~~
17 ~~convicted of a felony enumerated under subsection (b) or a~~
18 ~~felony under the act of April 14, 1972 (P.L.233, No.64),~~
19 ~~known as The Controlled Substance, Drug, Device and Cosmetic~~
20 ~~Act, or any equivalent Federal statute or equivalent statute~~
21 ~~of any other state, who violates subsection (a) commits a~~
22 ~~felony of the second degree.~~

23 ~~(1.1) The following shall apply:~~

24 ~~(i) A person convicted of a felony enumerated under~~
25 ~~subsection (b) or a felony under The Controlled~~
26 ~~Substance, Drug, Device and Cosmetic Act, or any~~
27 ~~equivalent Federal statute or equivalent statute of any~~
28 ~~other state, who violates subsection (a) commits a felony~~
29 ~~of the first degree if:~~

30 ~~(A) at the time of the commission of a violation~~

1 of subsection (a), the person has previously been
2 convicted of an offense under subsection (a); or
3 (B) at the time of the commission of a violation
4 of subsection (a), the person was in physical
5 possession or control of a firearm, whether visible,
6 concealed about the person or within the person's
7 reach.

8 (ii) The Pennsylvania Commission on Sentencing,
9 under 42 Pa.C.S. § 2154 (relating to adoption of
10 guidelines for sentencing), shall provide for a
11 sentencing enhancement for a sentence imposed pursuant to
12 this paragraph.

13 (2) A person who is the subject of an active protection
14 from abuse order issued pursuant to 23 Pa.C.S. § 6108
15 (relating to relief), which order provided for the
16 relinquishment of firearms, other weapons or ammunition
17 during the period of time the order is in effect, commits a
18 misdemeanor of the first degree if he intentionally or
19 knowingly fails to relinquish a firearm, other weapon or
20 ammunition to the sheriff as required by the order unless, in
21 lieu of relinquishment, he provides an affidavit which lists
22 the firearms, other weapons or ammunition to the sheriff in
23 accordance with either 23 Pa.C.S. § 6108(a)(7)(i)(B), 6108.2
24 (relating to relinquishment for consignment sale, lawful
25 transfer or safekeeping) or 6108.3 (relating to
26 relinquishment to third party for safekeeping).

27 (2.1) A person who is the subject of an extreme risk
28 protection order issued pursuant to 42 Pa.C.S. Ch. 64A
29 (relating to extreme risk protection orders) commits a
30 misdemeanor of the first degree if he intentionally or

1 ~~knowingly fails to relinquish a firearm or concealed carry~~
2 ~~license as required by the order.~~

3 ~~(3) (i) A person commits a misdemeanor of the third-~~
4 ~~degree if he intentionally or knowingly accepts-~~
5 ~~possession of a firearm, other weapon or ammunition from-~~
6 ~~a person he knows is the subject of an active protection-~~
7 ~~from abuse order issued pursuant to 23 Pa.C.S. § 6108,~~
8 ~~which order provided for the relinquishment of the-~~
9 ~~firearm, other weapon or ammunition during the period of-~~
10 ~~time the order is in effect, or an extreme risk-~~
11 ~~protection order issued pursuant to 42 Pa.C.S. Ch. 64A.~~

12 ~~(ii) This paragraph shall not apply to:~~

13 ~~(A) a third party who accepts possession of a~~
14 ~~firearm, other weapon or ammunition relinquished-~~
15 ~~pursuant to 23 Pa.C.S. § 6108.3; or~~

16 ~~(B) a dealer licensed pursuant to section 6113-~~
17 ~~(relating to licensing of dealers) or subsequent-~~
18 ~~purchaser from a dealer licensed pursuant to section-~~
19 ~~6113, who accepts possession of a firearm, other-~~
20 ~~weapon or ammunition relinquished pursuant to 23-~~
21 ~~Pa.C.S. § 6108.2 or 42 Pa.C.S. Ch. 64A.~~

22 ~~(4) It shall be an affirmative defense to any-~~
23 ~~prosecution under paragraph (3) that the person accepting-~~
24 ~~possession of a firearm, other weapon or ammunition in-~~
25 ~~violation of paragraph (3):~~

26 ~~(i) notified the sheriff as soon as practicable that-~~
27 ~~he has taken possession; and~~

28 ~~(ii) relinquished possession of any firearm, other-~~
29 ~~weapon or ammunition possessed in violation of paragraph-~~
30 ~~(3) as directed by the sheriff.~~

1 ~~(5) A person who has accepted possession of a firearm,~~
2 ~~other weapon or ammunition pursuant to 23 Pa.C.S. § 6108.3 or~~
3 ~~42 Pa.C.S. Ch. 64A commits a misdemeanor of the first degree~~
4 ~~if he intentionally or knowingly returns a firearm, other~~
5 ~~weapon or ammunition to a defendant or respondent or~~
6 ~~intentionally or knowingly allows a defendant or respondent~~
7 ~~to have access to the firearm, other weapon or ammunition~~
8 ~~prior to [either] any of the following:~~

9 ~~(i) The sheriff accepts return of the safekeeping~~
10 ~~permit issued to the party pursuant to 23 Pa.C.S. §~~
11 ~~6108.3(d)(1)(i).~~

12 ~~(ii) The issuance of a court order pursuant to~~
13 ~~subsection (f)(2) or 23 Pa.C.S. § 6108.1(b) (relating to~~
14 ~~return of relinquished firearms, other weapons and~~
15 ~~ammunition and additional relief) which modifies a valid~~
16 ~~protection from abuse order issued pursuant to 23 Pa.C.S.~~
17 ~~§ 6108, which order provided for the relinquishment of~~
18 ~~the firearm, other weapon or ammunition by allowing the~~
19 ~~defendant to take possession of the firearm, other weapon~~
20 ~~or ammunition that had previously been ordered~~
21 ~~relinquished.~~

22 ~~(iii) The issuance of a court order pursuant to 42~~
23 ~~Pa.C.S. Ch. 64A that vacates or terminates an extreme~~
24 ~~risk protection order.~~

25 ~~(iv) The expiration of an extreme risk protection~~
26 ~~order pursuant to 42 Pa.C.S. Ch. 64A.~~

27 * * *

28 ~~(c) Other persons. In addition to any person who has been~~
29 ~~convicted of any offense listed under subsection (b), the~~
30 ~~following persons shall be subject to the prohibition of~~

1 subsection (a):

2 * * *

3 ~~(10) A person who is the subject of an extreme risk~~
4 ~~protection order issued pursuant to 42 Pa.C.S. Ch. 64A.~~

5 * * *

6 (f) Other exemptions and proceedings.

7 * * *

8 (4) (i) The owner of any seized or confiscated firearms
9 or of any firearms ordered relinquished under 23 Pa.C.S.
10 § 6108 or 42 Pa.C.S. Ch. 64A shall be provided with a
11 signed and dated written receipt by the appropriate law
12 enforcement agency. This receipt shall include, but not
13 be limited to, a detailed identifying description
14 indicating the serial number and condition of the
15 firearm. In addition, the appropriate law enforcement
16 agency shall be liable to the lawful owner of said
17 confiscated, seized or relinquished firearm for any loss,
18 damage or substantial decrease in value of said firearm
19 that is a direct result of a lack of reasonable care by
20 the appropriate law enforcement agency.

21 * * *

22 Section 2. Section 1126 of Title 42 is amended to read:

23 § 1126. Masters.

24 The President Judge of the Philadelphia Municipal Court may
25 appoint attorneys who are members of the Pennsylvania Bar to
26 serve as masters in proceedings under 23 Pa.C.S. Ch. 61
27 (relating to protection from abuse) or 42 Pa.C.S. Ch. 64A
28 (relating to extreme risk protection orders).

29 Section 3. Title 42 is amended by adding a chapter to read:

30 CHAPTER 64A

1 EXTREME RISK PROTECTION ORDERS

2 Sec.

3 64A01. Scope of chapter.

4 64A02. Definitions.

5 64A03. Access to courts.

6 64A04. Petition for extreme risk protection order;
7 determination.

8 64A05. Service of process.

9 64A06. Extreme risk protection order.

10 64A07. Emergency relief by minor judiciary.

11 64A08. Termination hearing.

12 64A09. Renewal of order.

13 64A10. Relinquishment of firearms.

14 64A11. Return of relinquished firearms and unclaimed firearms.

15 64A12. Violations.

16 § 64A01. Scope of chapter.

17 This chapter relates to extreme risk protection orders.

18 § 64A02. Definitions.

19 The following words and phrases when used in this chapter
20 shall have the meanings given to them in this section unless the
21 context clearly indicates otherwise:

22 "Concealed carry license." A license issued under 18 Pa.C.S.
23 § 6109 (relating to licenses) or a similar license issued
24 pursuant to the laws of another state.

25 "Extreme risk protection order." A court order prohibiting a
26 person from having in the person's possession or control,
27 purchasing or receiving, or attempting to purchase or receive, a
28 firearm, based upon a finding by clear and convincing evidence
29 that the person presents a danger of suicide or of causing
30 serious bodily injury to another person.

