
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 90 Session of
2019

INTRODUCED BY KILLION, LEACH, FONTANA, COSTA, HAYWOOD, MENSCH,
SANTARSIERO, SCHWANK AND TOMLINSON, FEBRUARY 14, 2019

REFERRED TO JUDICIARY, FEBRUARY 14, 2019

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 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 6105(a)(2), (a.1) and (f)(4)(i) of Title
11 18 of the Pennsylvania Consolidated Statutes, amended October
12 12, 2018 (P.L.519, No.79), are amended and subsection (c) is
13 amended by adding paragraphs to read:

14 § 6105. Persons not to possess, use, manufacture, control, sell
15 or transfer firearms.

16 (a) Offense defined.--

17 * * *

18 (2) (i) Except as otherwise provided in this paragraph,
19 a person who is prohibited from possessing, using,
20 controlling, selling, transferring or manufacturing a

1 firearm under paragraph (1) or subsection (b) or (c)
2 shall have a reasonable period of time, not to exceed 60
3 days from the date of the imposition of the disability
4 under this subsection, in which to sell or transfer that
5 person's firearms to another eligible person who is not a
6 member of the prohibited person's household.

7 (ii) This paragraph shall not apply to any person
8 whose disability is imposed pursuant to subsection (c) (6)
9 or (10).

10 (iii) A person whose disability is imposed pursuant
11 to subsection (c) (9) shall relinquish any firearms and
12 firearm licenses under that person's possession or
13 control, as described in section 6105.2 (relating to
14 relinquishment of firearms and firearm licenses by
15 convicted persons).

16 (iv) A person whose disability is imposed pursuant
17 to a protection from abuse order shall relinquish any
18 firearms, other weapons, ammunition and firearm licenses
19 under that person's possession or control, as described
20 in 23 Pa.C.S. § 6108(a) (7) (relating to relief).

21 (a.1) Penalty.--

22 * * *

23 (2) A person who is the subject of an active final
24 protection from abuse order issued pursuant to 23 Pa.C.S. §
25 6108, is the subject of any other active protection from
26 abuse order issued pursuant to 23 Pa.C.S. § 6107(b) (relating
27 to hearings), which provided for the relinquishment of
28 firearms or other weapons or ammunition during the period of
29 time the order is in effect, or is otherwise prohibited from
30 possessing or acquiring a firearm under 18 U.S.C. § 922(g) (8)

1 (relating to unlawful acts), commits a misdemeanor of the
2 second degree if he intentionally or knowingly fails to
3 relinquish a firearm or other weapon or ammunition to the
4 sheriff or appropriate law enforcement agency as defined in
5 23 Pa.C.S. § 6102 (relating to definitions) as required by
6 the order unless, in lieu of relinquishment, he provides an
7 affidavit which lists the firearms or other weapons or
8 ammunition to the sheriff in accordance with 23 Pa.C.S. §
9 6108(a)(7)(i)(B), 6108.2 (relating to relinquishment for
10 consignment sale, lawful transfer or safekeeping) or 6108.3
11 (relating to relinquishment to third party for safekeeping).

12 (2.1) A person who is the subject of an extreme risk
13 protection order issued pursuant to 42 Pa.C.S. Ch. 64A
14 (relating to extreme risk protection orders) commits a
15 misdemeanor of the second degree if he intentionally or
16 knowingly fails to relinquish a firearm or firearms license
17 as required by the order.

18 (3) (i) A person commits a misdemeanor of the third
19 degree if he intentionally or knowingly accepts
20 possession of a firearm, other weapon or ammunition from
21 another person he knows is the subject of an active final
22 protection from abuse order issued pursuant to 23 Pa.C.S.
23 § 6108 or an active protection from abuse order issued
24 pursuant to 23 Pa.C.S. § 6107(b), which order provided
25 for the relinquishment of the firearm, other weapon or
26 ammunition during the period of time the order is in
27 effect[.], or intentionally or knowingly accepts
28 possession of a firearm or firearms license from a person
29 he knows is the subject of an extreme risk protection
30 order issued pursuant to 42 Pa.C.S. Ch. 64A.

1 (ii) This paragraph shall not apply to:

2 (A) a third party who accepts possession of a
3 firearm, other weapon or ammunition relinquished
4 pursuant to 23 Pa.C.S. § 6108.3; or

5 (B) a dealer licensed pursuant to section 6113
6 (relating to licensing of dealers) or subsequent
7 purchaser from a dealer licensed pursuant to section
8 6113, who accepts possession of a firearm, other
9 weapon or ammunition relinquished pursuant to 23
10 Pa.C.S. § 6108.2 or 42 Pa.C.S. Ch. 64A.