1 ~~"Family or household member." A spouse or person who has a~~
2 ~~spouse, person living as a spouse or who lived as a spouse,~~
3 ~~parent or child, other person related by consanguinity or~~
4 ~~affinity, current or former sexual or intimate partner or person~~
5 ~~who shares biological parenthood.~~

6 ~~"Firearm." A weapon designed to or that may readily be~~
7 ~~converted to expel a projectile by the action of an explosive or~~
8 ~~the frame or receiver of such weapon.~~

9 ~~"Firearms dealer or dealer." A person licensed to sell~~
10 ~~firearms under 18 Pa.C.S. § 6113 (relating to licensing of~~
11 ~~dealers).~~

12 ~~"Hearing officer." A magisterial district judge, judge of~~
13 ~~the Philadelphia Municipal Court, arraignment court magistrate~~
14 ~~appointed under section 1123 (relating to jurisdiction and~~
15 ~~venue), master appointed under section 1126 (relating to~~
16 ~~masters) and master for emergency relief.~~

17 ~~"Law enforcement officer." An officer of the United States,~~
18 ~~of another state or political subdivision thereof or of the~~
19 ~~Commonwealth or political subdivision thereof, who is empowered~~
20 ~~by law to conduct investigations of or to make an arrest for an~~
21 ~~offense enumerated in this chapter or an equivalent crime in~~
22 ~~another jurisdiction and an attorney authorized by law to~~
23 ~~prosecute or participate in the prosecution of such offense.~~

24 ~~"Serious bodily injury." Bodily injury that creates a~~
25 ~~substantial risk of death or causes serious, permanent~~
26 ~~disfigurement or protracted loss or impairment of the function~~
27 ~~of a bodily member or organ.~~

28 ~~§ 64A03. Access to courts.~~

29 ~~(a) Standing. A law enforcement officer or a family or~~
30 ~~household member of a person alleged to present a danger of~~

1 ~~suicide or of causing extreme bodily injury to another person~~
2 ~~may file a petition requesting that the court issue or renew an~~
3 ~~extreme risk protection order.~~

4 ~~(b) Access to courts. No filing fee may be charged for a~~
5 ~~proceeding under this chapter.~~

6 ~~(c) Right to counsel. A respondent under this chapter shall~~
7 ~~have the right to be represented by counsel. If the respondent~~
8 ~~cannot afford an attorney and meets the income guidelines~~
9 ~~applicable to representation by a public defender in a criminal~~
10 ~~case, the court shall appoint counsel upon the request of the~~
11 ~~respondent.~~

12 ~~§ 64A04. Petition for extreme risk protection order;~~
13 ~~determination.~~

14 ~~(a) Petition. A petition for an extreme risk protection~~
15 ~~order shall be supported by a written affidavit signed under~~
16 ~~oath and shall specify facts that support the issuance of an~~
17 ~~order and information concerning firearms known or believed to~~
18 ~~be in the respondent's possession or control.~~

19 ~~(b) Factors. In determining whether to issue an extreme~~
20 ~~risk protection order, the court shall consider evidence of the~~
21 ~~following:~~

22 ~~(1) A history of suicide threats or attempts.~~

23 ~~(2) A history of threats or acts of violence or~~
24 ~~attempted acts of violence.~~

25 ~~(3) A history of domestic abuse.~~

26 ~~(4) A history of cruelty to animals.~~

27 ~~(5) A history of driving under the influence of alcohol~~
28 ~~or a controlled substance.~~

29 ~~(6) Recent unlawful use of controlled substances.~~

30 ~~(7) Previous unlawful or reckless use, display or~~

1 ~~brandishing of a firearm.~~

2 ~~(8) A previous violation of a protection from abuse~~
3 ~~order under 23 Pa.C.S. Ch. 61 (relating to protection from~~
4 ~~abuse).~~

5 ~~(9) Acquisition or attempted acquisition within the~~
6 ~~previous 180 days of a firearm.~~

7 ~~(10) Failure to voluntarily and consistently take~~
8 ~~medication necessary to control a mental illness.~~

9 ~~(11) A propensity for violent or emotionally unstable~~
10 ~~conduct.~~

11 ~~(12) Additional information the court finds to be~~
12 ~~reliable, including a statement by the respondent.~~

13 ~~(c) Determination. Upon receipt of the petition, the court~~
14 ~~shall do one of the following:~~

15 ~~(1) Issue a temporary extreme risk protection order and~~
16 ~~schedule a hearing. The hearing shall be scheduled no fewer~~
17 ~~than three nor more than 10 days from the date of the order.~~
18 ~~A temporary order shall be served concurrent with a warrant~~
19 ~~to search for and seize any firearm or concealed carry~~
20 ~~license in the respondent's possession or control.~~

21 ~~(2) Issue an order for a hearing on the petition without~~
22 ~~issuing an extreme risk protection order. A hearing on a~~
23 ~~petition shall be scheduled no fewer than three nor more than~~
24 ~~10 days from the date of the order, provided, however, that~~
25 ~~the hearing may not be held fewer than three days after the~~
26 ~~date of service of the order over the objection of the~~
27 ~~respondent. If the respondent fails to appear for a hearing~~
28 ~~on a petition, the court may issue a temporary extreme risk~~
29 ~~protection order and a warrant to search for and seize any~~
30 ~~firearm or concealed carry license in the respondent's~~

1 ~~possession or control.~~

2 ~~(3) Dismiss the matter.~~

3 ~~§ 64A05. Service of process.~~

4 ~~(a) Effect of service. An extreme risk protection order is~~
5 ~~effective at the time of service.~~

6 ~~(b) Notice to law enforcement.~~

7 ~~(1) Upon issuance of an extreme risk protection order,~~
8 ~~the court shall cause a copy of the order to be delivered to~~
9 ~~the local law enforcement agency and the Pennsylvania State~~
10 ~~Police.~~

11 ~~(2) Upon receipt thereof, the Pennsylvania State Police~~
12 ~~shall enter the order into the Pennsylvania Instant Check~~
13 ~~System and request that the order be entered into the Federal~~
14 ~~Bureau of Investigation National Instant Criminal Background~~
15 ~~Check System.~~

16 ~~(3) Law enforcement agencies shall establish procedures~~
17 ~~adequate to ensure that an officer at the scene of an alleged~~
18 ~~violation of the order is informed of the existence and terms~~
19 ~~of the order.~~

20 ~~(c) Manner of service. Service of an extreme risk~~
21 ~~protection order or an order for a hearing shall be made in~~
22 ~~person by a sheriff or a law enforcement officer, as directed by~~
23 ~~the court.~~

24 ~~(d) Return. Immediately upon completion of service of an~~
25 ~~order under this chapter, the sheriff or other person completing~~
26 ~~service shall make a return of service to the court and shall~~
27 ~~provide a copy of the return or service and of the order to the~~
28 ~~petitioner, the local law enforcement agency and the~~
29 ~~Pennsylvania State Police.~~

30 ~~§ 64A06. Extreme risk protection order.~~

1 ~~(a) Temporary order.~~

2 ~~(1) The court shall issue a temporary extreme risk~~
3 ~~protection order upon probable cause to believe that the~~
4 ~~respondent presents a danger of suicide or of causing serious~~
5 ~~bodily injury to another person.~~

6 ~~(2) A temporary order shall be effective for one year~~
7 ~~unless, after a hearing, the court vacates or terminates the~~
8 ~~order or establishes a shorter effective period, which shall~~
9 ~~be no fewer than three months.~~

10 ~~(3) A temporary order shall include:~~

11 ~~(i) The date and time the order was issued.~~

12 ~~(ii) The duration of the order.~~

13 ~~(iii) The date and time of the hearing scheduled on~~
14 ~~the temporary order.~~

15 ~~(iv) Instructions on how to waive the hearing or~~
16 ~~request a continuance.~~

17 ~~(v) A statement in substantially the following form:~~

18 ~~An extreme risk protection order has been issued~~
19 ~~by the court and is now in effect. You are~~
20 ~~required to relinquish all firearms and any~~
21 ~~concealed carry license currently in your~~
22 ~~possession or control. Failure to relinquish all~~
23 ~~firearms in your possession or control is~~
24 ~~punishable by a fine and term of imprisonment~~
25 ~~under 18 Pa.C.S. § 6105 (relating to persons not~~
26 ~~to possess, use, manufacture, control, sell or~~
27 ~~transfer firearms).~~

28 ~~While this order is in effect, you may not have~~
29 ~~in your possession or control, or attempt to gain~~
30 ~~possession or control of, firearms. Failure to do~~

1 ~~so is punishable by a fine and term of~~
2 ~~imprisonment under 18 Pa.C.S. § 6105. If you own~~
3 ~~any other firearm that is not within your~~
4 ~~immediate possession or control at the time that~~
5 ~~you receive this order, you must deliver that~~
6 ~~firearm to the sheriff within 72 hours.~~

7 ~~A hearing is scheduled on this order. If you~~
8 ~~choose to waive your right to a hearing, the~~
9 ~~order will be effective for one year. If you~~
10 ~~choose to exercise your right to a hearing, you~~
11 ~~may present evidence and testimony on your~~
12 ~~behalf. You are entitled to be represented by an~~
13 ~~attorney. If you cannot afford an attorney, the~~
14 ~~court will appoint an attorney to represent you.~~

15 ~~(b) Hearing on temporary order. A respondent shall have the~~
16 ~~right to a hearing on a temporary extreme risk protection order.~~
17 ~~The court shall ensure that the respondent is given adequate~~
18 ~~time to prepare for the hearing. If the respondent fails to~~
19 ~~appear for a scheduled hearing, the court shall make the order~~
20 ~~effective for a period of one year. A hearing on a temporary~~
21 ~~order shall be in addition to and shall not affect the right to~~
22 ~~a termination hearing.~~

23 ~~(c) Order and hearing.~~

24 ~~(1) If, after conducting a hearing, the court finds by~~
25 ~~clear and convincing evidence that the respondent presents a~~
26 ~~danger of suicide or of causing serious bodily injury to~~
27 ~~another person, the court shall issue an extreme risk~~
28 ~~protection order and a warrant to search for and seize any~~
29 ~~firearm or concealed carry license in the respondent's~~
30 ~~possession or control.~~

1 ~~(2) An order entered after a hearing shall be in effect~~
2 ~~no fewer than three months and no longer than one year from~~
3 ~~the date of the order.~~

4 ~~(3) The order shall include:~~

5 ~~(i) The date and time the order was issued.~~

6 ~~(ii) The timeframe and manner in which the~~
7 ~~respondent may request a termination hearing.~~

8 ~~(iii) The address of the court to which a request~~
9 ~~for a hearing must be sent.~~

10 ~~(iv) Instructions for relinquishment of firearms~~
11 ~~remaining in the respondent's possession or control.~~

12 ~~(v) Notification of the penalties for violating the~~
13 ~~order.~~

14 ~~§ 64A07. Emergency relief by minor judiciary.~~

15 ~~(a) General rule. A petition for an emergency extreme risk~~
16 ~~protection order may be filed with a hearing officer, including~~
17 ~~a magisterial district judge, after the close of business, on~~
18 ~~days when the court is closed or when the court is unavailable~~
19 ~~during the business day.~~

20 ~~(b) Probable cause required.~~

21 ~~(1) A hearing officer shall issue an emergency extreme~~
22 ~~risk protection order upon probable cause to believe that the~~
23 ~~respondent presents a danger of suicide or of causing serious~~
24 ~~bodily injury to another person.~~

25 ~~(2) An emergency order shall be served concurrent with a~~
26 ~~warrant to search for and seize a firearm or concealed carry~~
27 ~~license in the respondent's possession or control.~~

28 ~~(c) Service. Service of an emergency order shall be made by~~
29 ~~a sheriff or a law enforcement officer as directed by the~~
30 ~~hearing officer issuing the order.~~

~~(d) Duration. An emergency order shall expire at the end of the next business day the court deems itself available.~~

~~§ 64A08. Termination hearing.~~

~~(a) General rule. A person subject to an extreme risk protection order shall have the right to one hearing during the effective period of the order for the purpose of determining whether the order should be terminated earlier than the expiration date specified in the order. A termination hearing is in addition to a hearing on a temporary order.~~

~~(b) Notice. The court shall provide notice of the termination hearing to the person requesting the hearing, the petitioner, the local law enforcement agency and the Pennsylvania State Police.~~

~~(c) Burden of proof. At a termination hearing, the person subject to the order shall have the burden of proving, by clear and convincing evidence, that the person does not present a danger of suicide or of causing serious bodily injury to another person.~~

~~§ 64A09. Renewal of order.~~

~~(a) Petition. A petition to renew an extreme risk protection order shall be supported by a written affidavit, signed by the petitioner under oath and shall specify facts that support the issuance of an order. The court may deny the petition or may schedule a hearing.~~

~~(b) Renewal hearing. A renewal hearing shall take place no more than 30 days before the expiration of an existing order. The court shall provide notice of the hearing to the petitioner, the respondent, the local law enforcement agency and the Pennsylvania State Police.~~

~~(c) Renewal order. If the court finds by clear and~~

1 ~~convincing evidence that the respondent presents a danger of~~
2 ~~suicide or of causing serious bodily injury to another person,~~
3 ~~the court may renew the extreme risk protection order for a~~
4 ~~duration of up to one year.~~

5 ~~§ 64A10. Relinquishment of firearms.~~

6 ~~(a) Relinquishment upon initial order.~~

7 ~~(1) Immediately upon service of an extreme risk~~
8 ~~protection order, the respondent shall relinquish to the~~
9 ~~sheriff or law enforcement agency a firearm or concealed~~
10 ~~carry license in the respondent's immediate possession or~~
11 ~~control.~~

12 ~~(2) Intentional or knowing failure to comply with~~
13 ~~paragraph (1) shall be a violation of 18 Pa.C.S. § 6105~~
14 ~~(relating to persons not to possess, use, manufacture,~~
15 ~~control, sell or transfer firearms).~~

16 ~~(3) Within 24 hours of the time of service, the~~
17 ~~respondent shall deliver to the sheriff or law enforcement~~
18 ~~agency any firearm that is in the possession of a third party~~
19 ~~or not otherwise in the respondent's immediate possession or~~
20 ~~control at the time of service.~~

21 ~~(b) Warrant. If, after a hearing or at any other time an~~
22 ~~extreme risk protection order is in effect, the court finds~~
23 ~~probable cause to believe that an additional firearm or~~
24 ~~concealed carry license remains in the respondent's possession~~
25 ~~or control, the court shall issue a warrant to search for and~~
26 ~~seize the firearm or license.~~

27 ~~(c) Receipt.~~

28 ~~(1) At the time of relinquishment of a firearm or~~
29 ~~concealed carry license, the sheriff or law enforcement~~
30 ~~agency taking possession shall issue a receipt identifying~~

1 ~~all relinquished items and provide a copy of the receipt to~~
2 ~~the respondent.~~

3 ~~(2) Within 72 hours after service of the order, the~~
4 ~~sheriff serving the order shall file the original receipt~~
5 ~~with the court.~~

6 ~~(d) Transfer to firearms dealer.~~

7 ~~(1) A respondent who has relinquished a firearm in~~
8 ~~compliance with an extreme risk protection order may request~~
9 ~~that the firearm be transferred to a firearms dealer for~~
10 ~~consignment sale, lawful transfer or safekeeping.~~

11 ~~(2) Upon receiving the request, the sheriff shall~~
12 ~~transport the firearm to a dealer at no cost to the~~
13 ~~respondent or the dealer.~~

14 ~~(e) Affidavit. A dealer accepting a firearm of a respondent~~
15 ~~under this section shall provide the sheriff with an affidavit~~
16 ~~on a form prescribed by the Pennsylvania State Police. The form~~
17 ~~shall include, at a minimum, the following:~~

18 ~~(1) The caption of the case in which the extreme risk~~
19 ~~protection order was issued.~~

20 ~~(2) The name, address, date of birth and Social Security~~
21 ~~number of the respondent.~~

22 ~~(3) A list of all firearms of the respondent~~
23 ~~relinquished to the dealer, including, if applicable, the~~
24 ~~manufacturer, model and serial number of the firearms.~~

25 ~~(4) The name and license number of the dealer and the~~
26 ~~address of the licensed premises.~~

27 ~~(5) An acknowledgment that the dealer will not return~~
28 ~~the firearm to the respondent nor sell or transfer to another~~
29 ~~person the dealer knows is a family or household member of~~
30 ~~the respondent while the respondent is subject to an extreme~~

1 ~~risk protection order.~~

2 ~~(6) An acknowledgment that the firearm, if sold or~~
3 ~~transferred, will be sold or lawfully transferred in~~
4 ~~compliance with 18 Pa.C.S. Ch. 61 (relating to firearms and~~
5 ~~other dangerous articles).~~

6 ~~§ 64A11. Return of relinquished firearm and unclaimed firearms.~~

7 ~~(a) Return.~~

8 ~~(1) Subject to subsection (c), if a court vacates a~~
9 ~~temporary order following a hearing, the court shall order~~
10 ~~the immediate return of all firearms and licenses to the~~
11 ~~respondent.~~

12 ~~(2) Upon termination after hearing or expiration of an~~
13 ~~extreme risk protection order, the respondent may request~~
14 ~~return of firearms and licenses, and the sheriff or dealer~~
15 ~~shall return the relinquished items promptly upon receipt of~~
16 ~~the request.~~

17 ~~(b) Third party claims.~~

18 ~~(1) A third party may request the return of a~~
19 ~~relinquished firearm at any time by providing proof of~~
20 ~~ownership and a sworn affidavit stating that the third party~~
21 ~~will not intentionally or knowingly return a firearm to a~~
22 ~~person subject to an extreme risk protection order or a~~
23 ~~family or household member of the person nor intentionally or~~
24 ~~knowingly allow a person subject to an extreme risk~~
25 ~~protection order to have access to a firearm prior to the~~
26 ~~time that the order expires or is vacated or terminated by~~
27 ~~order of court.~~

28 ~~(2) The affidavit must state that the third party~~
29 ~~understands that to do so would constitute a misdemeanor of~~
30 ~~the first degree under 18 Pa.C.S. § 6105(a.1) (relating to~~

~~persons not to possess, use, manufacture, control, sell or transfer firearms), punishable by up to five years imprisonment and up to a \$10,000 fine.~~

~~(3) Proof of ownership may consist of a statement made in a sworn affidavit.~~

~~(c) Background check. Prior to returning a firearm to a person, the sheriff or 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.~~

~~(d) Unclaimed firearms.~~

~~(1) A firearm shall be deemed abandoned after a period of one year from the date that an order for relinquishment has been terminated or has expired and no owner has submitted a written request for its return, provided, however, that no sheriff, law enforcement agency or firearms dealer may dispose of a firearm deemed abandoned without first providing notice to the person who relinquished the firearm.~~

~~(2) If the person who relinquished the firearm fails to respond to the notice within 20 days, the sheriff, law enforcement agency or firearms dealer may dispose of the firearm.~~

~~(3) Notification shall be sent by certified mail to:~~

~~(i) an address where the person is known to reside;~~

~~(ii) the last known address;~~

~~(iii) the address provided at the time of relinquishment; or~~

~~(iv) an address that is found after searching the available sources of address data maintained in the Commonwealth's databases of motor vehicle registration,~~

~~motor vehicle driver licensing, occupational and professional licensure, corrections facilities and public assistance.~~

~~§ 64A12. Violations.~~

~~(a) False reporting. A person who knowingly gives false information to a law enforcement officer with the intent to implicate another person under this chapter commits an offense under 18 Pa.C.S. § 4906 (relating to false reports to law enforcement authorities).~~

~~(b) False swearing. A person who knowingly files a petition containing false statements or information with the intent to implicate another person under this chapter commits an offense under 18 Pa.C.S. § 4903 (relating to false swearing).~~

~~(c) Penalty. A person convicted of false reporting or false swearing under this section shall be ordered to pay full restitution to the respondent, which shall include, but not be limited to, expenses incurred by the respondent as a result of the false reporting or false swearing.~~

~~Section 4. This act shall take effect in 60 days.~~

SECTION 1. SECTION 6105(A)(2), (A.1) AND (F)(4)(I) OF TITLE <--
18 OF THE PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED AND
SUBSECTION (C) IS AMENDED BY ADDING PARAGRAPHS TO READ:

§ 6105. PERSONS NOT TO POSSESS, USE, MANUFACTURE, CONTROL, SELL
OR TRANSFER FIREARMS.

(A) OFFENSE DEFINED.--

* * *

(2) (I) A PERSON WHO IS PROHIBITED FROM POSSESSING,
USING, CONTROLLING, SELLING, TRANSFERRING OR
MANUFACTURING A FIREARM UNDER PARAGRAPH (1) OR SUBSECTION
(B) OR (C) SHALL HAVE A REASONABLE PERIOD OF TIME, NOT TO

1 EXCEED 60 DAYS FROM THE DATE OF THE IMPOSITION OF THE
2 DISABILITY UNDER THIS SUBSECTION, IN WHICH TO SELL OR
3 TRANSFER THAT PERSON'S FIREARMS TO ANOTHER ELIGIBLE
4 PERSON WHO IS NOT A MEMBER OF THE PROHIBITED PERSON'S
5 HOUSEHOLD.