11 (4) It shall be an affirmative defense to any
12 prosecution under paragraph (3) that the person accepting
13 possession of a firearm, other weapon or ammunition in
14 violation of paragraph (3):

15 (i) notified the sheriff as soon as practicable that
16 he has taken possession; and

17 (ii) relinquished possession of any firearm, other
18 weapon or ammunition possessed in violation of paragraph
19 (3) as directed by the sheriff.

20 (5) A person who has accepted possession of a firearm,
21 other weapon or ammunition pursuant to 23 Pa.C.S. § 6108.3 or
22 a firearm or firearms license pursuant to 42 Pa.C.S. Ch. 64A
23 commits a misdemeanor of the [~~first~~] second degree if he
24 intentionally or knowingly returns a firearm, other weapon or
25 ammunition to a defendant or respondent or intentionally or
26 knowingly allows a defendant or respondent to have access to
27 the firearm, other weapon or ammunition prior to [~~either~~] any
28 of the following:

29 (i) The sheriff accepts return of the safekeeping
30 permit issued to the party pursuant to 23 Pa.C.S. §

1 6108.3(d)(1)(i).

2 (ii) The issuance of a court order pursuant to
3 subsection (f)(2) or 23 Pa.C.S. § 6108.1(b) (relating to
4 return of relinquished firearms, other weapons and
5 ammunition and additional relief) which modifies a valid
6 protection from abuse order issued pursuant to 23 Pa.C.S.
7 § 6108, which order provided for the relinquishment of
8 the firearm, other weapon or ammunition by allowing the
9 defendant to take possession of the firearm, other weapon
10 or ammunition that had previously been ordered
11 relinquished.

12 (iii) The expiration of an extreme risk protection
13 order or the issuance of a court order that vacates or
14 terminates an extreme risk protection order under 42
15 Pa.C.S. Ch. 64A.

16 * * *

17 (c) Other persons.--In addition to any person who has been
18 convicted of any offense listed under subsection (b), the
19 following persons shall be subject to the prohibition of
20 subsection (a):

21 * * *

22 (11) A person who is the subject of an active extreme
23 risk protection order issued pursuant to 42 Pa.C.S. Ch. 64A.
24 This prohibition shall terminate upon the vacation,
25 expiration or termination of an active extreme risk
26 protection order.

27 (12) A person who has been convicted of an offense under
28 subsection (a.1)(2.1) or (5). This prohibition shall
29 terminate five years after the date of conviction, final
30 release from confinement or final release from supervision,

1 whichever is later.

2 * * *

3 (f) Other exemptions and proceedings.--

4 * * *

5 (4) (i) The owner of any seized or confiscated firearms
6 or of any firearms ordered relinquished under 23 Pa.C.S.
7 § 6108 or 42 Pa.C.S. Ch. 64A shall be provided with a
8 signed and dated written receipt by the appropriate law
9 enforcement agency. This receipt shall include, but not
10 limited to, a detailed identifying description indicating
11 the serial number and condition of the firearm. In
12 addition, the appropriate law enforcement agency shall be
13 liable to the lawful owner of said confiscated, seized or
14 relinquished firearm for any loss, damage or substantial
15 decrease in value of said firearm that is a direct result
16 of a lack of reasonable care by the appropriate law
17 enforcement agency.

18 * * *

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

20 § 1126. Masters.

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

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

27 CHAPTER 64A

28 EXTREME RISK PROTECTION ORDERS

29 Sec.

30 64A01. Scope of chapter.

1 64A02. Definitions.
2 64A03. Preliminary matters.
3 64A04. Petition for extreme risk protection order.
4 64A05. Interim extreme risk protection order.
5 64A06. Hearing on petition.
6 64A07. Notice to law enforcement.
7 64A08. Service.
8 64A09. Order after hearing.
9 64A10. Termination hearing.
10 64A11. Renewal of order.
11 64A12. Relinquishment of firearms.
12 64A13. Return of firearms.
13 64A14. Abuse of process.
14 64A15. Mental health and chemical dependency services.
15 § 64A01. Scope of chapter.

16 This chapter relates to extreme risk protection orders.

17 § 64A02. Definitions.

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

21 "Court." A Court of Common Pleas in this Commonwealth.