6 (II) THIS PARAGRAPH SHALL NOT APPLY TO ANY PERSON
7 WHOSE DISABILITY IS IMPOSED PURSUANT TO SUBSECTION (C) (6)
8 OR (10).

9 (A.1) PENALTY.--

10 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (1.1), A PERSON
11 CONVICTED OF A FELONY ENUMERATED UNDER SUBSECTION (B) OR A
12 FELONY UNDER THE ACT OF APRIL 14, 1972 (P.L.233, NO.64),
13 KNOWN AS THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC
14 ACT, OR ANY EQUIVALENT FEDERAL STATUTE OR EQUIVALENT STATUTE
15 OF ANY OTHER STATE, WHO VIOLATES SUBSECTION (A) COMMITS A
16 FELONY OF THE SECOND DEGREE.

17 (1.1) THE FOLLOWING SHALL APPLY:

18 (I) A PERSON CONVICTED OF A FELONY ENUMERATED UNDER
19 SUBSECTION (B) OR A FELONY UNDER THE CONTROLLED
20 SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT, OR ANY
21 EQUIVALENT FEDERAL STATUTE OR EQUIVALENT STATUTE OF ANY
22 OTHER STATE, WHO VIOLATES SUBSECTION (A) COMMITS A FELONY
23 OF THE FIRST DEGREE IF:

24 (A) AT THE TIME OF THE COMMISSION OF A VIOLATION
25 OF SUBSECTION (A), THE PERSON HAS PREVIOUSLY BEEN
26 CONVICTED OF AN OFFENSE UNDER SUBSECTION (A); OR

27 (B) AT THE TIME OF THE COMMISSION OF A VIOLATION
28 OF SUBSECTION (A), THE PERSON WAS IN PHYSICAL
29 POSSESSION OR CONTROL OF A FIREARM, WHETHER VISIBLE,
30 CONCEALED ABOUT THE PERSON OR WITHIN THE PERSON'S

1 REACH.

2 (II) THE PENNSYLVANIA COMMISSION ON SENTENCING,
3 UNDER 42 PA.C.S. § 2154 (RELATING TO ADOPTION OF
4 GUIDELINES FOR SENTENCING), SHALL PROVIDE FOR A
5 SENTENCING ENHANCEMENT FOR A SENTENCE IMPOSED PURSUANT TO
6 THIS PARAGRAPH.

7 (2) A PERSON WHO IS THE SUBJECT OF AN ACTIVE PROTECTION
8 FROM ABUSE ORDER ISSUED PURSUANT TO 23 PA.C.S. § 6108
9 (RELATING TO RELIEF), WHICH ORDER PROVIDED FOR THE
10 RELINQUISHMENT OF FIREARMS, OTHER WEAPONS OR AMMUNITION
11 DURING THE PERIOD OF TIME THE ORDER IS IN EFFECT, COMMITS A
12 MISDEMEANOR OF THE [FIRST] SECOND DEGREE IF HE INTENTIONALLY
13 OR KNOWINGLY FAILS TO RELINQUISH A FIREARM, OTHER WEAPON OR
14 AMMUNITION TO THE SHERIFF AS REQUIRED BY THE ORDER UNLESS, IN
15 LIEU OF RELINQUISHMENT, HE PROVIDES AN AFFIDAVIT WHICH LISTS
16 THE FIREARMS, OTHER WEAPONS OR AMMUNITION TO THE SHERIFF IN
17 ACCORDANCE WITH EITHER 23 PA.C.S. § 6108(A)(7)(I)(B), 6108.2
18 (RELATING TO RELINQUISHMENT FOR CONSIGNMENT SALE, LAWFUL
19 TRANSFER OR SAFEKEEPING) OR 6108.3 (RELATING TO
20 RELINQUISHMENT TO THIRD PARTY FOR SAFEKEEPING).

21 (2.1) A PERSON WHO IS THE SUBJECT OF AN EXTREME RISK
22 PROTECTION ORDER ISSUED PURSUANT TO 42 PA.C.S. CH. 64A
23 (RELATING TO EXTREME RISK PROTECTION ORDERS) COMMITS A
24 MISDEMEANOR OF THE SECOND DEGREE IF HE INTENTIONALLY OR
25 KNOWINGLY FAILS TO RELINQUISH A FIREARM OR FIREARMS LICENSE
26 AS REQUIRED BY THE ORDER.

27 (3) (I) A PERSON COMMITS A MISDEMEANOR OF THE THIRD
28 DEGREE IF HE INTENTIONALLY OR KNOWINGLY ACCEPTS
29 POSSESSION OF A FIREARM, OTHER WEAPON OR AMMUNITION FROM
30 A PERSON HE KNOWS IS THE SUBJECT OF AN ACTIVE PROTECTION

1 FROM ABUSE ORDER ISSUED PURSUANT TO 23 PA.C.S. § 6108,
2 WHICH ORDER PROVIDED FOR THE RELINQUISHMENT OF THE
3 FIREARM, OTHER WEAPON OR AMMUNITION DURING THE PERIOD OF
4 TIME THE ORDER IS IN EFFECT[.], OR INTENTIONALLY OR
5 KNOWINGLY ACCEPTS POSSESSION OF A FIREARM OR FIREARMS
6 LICENSE FROM A PERSON HE KNOWS IS THE SUBJECT OF AN
7 EXTREME RISK PROTECTION ORDER ISSUED PURSUANT TO 42
8 PA.C.S. CH. 64A.

9 (II) THIS PARAGRAPH SHALL NOT APPLY TO:

10 (A) A THIRD PARTY WHO ACCEPTS POSSESSION OF A
11 FIREARM, OTHER WEAPON OR AMMUNITION RELINQUISHED
12 PURSUANT TO 23 PA.C.S. § 6108.3; OR

13 (B) A DEALER LICENSED PURSUANT TO SECTION 6113
14 (RELATING TO LICENSING OF DEALERS) OR SUBSEQUENT
15 PURCHASER FROM A DEALER LICENSED PURSUANT TO SECTION
16 6113, WHO ACCEPTS POSSESSION OF A FIREARM, OTHER
17 WEAPON OR AMMUNITION RELINQUISHED PURSUANT TO 23
18 PA.C.S. § 6108.2 OR 42 PA.C.S. CH. 64A.

19 (4) IT SHALL BE AN AFFIRMATIVE DEFENSE TO ANY
20 PROSECUTION UNDER PARAGRAPH (3) THAT THE PERSON ACCEPTING
21 POSSESSION OF A FIREARM, OTHER WEAPON OR AMMUNITION IN
22 VIOLATION OF PARAGRAPH (3):

23 (I) NOTIFIED THE SHERIFF AS SOON AS PRACTICABLE THAT
24 HE HAS TAKEN POSSESSION; AND

25 (II) RELINQUISHED POSSESSION OF ANY FIREARM, OTHER
26 WEAPON OR AMMUNITION POSSESSED IN VIOLATION OF PARAGRAPH
27 (3) AS DIRECTED BY THE SHERIFF.

28 (5) A PERSON WHO HAS ACCEPTED POSSESSION OF A FIREARM,
29 OTHER WEAPON OR AMMUNITION PURSUANT TO 23 PA.C.S. § 6108.3 OR
30 A FIREARM OR FIREARMS LICENSE PURSUANT TO 42 PA.C.S. CH. 64A

1 COMMITTS A MISDEMEANOR OF THE [FIRST] SECOND DEGREE IF HE
2 INTENTIONALLY OR KNOWINGLY RETURNS A FIREARM, OTHER WEAPON OR
3 AMMUNITION TO A DEFENDANT OR RESPONDENT OR INTENTIONALLY OR
4 KNOWINGLY ALLOWS A DEFENDANT OR RESPONDENT TO HAVE ACCESS TO
5 THE FIREARM, OTHER WEAPON OR AMMUNITION PRIOR TO [EITHER] ANY
6 OF THE FOLLOWING:

7 (I) THE SHERIFF ACCEPTS RETURN OF THE SAFEKEEPING
8 PERMIT ISSUED TO THE PARTY PURSUANT TO 23 PA.C.S. §
9 6108.3(D) (1) (I) .

10 (II) THE ISSUANCE OF A COURT ORDER PURSUANT TO
11 SUBSECTION (F) (2) OR 23 PA.C.S. § 6108.1(B) (RELATING TO
12 RETURN OF RELINQUISHED FIREARMS, OTHER WEAPONS AND
13 AMMUNITION AND ADDITIONAL RELIEF) WHICH MODIFIES A VALID
14 PROTECTION FROM ABUSE ORDER ISSUED PURSUANT TO 23 PA.C.S.
15 § 6108, WHICH ORDER PROVIDED FOR THE RELINQUISHMENT OF
16 THE FIREARM, OTHER WEAPON OR AMMUNITION BY ALLOWING THE
17 DEFENDANT TO TAKE POSSESSION OF THE FIREARM, OTHER WEAPON
18 OR AMMUNITION THAT HAD PREVIOUSLY BEEN ORDERED
19 RELINQUISHED.

20 (III) THE EXPIRATION OF AN EXTREME RISK PROTECTION
21 ORDER OR THE ISSUANCE OF A COURT ORDER THAT VACATES OR
22 TERMINATES AN EXTREME RISK PROTECTION ORDER UNDER 42
23 PA.C.S. CH. 64A.

24 * * *

25 (C) OTHER PERSONS.--IN ADDITION TO ANY PERSON WHO HAS BEEN
26 CONVICTED OF ANY OFFENSE LISTED UNDER SUBSECTION (B), THE
27 FOLLOWING PERSONS SHALL BE SUBJECT TO THE PROHIBITION OF
28 SUBSECTION (A) :

29 * * *

30 (10) A PERSON WHO IS THE SUBJECT OF AN ACTIVE EXTREME

1 RISK PROTECTION ORDER ISSUED PURSUANT TO 42 PA.C.S. CH. 64A.
2 THIS PROHIBITION SHALL TERMINATE UPON THE VACATION,
3 EXPIRATION OR TERMINATION OF AN ACTIVE EXTREME RISK
4 PROTECTION ORDER.

5 (11) A PERSON WHO HAS BEEN CONVICTED OF AN OFFENSE UNDER
6 SUBSECTION (A.1) (2.1) OR (5). THIS PROHIBITION SHALL
7 TERMINATE FIVE YEARS AFTER THE DATE OF CONVICTION, FINAL
8 RELEASE FROM CONFINEMENT OR FINAL RELEASE FROM SUPERVISION,
9 WHICHEVER IS LATER.

10 * * *

11 (F) OTHER EXEMPTIONS AND PROCEEDINGS.--

12 * * *

13 (4) (I) THE OWNER OF ANY SEIZED OR CONFISCATED FIREARMS
14 OR OF ANY FIREARMS ORDERED RELINQUISHED UNDER 23 PA.C.S.
15 § 6108 OR 42 PA.C.S. CH. 64A SHALL BE PROVIDED WITH A
16 SIGNED AND DATED WRITTEN RECEIPT BY THE APPROPRIATE LAW
17 ENFORCEMENT AGENCY. THIS RECEIPT SHALL INCLUDE, BUT NOT
18 LIMITED TO, A DETAILED IDENTIFYING DESCRIPTION INDICATING
19 THE SERIAL NUMBER AND CONDITION OF THE FIREARM. IN
20 ADDITION, THE APPROPRIATE LAW ENFORCEMENT AGENCY SHALL BE
21 LIABLE TO THE LAWFUL OWNER OF SAID CONFISCATED, SEIZED OR
22 RELINQUISHED FIREARM FOR ANY LOSS, DAMAGE OR SUBSTANTIAL
23 DECREASE IN VALUE OF SAID FIREARM THAT IS A DIRECT RESULT
24 OF A LACK OF REASONABLE CARE BY THE APPROPRIATE LAW
25 ENFORCEMENT AGENCY.

26 * * *

27 SECTION 2. SECTION 1126 OF TITLE 42 IS AMENDED TO READ:

28 § 1126. MASTERS.

29 THE PRESIDENT JUDGE OF THE PHILADELPHIA MUNICIPAL COURT MAY
30 APPOINT ATTORNEYS WHO ARE MEMBERS OF THE PENNSYLVANIA BAR TO

1 SERVE AS MASTERS IN PROCEEDINGS UNDER 23 PA.C.S. CH. 61
2 (RELATING TO PROTECTION FROM ABUSE) OR 42 PA.C.S. CH. 64A
3 (RELATING TO EXTREME RISK PROTECTION ORDERS).

4 SECTION 3. TITLE 42 IS AMENDED BY ADDING A CHAPTER TO READ:

5 CHAPTER 64A
6 EXTREME RISK PROTECTION ORDERS

7 SEC.

8 64A01. SCOPE OF CHAPTER.

9 64A02. DEFINITIONS.

10 64A03. PRELIMINARY MATTERS.

11 64A04. PETITION FOR EXTREME RISK PROTECTION ORDER.

12 64A05. INTERIM EXTREME RISK PROTECTION ORDER.

13 64A06. HEARING ON PETITION.

14 64A07. NOTICE TO LAW ENFORCEMENT.

15 64A08. SERVICE.

16 64A09. ORDER AFTER HEARING.

17 64A10. TERMINATION HEARING.

18 64A11. RENEWAL OF ORDER.

19 64A12. RELINQUISHMENT OF FIREARMS.

20 64A13. RETURN OF FIREARMS.

21 64A14. ABUSE OF PROCESS.

22 64A15. MENTAL HEALTH AND CHEMICAL DEPENDENCY SERVICES.

23 § 64A01. SCOPE OF CHAPTER.

24 THIS CHAPTER RELATES TO EXTREME RISK PROTECTION ORDERS.

25 § 64A02. DEFINITIONS.

26 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER

27 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE

28 CONTEXT CLEARLY INDICATES OTHERWISE:

29 "COURT." A COURT OF COMMON PLEAS IN THIS COMMONWEALTH.

30 "EXTREME RISK PROTECTION ORDER." A COURT ORDER PROHIBITING A

1 PERSON FROM HAVING IN THE PERSON'S POSSESSION OR CONTROL,
2 PURCHASING OR RECEIVING OR ATTEMPTING TO PURCHASE OR RECEIVE, A
3 FIREARM, BASED UPON A FINDING THAT THE PERSON PRESENTS A RISK OF
4 SUICIDE OR OF CAUSING THE DEATH OF, OR SERIOUS BODILY INJURY TO,
5 ANOTHER PERSON.

6 "FAMILY OR HOUSEHOLD MEMBER." SPOUSES OR PERSONS WHO HAVE
7 BEEN SPOUSES, PERSONS LIVING AS SPOUSES OR WHO LIVED AS SPOUSES,
8 PARENTS AND CHILDREN, OTHER PERSONS RELATED BY CONSANGUINITY OR
9 AFFINITY, CURRENT OR FORMER SEXUAL OR INTIMATE PARTNERS OR
10 PERSONS WHO SHARE BIOLOGICAL PARENTHOOD.

11 "FIREARM." A WEAPON DESIGNED TO OR THAT MAY READILY BE
12 CONVERTED TO EXPEL A PROJECTILE BY THE ACTION OF AN EXPLOSIVE OR
13 THE FRAME OR RECEIVER OF SUCH WEAPON.

14 "FIREARMS DEALER" OR "DEALER." A PERSON LICENSED TO SELL
15 FIREARMS UNDER 18 PA.C.S. § 6113 (RELATING TO LICENSING OF
16 DEALERS).

17 "FIREARMS LICENSE" OR "LICENSE." A CONCEALED CARRY LICENSE
18 ISSUED UNDER 18 PA.C.S. § 6109 (RELATING TO LICENSES),
19 SAFEKEEPING LICENSE ISSUED UNDER 23 PA.C.S. § 6108.3 (RELATING
20 TO RELINQUISHMENT TO THIRD PARTY FOR SAFEKEEPING), HUNTING
21 LICENSE REQUIRED UNDER 34 PA.C.S. § 2701 (RELATING TO LICENSE
22 REQUIREMENTS) OR ANY SIMILAR LICENSE ISSUED PURSUANT TO THE LAWS
23 OF ANOTHER STATE.

24 "HEARING OFFICER." A MAGISTERIAL DISTRICT JUDGE, JUDGE OF
25 THE PHILADELPHIA MUNICIPAL COURT, ARRAIGNMENT COURT MAGISTRATE
26 APPOINTED UNDER SECTION 1123 (RELATING TO JURISDICTION AND
27 VENUE), MASTER APPOINTED UNDER SECTION 1126 (RELATING TO
28 MASTERS) AND MASTER FOR EMERGENCY RELIEF.

29 "LAW ENFORCEMENT OFFICER." AN OFFICER OF THE UNITED STATES,
30 OF ANOTHER STATE OR POLITICAL SUBDIVISION THEREOF OR OF THE

1 COMMONWEALTH OR POLITICAL SUBDIVISION THEREOF, WHO IS EMPOWERED
2 BY LAW TO CONDUCT INVESTIGATIONS OF OR TO MAKE AN ARREST FOR AN
3 OFFENSE ENUMERATED IN THIS CHAPTER OR AN EQUIVALENT CRIME IN
4 ANOTHER JURISDICTION AND AN ATTORNEY AUTHORIZED BY LAW TO
5 PROSECUTE OR PARTICIPATE IN THE PROSECUTION OF SUCH OFFENSE.

6 "SERIOUS BODILY INJURY." BODILY INJURY THAT CREATES A
7 SUBSTANTIAL RISK OF DEATH OR CAUSES SERIOUS, PERMANENT
8 DISFIGUREMENT OR PROTRACTED LOSS OR IMPAIRMENT OF THE FUNCTION
9 OF A BODILY MEMBER OR ORGAN.

10 § 64A03. PRELIMINARY MATTERS.

11 (A) STANDING.--A LAW ENFORCEMENT OFFICER OR A FAMILY OR
12 HOUSEHOLD MEMBER OF A PERSON BELIEVED TO PRESENT A RISK OF
13 SUICIDE OR OF CAUSING THE DEATH OF, OR EXTREME BODILY INJURY TO,
14 ANOTHER PERSON MAY FILE A PETITION REQUESTING THAT THE COURT
15 ISSUE AN EXTREME RISK PROTECTION ORDER OR RENEW AN EXISTING
16 EXTREME RISK PROTECTION ORDER.

17 (B) FILING FEE.--NO FILING FEE MAY BE CHARGED FOR A PETITION
18 UNDER THIS CHAPTER.

19 (C) EFFECT OF SERVICE.--AN EXTREME RISK PROTECTION ORDER IS
20 EFFECTIVE AT THE TIME OF SERVICE.

21 (D) RIGHT TO COUNSEL.--A RESPONDENT UNDER THIS CHAPTER SHALL
22 HAVE THE RIGHT TO BE REPRESENTED BY COUNSEL. IF THE RESPONDENT
23 CANNOT AFFORD AN ATTORNEY AND MEETS THE INCOME GUIDELINES
24 APPLICABLE TO REPRESENTATION BY A PUBLIC DEFENDER IN A CRIMINAL
25 CASE, THE COURT SHALL APPOINT COUNSEL UPON THE REQUEST OF THE
26 RESPONDENT.

27 § 64A04. PETITION FOR EXTREME RISK PROTECTION ORDER.

28 (A) PETITION.--A PETITION FOR AN EXTREME RISK PROTECTION
29 ORDER SHALL SET FORTH FACTS THAT DEMONSTRATE THE RISK PRESENTED
30 BY THE RESPONDENT'S ABILITY TO PURCHASE FIREARMS OR HAVE

1 POSSESSION OR CONTROL OF FIREARMS, AND SHALL DESCRIBE THE
2 NUMBER, TYPES AND LOCATIONS OF ANY FIREARMS KNOWN OR BELIEVED TO
3 BE OWNED BY THE RESPONDENT OR KNOWN OR BELIEVED TO BE IN THE
4 RESPONDENT'S POSSESSION OR CONTROL. IF THE COURT IS CLOSED OR IS
5 UNAVAILABLE DURING THE BUSINESS DAY, A PETITION MAY BE FILED
6 WITH A HEARING OFFICER.