22 "Extreme risk protection order." A court order prohibiting a
23 person from having in the person's possession or control,
24 purchasing or receiving or attempting to purchase or receive, a
25 firearm, based upon a finding that the person presents a risk of
26 suicide or of causing the death of, or serious bodily injury to,
27 another person.

28 "Family or household member." Spouses or persons who have
29 been spouses, persons living as spouses or who lived as spouses,
30 parents and children, other persons related by consanguinity or

1 affinity, current or former sexual or intimate partners or
2 persons who share biological parenthood.

3 "Firearm." A weapon designed to or that may readily be
4 converted to expel a projectile by the action of an explosive or
5 the frame or receiver of such weapon.

6 "Firearms dealer" or "dealer." A person licensed to sell
7 firearms under 18 Pa.C.S. § 6113 (relating to licensing of
8 dealers).

9 "Firearms license" or "license." A concealed carry license
10 issued under 18 Pa.C.S. § 6109 (relating to licenses),
11 safekeeping license issued under 23 Pa.C.S. § 6108.3 (relating
12 to relinquishment to third party for safekeeping), hunting
13 license required under 34 Pa.C.S. § 2701 (relating to license
14 requirements) or any similar license issued pursuant to the laws
15 of another state.

16 "Hearing officer." A magisterial district judge, judge of
17 the Philadelphia Municipal Court, arraignment court magistrate
18 appointed under section 1123 (relating to jurisdiction and
19 venue), master appointed under section 1126 (relating to
20 masters) and master for emergency relief.

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

28 "Serious bodily injury." Bodily injury that creates a
29 substantial risk of death or causes serious, permanent
30 disfigurement or protracted loss or impairment of the function

1 of a bodily member or organ.

2 § 64A03. Preliminary matters.

3 (a) Standing.--A law enforcement officer or a family or
4 household member of a person believed to present a risk of
5 suicide or of causing the death of, or extreme bodily injury to,
6 another person may file a petition requesting that the court
7 issue an extreme risk protection order or renew an existing
8 extreme risk protection order.

9 (b) Filing fee.--No filing fee may be charged for a petition
10 under this chapter.

11 (c) Effect of service.--An extreme risk protection order is
12 effective at the time of service.

13 (d) Right to counsel.--A respondent under this chapter shall
14 have the right to be represented by counsel. If the respondent
15 cannot afford an attorney and meets the income guidelines
16 applicable to representation by a public defender in a criminal
17 case, the court shall appoint counsel upon the request of the
18 respondent.

19 § 64A04. Petition for extreme risk protection order.

20 (a) Petition.--A petition for an extreme risk protection
21 order shall set forth facts that demonstrate the risk presented
22 by the respondent's ability to purchase firearms or have
23 possession or control of firearms, and shall describe the
24 number, types and locations of any firearms known or believed to
25 be owned by the respondent or known or believed to be in the
26 respondent's possession or control. If the court is closed or is
27 unavailable during the business day, a petition may be filed
28 with a hearing officer.

29 (b) Evidence of risk.--The court or hearing officer may
30 consider all relevant evidence, but in no case shall an order be

1 issued under this chapter absent a demonstration of risk due to
2 behaviors or events occurring in the preceding 24 months.

3 (c) Factors.--In determining whether grounds exist to issue
4 an extreme risk protection order, the court or hearing officer
5 shall consider evidence of the following and the recency of any
6 behaviors or events:

7 (1) Suicide threats or attempts.

8 (2) Threats or acts of violence or attempted acts of
9 violence.

10 (3) Domestic abuse, including any violation of a
11 protection from abuse order, under 23 Pa.C.S. Ch. 61
12 (relating to protection from abuse) or a similar law in
13 another state.

14 (4) Cruelty to animals under 18 Pa.C.S. Ch. 55 Subch. B
15 (relating to cruelty to animals) or a similar law in another
16 state.

17 (5) Abuse of controlled substances or alcohol, or any
18 criminal offense that involves controlled substances or
19 alcohol.

20 (6) Unlawful or reckless use, display or brandishing of
21 a firearm.

22 (7) Recent acquisition or attempted acquisition of a
23 firearm.

24 (8) The possession, use or control of a firearm as a
25 part of the respondent's employment.

26 (9) Any additional information the court finds to be
27 reliable, including a statement by the respondent.

28 § 64A05. Interim extreme risk protection order.