7 (B) EVIDENCE OF RISK.--THE COURT OR HEARING OFFICER MAY
8 CONSIDER ALL RELEVANT EVIDENCE, BUT IN NO CASE SHALL AN ORDER BE
9 ISSUED UNDER THIS CHAPTER ABSENT A DEMONSTRATION OF RISK DUE TO
10 BEHAVIORS OR EVENTS OCCURRING IN THE PRECEDING 24 MONTHS.

11 (C) FACTORS.--IN DETERMINING WHETHER GROUNDS EXIST TO ISSUE
12 AN EXTREME RISK PROTECTION ORDER, THE COURT OR HEARING OFFICER
13 SHALL CONSIDER EVIDENCE OF THE FOLLOWING AND THE RECENCY OF ANY
14 BEHAVIORS OR EVENTS:

15 (1) SUICIDE THREATS OR ATTEMPTS.

16 (2) THREATS OR ACTS OF VIOLENCE OR ATTEMPTED ACTS OF
17 VIOLENCE.

18 (3) DOMESTIC ABUSE, INCLUDING ANY VIOLATION OF A
19 PROTECTION FROM ABUSE ORDER, UNDER 23 PA.C.S. CH. 61
20 (RELATING TO PROTECTION FROM ABUSE) OR A SIMILAR LAW IN
21 ANOTHER STATE.

22 (4) CRUELTY TO ANIMALS UNDER 18 PA.C.S. CH. 55 SUBCH. B
23 (RELATING TO CRUELTY TO ANIMALS) OR A SIMILAR LAW IN ANOTHER
24 STATE.

25 (5) ABUSE OF CONTROLLED SUBSTANCES OR ALCOHOL, OR ANY
26 CRIMINAL OFFENSE THAT INVOLVES CONTROLLED SUBSTANCES OR
27 ALCOHOL.

28 (6) UNLAWFUL OR RECKLESS USE, DISPLAY OR BRANDISHING OF
29 A FIREARM.

30 (7) RECENT ACQUISITION OR ATTEMPTED ACQUISITION OF A

1 FIREARM.

2 (8) THE POSSESSION, USE OR CONTROL OF A FIREARM AS A
3 PART OF THE RESPONDENT'S EMPLOYMENT.

4 (9) ANY ADDITIONAL INFORMATION THE COURT FINDS TO BE
5 RELIABLE, INCLUDING A STATEMENT BY THE RESPONDENT.

6 § 64A05. INTERIM EXTREME RISK PROTECTION ORDER.

7 (A) RULE.--THE COURT OR HEARING OFFICER REVIEWING A PETITION
8 SHALL ISSUE AN INTERIM EXTREME RISK PROTECTION ORDER IF IT
9 FINDS, BY A PREPONDERANCE OF THE EVIDENCE, THAT:

10 (1) THE RESPONDENT PRESENTS A RISK OF SUICIDE OR OF
11 CAUSING THE DEATH OF, OR SERIOUS BODILY INJURY TO, ANOTHER
12 PERSON; AND

13 (2) THE RISK IS IMMINENT AND OTHER CIRCUMSTANCES THAT
14 WOULD MAKE IT SAFE TO PROCEED BY ORDERING A HEARING UNDER
15 SECTION 64A06 (RELATING TO HEARING ON PETITION) WITHOUT
16 ISSUING AN INTERIM EXTREME RISK PROTECTION ORDER DO NOT
17 EXIST.

18 (B) CONTENTS OF ORDER.--AN INTERIM EXTREME RISK PROTECTION
19 ORDER SHALL INCLUDE:

20 (1) THE DATE AND TIME THE ORDER WAS ISSUED.

21 (2) INSTRUCTIONS FOR RELINQUISHMENT OF ANY FIREARM OR
22 FIREARMS LICENSE THAT THE RESPONDENT OWNS OR THAT IS IN THE
23 RESPONDENT'S POSSESSION OR CONTROL.

24 (3) NOTIFICATION OF THE PENALTIES FOR VIOLATING THE
25 ORDER.

26 (4) IF THE ORDER WAS ISSUED BY A COURT AND A HEARING IS
27 SCHEDULED UNDER SUBSECTION (D), THE ORDER SHALL INCLUDE:

28 (I) NOTICE OF THE TIME, DATE AND LOCATION OF THE
29 HEARING;

30 (II) NOTICE OF THE RIGHT TO REQUEST A CONTINUANCE,

1 AND INSTRUCTIONS ON REQUESTING A CONTINUANCE OR WAIVING
2 THE HEARING;

3 (III) NOTICE OF THE FACT THAT, AT THE HEARING, OR IF
4 THE HEARING IS WAIVED, THE COURT MAY EXTEND THE ORDER FOR
5 UP TO ONE YEAR; AND

6 (IV) NOTICE OF THE RIGHT TO AN ATTORNEY UNDER
7 SECTION 64A03 (RELATING TO PRELIMINARY MATTERS).

8 (5) IF THE ORDER WAS ISSUED BY A HEARING OFFICER, THE
9 ORDER SHALL INCLUDE NOTICE OF THE DATE UPON WHICH THE ORDER
10 WILL EXPIRE.

11 (C) DURATION.--AN INTERIM EXTREME RISK PROTECTION ORDER
12 ISSUED BY A HEARING OFFICER SHALL EXPIRE AT THE END OF THE NEXT
13 BUSINESS DAY THE COURT DEEMS ITSELF AVAILABLE. AN INTERIM
14 EXTREME RISK PROTECTION ORDER ISSUED BY A COURT SHALL BE IN
15 EFFECT UNTIL FOLLOWING A HEARING IT IS EITHER VACATED OR
16 TERMINATED.

17 (D) HEARING FOLLOWING INTERIM ORDER.--IF THE COURT ORDERS AN
18 INTERIM EXTREME RISK PROTECTION ORDER UNDER SUBSECTION (A), THE
19 COURT SHALL SCHEDULE A HEARING ON THE PETITION TO BE HELD NO
20 MORE THAN 10 DAYS FROM THE DATE OF THE ORDER.

21 (E) REQUEST FOR CONTINUANCE.--THE RESPONDENT MAY REQUEST A
22 CONTINUANCE ON A HEARING SCHEDULED TO TAKE PLACE AFTER THE
23 ISSUANCE OF AN INTERIM ORDER, WHICH THE COURT SHALL GRANT. NO
24 HEARING SHALL BE CONTINUED EXCEPT WITH THE CONSENT OF THE
25 RESPONDENT.

26 § 64A06. HEARING ON PETITION.

27 (A) RULE.--UPON REVIEWING A PETITION FILED UNDER SECTION
28 64A04 (RELATING TO PETITION FOR EXTREME RISK PROTECTION ORDER),
29 THE COURT MAY ISSUE AN ORDER FOR A HEARING ON THE PETITION,
30 WHICH SHALL BE SCHEDULED TO BE HELD NO MORE THAN 10 DAYS FROM

1 THE DATE OF THE PETITION.

2 (B) REQUEST FOR CONTINUANCE.--IF THE HEARING IS SCHEDULED TO
3 TAKE PLACE FEWER THAN THREE BUSINESS DAYS AFTER SERVICE OF THE
4 ORDER, THE COURT SHALL GRANT A CONTINUANCE UNTIL AT LEAST THREE
5 BUSINESS DAYS AFTER SERVICE, IF REQUESTED BY THE RESPONDENT. THE
6 COURT SHALL NOTIFY THE RESPONDENT OF THE RESPONDENT'S RIGHT TO A
7 CONTINUANCE UNDER THIS SUBSECTION.

8 (C) FAILURE TO APPEAR.--IF THE RESPONDENT WAIVES THE RIGHT
9 TO BE PRESENT AT A HEARING OR FAILS TO APPEAR FOR A HEARING ON A
10 PETITION SCHEDULED UNDER THIS SECTION, THE COURT MAY PROCEED
11 WITH THE HEARING AND MAY ISSUE AN EXTREME RISK PROTECTION ORDER
12 IN THE RESPONDENT'S ABSENCE.

13 § 64A07. NOTICE TO LAW ENFORCEMENT.

14 (A) NOTICE.--THE COURT OR HEARING OFFICER ISSUING AN EXTREME
15 RISK PROTECTION ORDER, AN ORDER FOR A HEARING, OR AN ORDER
16 RENEWING, VACATING OR TERMINATING AN EXTREME RISK PROTECTION
17 ORDER SHALL CAUSE A COPY OF THE ORDER TO BE DELIVERED TO THE
18 SHERIFF, THE LOCAL LAW ENFORCEMENT AGENCY AND THE PENNSYLVANIA
19 STATE POLICE.

20 (B) ENTRY INTO DATABASE.--UPON RECEIPT OF AN EXTREME RISK
21 PROTECTION ORDER OR AN ORDER RENEWING, VACATING OR TERMINATING
22 AN EXTREME RISK PROTECTION ORDER, THE PENNSYLVANIA STATE POLICE
23 SHALL CAUSE THE ORDER TO BE ENTERED INTO THE APPROPRIATE
24 DATABASE SO THAT NOTICE OF THE ORDER IS PROVIDED THROUGH THE
25 PENNSYLVANIA INSTANT CHECK SYSTEM AND THE FEDERAL BUREAU OF
26 INVESTIGATION NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

27 § 64A08. SERVICE.

28 (A) SERVICE.--SERVICE OF AN EXTREME RISK PROTECTION ORDER OR
29 AN ORDER FOR A HEARING SHALL BE MADE IN PERSON BY THE SHERIFF OR
30 A LAW ENFORCEMENT OFFICER, AS DIRECTED BY THE COURT OR HEARING

1 OFFICER ISSUING THE ORDER. AT THE TIME OF SERVICE, THE SHERIFF
2 OR LAW ENFORCEMENT OFFICER SHALL PROVIDE THE RESPONDENT WITH A
3 COPY OF THE PETITION.

4 (B) RETURN.--IMMEDIATELY UPON COMPLETION OF SERVICE OF AN
5 EXTREME RISK PROTECTION ORDER, THE SHERIFF OR LAW ENFORCEMENT
6 OFFICER COMPLETING SERVICE SHALL MAKE A RETURN OF SERVICE TO THE
7 COURT AND SHALL PROVIDE A COPY OF THE RETURN OF SERVICE TO THE
8 PETITIONER.

9 § 64A09. ORDER AFTER HEARING.

10 (A) HEARING AND ORDER.--THE COURT SHALL ISSUE AN EXTREME
11 RISK PROTECTION ORDER AFTER CONDUCTING A HEARING ORDERED UNDER
12 SECTION 64A05 (RELATING TO INTERIM EXTREME RISK PROTECTION
13 ORDER) OR 64A06 (RELATING TO HEARING ON PETITION), OR AFTER THE
14 RESPONDENT WAIVES THE RIGHT TO A HEARING UNDER SECTION 64A05, IF
15 THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT THE
16 RESPONDENT PRESENTS A RISK OF SUICIDE OR OF CAUSING THE DEATH
17 OF, OR SERIOUS BODILY INJURY TO, ANOTHER PERSON.

18 (B) DURATION.--AN EXTREME RISK PROTECTION ORDER ISSUED AFTER
19 A HEARING SHALL BE MADE EFFECTIVE FOR NO LESS THAN THREE MONTHS
20 NOR MORE THAN ONE YEAR.

21 (C) CONTENTS OF ORDER.--THE ORDER SHALL INCLUDE:

22 (1) THE DATE AND TIME THE ORDER WAS ISSUED.

23 (2) THE TIME FRAME AND MANNER IN WHICH THE RESPONDENT
24 MAY REQUEST A TERMINATION HEARING.

25 (3) INSTRUCTIONS FOR RELINQUISHMENT OF ANY FIREARM THAT
26 THE RESPONDENT OWNS OR THAT IS IN THE RESPONDENT'S POSSESSION
27 OR CONTROL, AND ANY FIREARMS LICENSE THAT IS ISSUED TO THE
28 RESPONDENT.

29 (4) NOTIFICATION OF THE PENALTIES FOR VIOLATING THE
30 ORDER.

1 § 64A10. TERMINATION HEARING.

2 (A) GENERAL RULE.--A RESPONDENT SUBJECT TO AN EXTREME RISK
3 PROTECTION ORDER MAY SUBMIT ONE WRITTEN REQUEST AT ANY TIME
4 DURING THE EFFECTIVE PERIOD OF THE ORDER FOR A HEARING TO
5 DETERMINE WHETHER THE ORDER SHOULD BE TERMINATED.

6 (B) NOTICE.--UPON RECEIPT OF A REQUEST FOR A TERMINATION
7 HEARING, THE COURT SHALL SET A DATE FOR THE HEARING AND SHALL
8 PROVIDE NOTICE OF THE HEARING TO THE PETITIONER, THE LOCAL LAW
9 ENFORCEMENT AGENCY AND THE PENNSYLVANIA STATE POLICE.

10 (C) BURDEN OF PROOF.--AT A TERMINATION HEARING, THE
11 RESPONDENT SEEKING TERMINATION OF THE ORDER SHALL HAVE THE
12 BURDEN OF PROVING, BY CLEAR AND CONVINCING EVIDENCE, THAT THE
13 RESPONDENT DOES NOT PRESENT A RISK OF SUICIDE OR OF CAUSING THE
14 DEATH OF, OR SERIOUS BODILY INJURY TO, ANOTHER PERSON.

15 § 64A11. RENEWAL OF ORDER.

16 (A) PETITION.--A PETITION TO RENEW AN EXTREME RISK
17 PROTECTION ORDER SHALL SET FORTH FACTS THAT SUPPORT A RENEWAL OF
18 THE ORDER. THE COURT MAY DENY THE PETITION BASED ON THE
19 INFORMATION SET FORTH IN THE PETITION OR MAY SCHEDULE A HEARING.
20 THE COURT SHALL PROVIDE NOTICE OF THE HEARING TO THE PETITIONER,
21 THE RESPONDENT, THE LOCAL LAW ENFORCEMENT AGENCY AND THE
22 PENNSYLVANIA STATE POLICE.

23 (B) RENEWAL OF ORDER.--IF THE COURT FINDS BY CLEAR AND
24 CONVINCING EVIDENCE, BASED ON FACTORS SET FORTH UNDER SECTION
25 64A04 (RELATING TO PETITION FOR EXTREME RISK PROTECTION ORDER),
26 THAT THE RESPONDENT CONTINUES TO PRESENT A RISK OF SUICIDE OR OF
27 CAUSING THE DEATH OF, OR SERIOUS BODILY INJURY TO, ANOTHER
28 PERSON, THE COURT MAY RENEW THE EXTREME RISK PROTECTION ORDER
29 FOR A DURATION OF NO FEWER THAN THREE MONTHS AND NO MORE THAN
30 ONE YEAR FROM THE DATE OF THE ORDER.

1 (C) LIMITATIONS.--THE FOLLOWING SHALL APPLY:

2 (1) A PETITION UNDER THIS SECTION MUST BE FILED AT LEAST
3 60 DAYS PRIOR TO THE EXPIRATION OF THE ORDER.

4 (2) A RENEWAL HEARING SHALL TAKE PLACE NO LATER THAN 30
5 DAYS PRIOR TO THE EXPIRATION DATE SET IN AN EXISTING ORDER.

6 (3) NO EXTREME RISK PROTECTION ORDER MAY BE RENEWED MORE
7 THAN TWICE UNDER THIS SECTION.

8 § 64A12. RELINQUISHMENT OF FIREARMS.

9 (A) RULE.--AN EXTREME RISK PROTECTION ORDER ISSUED UNDER
10 SECTION 64A05 (RELATING TO INTERIM EXTREME RISK PROTECTION
11 ORDER) OR SECTION 64A09 (RELATING TO ORDER AFTER HEARING) SHALL
12 REQUIRE THE RELINQUISHMENT OF ALL FIREARMS OWNED BY THE
13 RESPONDENT OR IN THE RESPONDENT'S POSSESSION OR CONTROL WITHIN
14 24 HOURS FOLLOWING SERVICE OF THE ORDER, EXCEPT FOR CAUSE SHOWN,
15 IN WHICH CASE THE COURT OR HEARING OFFICER ISSUING THE ORDER
16 SHALL SPECIFY THE TIME FOR RELINQUISHMENT OF ANY OR ALL OF THE
17 RESPONDENT'S FIREARMS.

18 (B) RELINQUISHMENT UPON SERVICE.--A LAW ENFORCEMENT OFFICER
19 OR SHERIFF SERVING AN EXTREME RISK PROTECTION ORDER SHALL
20 REQUEST THAT ALL FIREARMS AND ANY FIREARMS LICENSE IN THE
21 RESPONDENT'S POSSESSION OR CONTROL BE IMMEDIATELY RELINQUISHED
22 INTO THE CUSTODY OF THE LAW ENFORCEMENT OFFICER OR SHERIFF. A
23 LAW ENFORCEMENT OFFICER TAKING CUSTODY OF A FIREARM OR FIREARMS
24 LICENSE UNDER THIS SUBSECTION SHALL TRANSFER THE FIREARM OR
25 FIREARMS LICENSE TO THE SHERIFF OR TO A FIREARMS DEALER FOR
26 SAFEKEEPING.

27 (C) SUBSEQUENT RELINQUISHMENT.--A RESPONDENT SHALL, WITHIN
28 THE TIME FRAME SPECIFIED IN THE ORDER, RELINQUISH TO THE SHERIFF
29 OR A FIREARMS DEALER ANY FIREARM OR LICENSE REMAINING IN THE
30 RESPONDENT'S POSSESSION OR CONTROL AFTER THE TIME OF SERVICE. A

1 RESPONDENT RELINQUISHING A FIREARM DIRECTLY TO A DEALER SHALL,
2 WITHIN THE TIME FRAME SPECIFIED IN THE ORDER, PROVIDE TO THE LAW
3 ENFORCEMENT AGENCY OR SHERIFF A COPY OF THE AFFIDAVIT DESCRIBED
4 IN SUBSECTION (F) IN LIEU OF THE FIREARM LISTED IN THE
5 AFFIDAVIT. A SHERIFF ACCEPTING AN AFFIDAVIT IN LIEU OF A FIREARM
6 SHALL FILE A COPY WITH THE COURT.

7 (D) RECEIPT.--A SHERIFF OR LAW ENFORCEMENT OFFICER TAKING
8 CUSTODY OF A FIREARM OR LICENSE FROM A RESPONDENT SHALL PROVIDE
9 THE RESPONDENT WITH A COPY OF A SIGNED AND DATED RECEIPT. THE
10 RECEIPT SHALL INCLUDE A DETAILED DESCRIPTION OF EACH FIREARM AND
11 ITS CONDITION AND NOTIFICATION THAT FIREARMS WILL BE DEEMED
12 ABANDONED WHEN THE CONDITIONS UNDER 18 PA.C.S. § 6128(A)
13 (RELATING TO ABANDONMENT OF FIREARM, WEAPON OR AMMUNITION) ARE
14 SATISFIED, AND MAY THEN BE DISPOSED OF IN ACCORDANCE WITH 18
15 PA.C.S. § 6128. THE SHERIFF OR LAW ENFORCEMENT OFFICER ISSUING
16 THE RECEIPT SHALL FILE THE ORIGINAL WITH THE COURT.

17 (E) TRANSFER TO FIREARMS DEALER.--A RESPONDENT WHOSE FIREARM
18 IS IN THE CUSTODY OF A SHERIFF MAY REQUEST THAT THE FIREARM BE
19 TRANSFERRED TO A FIREARMS DEALER FOR CONSIGNMENT SALE, LAWFUL
20 TRANSFER OR SAFEKEEPING. UPON RECEIVING THE REQUEST, THE SHERIFF
21 SHALL TRANSPORT THE FIREARM TO A DEALER AT NO COST TO THE
22 RESPONDENT OR THE DEALER.