29 (a) Rule.--The court or hearing officer reviewing a petition
30 shall issue an interim extreme risk protection order if it

1 finds, by a preponderance of the evidence, that:

2 (1) the respondent presents a risk of suicide or of
3 causing the death of, or serious bodily injury to, another
4 person; and

5 (2) the risk is imminent and other circumstances that
6 would make it safe to proceed by ordering a hearing under
7 section 64A06 (relating to hearing on petition) without
8 issuing an interim extreme risk protection order do not
9 exist.

10 (b) Contents of order.--An interim extreme risk protection
11 order shall include:

12 (1) The date and time the order was issued.

13 (2) Instructions for relinquishment of any firearm or
14 firearms license that the respondent owns or that is in the
15 respondent's possession or control.

16 (3) Notification of the penalties for violating the
17 order.

18 (4) If the order was issued by a court and a hearing is
19 scheduled under subsection (d), the order shall include:

20 (i) notice of the time, date and location of the
21 hearing;

22 (ii) notice of the right to request a continuance,
23 and instructions on requesting a continuance or waiving
24 the hearing;

25 (iii) notice of the fact that, at the hearing, or if
26 the hearing is waived, the court may extend the order for
27 up to one year; and

28 (iv) notice of the right to an attorney under
29 section 64A03 (relating to preliminary matters).

30 (5) If the order was issued by a hearing officer, the

1 order shall include notice of the date upon which the order
2 will expire.

3 (c) Duration.--An interim extreme risk protection order
4 issued by a hearing officer shall expire at the end of the next
5 business day the court deems itself available. An interim
6 extreme risk protection order issued by a court shall be in
7 effect until following a hearing it is either vacated or
8 terminated.

9 (d) Hearing following interim order.--If the court orders an
10 interim extreme risk protection order under subsection (a), the
11 court shall schedule a hearing on the petition to be held no
12 more than 10 days from the date of the order.

13 (e) Request for continuance.--The respondent may request a
14 continuance on a hearing scheduled to take place after the
15 issuance of an interim order, which the court shall grant. No
16 hearing shall be continued except with the consent of the
17 respondent.

18 § 64A06. Hearing on petition.

19 (a) Rule.--Upon reviewing a petition filed under section
20 64A04 (relating to petition for extreme risk protection order),
21 the court may issue an order for a hearing on the petition,
22 which shall be scheduled to be held no more than 10 days from
23 the date of the petition.

24 (b) Request for continuance.--If the hearing is scheduled to
25 take place fewer than three business days after service of the
26 order, the court shall grant a continuance until at least three
27 business days after service, if requested by the respondent. The
28 court shall notify the respondent of the respondent's right to a
29 continuance under this subsection.

30 (c) Failure to appear.--If the respondent waives the right

1 to be present at a hearing or fails to appear for a hearing on a
2 petition scheduled under this section, the court may proceed
3 with the hearing and may issue an extreme risk protection order
4 in the respondent's absence.

5 § 64A07. Notice to law enforcement.

6 (a) Notice.--The court or hearing officer issuing an extreme
7 risk protection order, an order for a hearing, or an order
8 renewing, vacating or terminating an extreme risk protection
9 order shall cause a copy of the order to be delivered to the
10 sheriff, the local law enforcement agency and the Pennsylvania
11 State Police.

12 (b) Entry into database.--Upon receipt of an extreme risk
13 protection order or an order renewing, vacating or terminating
14 an extreme risk protection order, the Pennsylvania State Police
15 shall cause the order to be entered into the appropriate
16 database so that notice of the order is provided through the
17 Pennsylvania Instant Check System and the Federal Bureau of
18 Investigation National Instant Criminal Background Check System.

19 § 64A08. Service.

20 (a) Service.--Service of an extreme risk protection order or
21 an order for a hearing shall be made in person by the sheriff or
22 a law enforcement officer, as directed by the court or hearing
23 officer issuing the order. At the time of service, the sheriff
24 or law enforcement officer shall provide the respondent with a
25 copy of the petition.

26 (b) Return.--Immediately upon completion of service of an
27 extreme risk protection order, the sheriff or law enforcement
28 officer completing service shall make a return of service to the
29 court and shall provide a copy of the return of service to the
30 petitioner.

1 § 64A09. Order after hearing.

2 (a) Hearing and order.--The court shall issue an extreme
3 risk protection order after conducting a hearing ordered under
4 section 64A05 (relating to interim extreme risk protection
5 order) or 64A06 (relating to hearing on petition), or after the
6 respondent waives the right to a hearing under section 64A05, if
7 the court finds by clear and convincing evidence that the
8 respondent presents a risk of suicide or of causing the death
9 of, or serious bodily injury to, another person.