23 (F) AFFIDAVIT.--A FIREARMS DEALER ACCEPTING CUSTODY OF A
24 FIREARM UNDER THIS CHAPTER SHALL PROVIDE THE RESPONDENT, SHERIFF
25 OR LAW ENFORCEMENT OFFICER FROM WHICH THE DEALER ACCEPTS CUSTODY
26 WITH AN AFFIDAVIT ON A FORM PRESCRIBED BY THE PENNSYLVANIA STATE
27 POLICE. A SHERIFF OR LAW ENFORCEMENT OFFICER DELIVERING CUSTODY
28 OF A FIREARM TO A DEALER SHALL FILE A COPY OF THE AFFIDAVIT WITH
29 THE COURT.

30 (G) CONTENTS OF AFFIDAVIT.--THE AFFIDAVIT SHALL INCLUDE THE

1 FOLLOWING:

2 (1) THE CAPTION OF THE CASE IN WHICH THE EXTREME RISK
3 PROTECTION ORDER WAS ISSUED.

4 (2) THE NAME, ADDRESS, DATE OF BIRTH AND SOCIAL SECURITY
5 NUMBER OF THE RESPONDENT.

6 (3) A LIST OF ALL FIREARMS RELINQUISHED TO THE DEALER
7 AND A DETAILED DESCRIPTION OF EACH FIREARM, INCLUDING ITS
8 CONDITION AND, IF APPLICABLE, THE MANUFACTURER, MODEL AND
9 SERIAL NUMBER.

10 (4) THE NAME AND LICENSE NUMBER OF THE DEALER AND THE
11 ADDRESS OF THE LICENSED PREMISES.

12 (5) AN ACKNOWLEDGMENT THAT THE DEALER WILL NOT RETURN A
13 FIREARM TO THE RESPONDENT WHILE THE RESPONDENT IS SUBJECT TO
14 AN EXTREME RISK PROTECTION ORDER.

15 (6) AN ACKNOWLEDGMENT THAT THE FIREARM, IF SOLD OR
16 TRANSFERRED, WILL BE SOLD OR TRANSFERRED IN COMPLIANCE WITH
17 18 PA.C.S. CH. 61 (RELATING TO FIREARMS AND OTHER DANGEROUS
18 ARTICLES), AND THAT NO FIREARM WILL BE RETURNED TO A
19 RESPONDENT OR ANY THIRD PARTY UNTIL THE DEALER HAS
20 INDEPENDENTLY CONFIRMED THAT THE PERSON REQUESTING RETURN OF
21 THE FIREARM IS LEGALLY ELIGIBLE TO POSSESS FIREARMS UNDER
22 FEDERAL AND STATE LAW.

23 § 64A13. RETURN OF FIREARMS.

24 (A) RETURN TO RESPONDENT.--SUBJECT TO SUBSECTION (C), IF,
25 FOLLOWING A HEARING, A COURT VACATES AN INTERIM EXTREME RISK
26 PROTECTION ORDER, THE COURT SHALL ORDER THE IMMEDIATE RETURN OF
27 ALL RELINQUISHED FIREARMS AND LICENSES TO THE RESPONDENT. UPON
28 TERMINATION OR EXPIRATION OF AN EXTREME RISK PROTECTION ORDER,
29 THE RESPONDENT MAY REQUEST THAT THE SHERIFF OR FIREARMS DEALER
30 IN POSSESSION OF A RELINQUISHED FIREARM OR LICENSE RETURN THE

1 FIREARM OR LICENSE. SUBJECT TO SUBSECTION (C), THE SHERIFF OR
2 DEALER SHALL RETURN THE FIREARM OR LICENSE TO THE RESPONDENT AS
3 SOON AS POSSIBLE BUT NOT LATER THAN THE END OF THE NEXT BUSINESS
4 DAY AFTER THE DAY ON WHICH THE RESPONDENT MAKES THE REQUEST.

5 (B) THIRD PARTY CLAIMS.--A THIRD PARTY MAY REQUEST THE
6 RETURN OF A RELINQUISHED FIREARM AT ANY TIME BY PROVIDING PROOF
7 OF OWNERSHIP AND A SWORN AFFIDAVIT. PROOF OF OWNERSHIP MAY
8 CONSIST OF A STATEMENT IN THE AFFIDAVIT. THE AFFIDAVIT SHALL
9 AFFIRM THE FOLLOWING:

10 (1) THE THIRD PARTY WILL NOT INTENTIONALLY OR KNOWINGLY
11 RETURN A FIREARM TO A PERSON SUBJECT TO AN EXTREME RISK
12 PROTECTION ORDER NOR INTENTIONALLY OR KNOWINGLY ALLOW A
13 PERSON SUBJECT TO AN EXTREME RISK PROTECTION ORDER TO HAVE
14 ACCESS TO A FIREARM.

15 (2) THE THIRD PARTY UNDERSTANDS THAT INTENTIONALLY OR
16 KNOWINGLY ALLOWING A PERSON SUBJECT TO AN EXTREME RISK
17 PROTECTION ORDER TO HAVE ACCESS TO A FIREARM CONSTITUTES A
18 MISDEMEANOR OF THE SECOND DEGREE UNDER 18 PA.C.S. § 6105(A.1)
19 (RELATING TO PERSONS NOT TO POSSESS, USE, MANUFACTURE,
20 CONTROL, SELL OR TRANSFER FIREARMS), PUNISHABLE BY UP TO TWO
21 YEARS' IMPRISONMENT AND UP TO A \$5,000 FINE AND RESULTING IN
22 A FIVE-YEAR PROHIBITION ON FIREARM ACQUISITION OR POSSESSION.

23 (3) IF THE THIRD PARTY IS A MEMBER OF THE HOUSEHOLD OF A
24 PERSON WHO IS SUBJECT TO AN EXTREME RISK PROTECTION ORDER,
25 THAT ANY FIREARM RETURNED TO THE THIRD PARTY WILL BE STORED
26 EITHER IN A GUN SAFE TO WHICH THE PERSON DOES NOT HAVE AND
27 WILL NOT BE PERMITTED TO ACCESS, OR IN A LOCATION OUTSIDE THE
28 HOME TO WHICH THE PERSON DOES NOT HAVE ACCESS.

29 (C) BACKGROUND CHECK.--PRIOR TO RETURNING A FIREARM TO ANY
30 PERSON, THE SHERIFF OR FIREARMS DEALER IN POSSESSION OF THE

1 FIREARM SHALL INDEPENDENTLY CONFIRM THAT THE PERSON REQUESTING
2 RETURN OF THE FIREARM IS LEGALLY ELIGIBLE TO POSSESS FIREARMS
3 UNDER FEDERAL AND STATE LAW. THE SHERIFF OR DEALER RECEIVING A
4 REQUEST UNDER SUBSECTION (A) SHALL CONDUCT THE REQUIRED
5 BACKGROUND CHECK AS SOON AS POSSIBLE, BUT NOT LATER THAN THE END
6 OF THE NEXT BUSINESS DAY AFTER THE DAY ON WHICH THE RESPONDENT
7 MAKES THE REQUEST.

8 § 64A14. ABUSE OF PROCESS.

9 (A) FALSE REPORTING.--A PERSON WHO GIVES INFORMATION TO A
10 LAW ENFORCEMENT OFFICER KNOWING THE INFORMATION TO BE MATERIALLY
11 FALSE, OR WITH THE INTENT TO HARASS ANOTHER, COMMITS AN OFFENSE
12 UNDER 18 PA.C.S. § 4906 (RELATING TO FALSE REPORTS TO LAW
13 ENFORCEMENT AUTHORITIES).

14 (B) FALSE SWEARING.--A PERSON WHO FILES A PETITION FOR AN
15 EXTREME RISK PROTECTION ORDER KNOWING THE INFORMATION IN THE
16 PETITION TO BE MATERIALLY FALSE, OR WITH THE INTENT TO HARASS
17 ANOTHER, COMMITS AN OFFENSE UNDER 18 PA.C.S. § 4903 (RELATING TO
18 FALSE SWEARING).

19 (C) PENALTY.--A PERSON CONVICTED OF FALSE REPORTING OR FALSE
20 SWEARING UNDER THIS SECTION OR DETERMINED BY THE COURT TO HAVE
21 ACTED IN BAD FAITH FOR THE PURPOSE OF HARASSING THE RESPONDENT
22 SHALL BE ORDERED TO PAY FULL RESTITUTION TO THE RESPONDENT. FOR
23 PURPOSES OF THIS SECTION, RESTITUTION SHALL INCLUDE, BUT NOT BE
24 LIMITED TO, REASONABLE ATTORNEY FEES, COSTS OF STORAGE AND OTHER
25 EXPENSES INCURRED BY THE RESPONDENT AS A RESULT OF THE FALSE
26 REPORTING OR FALSE SWEARING.

27 (D) GRADING.--AN OFFENSE UNDER THIS SECTION SHALL BE GRADED
28 AS A MISDEMEANOR OF THE SECOND DEGREE.

29 § 64A15. MENTAL HEALTH AND CHEMICAL DEPENDENCY SERVICES.

30 DURING ANY PROCEEDING UNDER THIS CHAPTER, THE COURT SHALL

1 CONSIDER WHETHER A MENTAL HEALTH OR CHEMICAL DEPENDENCY
2 EVALUATION OR ANY PROCEEDING UNDER THE ACT OF JULY 9, 1976
3 (P.L.817, NO.143), KNOWN AS THE MENTAL HEALTH PROCEDURES ACT, IS
4 NECESSARY, AND MAY ORDER AN EVALUATION OR PROCEEDING AS IT DEEMS
5 NECESSARY.

6 SECTION 4. THIS ACT SHALL TAKE EFFECT SEPTEMBER 1, 2018, OR
7 IMMEDIATELY, WHICHEVER IS LATER.