10 (b) Duration.--An extreme risk protection order issued after
11 a hearing shall be made effective for no less than three months
12 nor more than one year.

13 (c) Contents of order.--The order shall include:

14 (1) The date and time the order was issued.

15 (2) The time frame and manner in which the respondent
16 may request a termination hearing.

17 (3) Instructions for relinquishment of any firearm that
18 the respondent owns or that is in the respondent's possession
19 or control, and any firearms license that is issued to the
20 respondent.

21 (4) Notification of the penalties for violating the
22 order.

23 § 64A10. Termination hearing.

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

28 (b) Notice.--Upon receipt of a request for a termination
29 hearing, the court shall set a date for the hearing and shall
30 provide notice of the hearing to the petitioner, the local law

1 enforcement agency and the Pennsylvania State Police.

2 (c) Burden of proof.--At a termination hearing, the
3 respondent seeking termination of the order shall have the
4 burden of proving, by clear and convincing evidence, that the
5 respondent does not present a risk of suicide or of causing the
6 death of, or serious bodily injury to, another person.

7 § 64A11. Renewal of order.

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

15 (b) Renewal of order.--If the court finds by clear and
16 convincing evidence, based on factors set forth under section
17 64A04 (relating to petition for extreme risk protection order),
18 that the respondent continues to present a risk of suicide or of
19 causing the death of, or serious bodily injury to, another
20 person, the court may renew the extreme risk protection order
21 for a duration of no fewer than three months and no more than
22 one year from the date of the order.

23 (c) Limitations.--The following shall apply:

24 (1) A petition under this section must be filed at least
25 60 days prior to the expiration of the order.

26 (2) A renewal hearing shall take place no later than 30
27 days prior to the expiration date set in an existing order.

28 (3) No extreme risk protection order may be renewed more
29 than twice under this section.

30 § 64A12. Relinquishment of firearms.

1 (a) Rule.--An extreme risk protection order issued under
2 section 64A05 (relating to interim extreme risk protection
3 order) or section 64A09 (relating to order after hearing) shall
4 require the relinquishment of all firearms owned by the
5 respondent or in the respondent's possession or control within
6 24 hours following service of the order, except for cause shown,
7 in which case the court or hearing officer issuing the order
8 shall specify the time for relinquishment of any or all of the
9 respondent's firearms.

10 (b) Relinquishment upon service.--A law enforcement officer
11 or sheriff serving an extreme risk protection order shall
12 request that all firearms and any firearms license in the
13 respondent's possession or control be immediately relinquished
14 into the custody of the law enforcement officer or sheriff. A
15 law enforcement officer taking custody of a firearm or firearms
16 license under this subsection shall transfer the firearm or
17 firearms license to the sheriff or to a firearms dealer for
18 safekeeping.

19 (c) Subsequent relinquishment.--A respondent shall, within
20 the time frame specified in the order, relinquish to the sheriff
21 or a firearms dealer any firearm or license remaining in the
22 respondent's possession or control after the time of service. A
23 respondent relinquishing a firearm directly to a dealer shall,
24 within the time frame specified in the order, provide to the law
25 enforcement agency or sheriff a copy of the affidavit described
26 in subsection (f) in lieu of the firearm listed in the
27 affidavit. A sheriff accepting an affidavit in lieu of a firearm
28 shall file a copy with the court.

29 (d) Receipt.--A sheriff or law enforcement officer taking
30 custody of a firearm or license from a respondent shall provide

1 the respondent with a copy of a signed and dated receipt. The
2 receipt shall include a detailed description of each firearm and
3 its condition and notification that firearms will be deemed
4 abandoned when the conditions under 18 Pa.C.S. § 6128(a)
5 (relating to abandonment of firearm, weapon or ammunition) are
6 satisfied, and may then be disposed of in accordance with 18
7 Pa.C.S. § 6128. The sheriff or law enforcement officer issuing
8 the receipt shall file the original with the court.

9 (e) Transfer to firearms dealer.--A respondent whose firearm
10 is in the custody of a sheriff may request that the firearm be
11 transferred to a firearms dealer for consignment sale, lawful
12 transfer or safekeeping. Upon receiving the request, the sheriff
13 shall transport the firearm to a dealer at no cost to the
14 respondent or the dealer.

15 (f) Affidavit.--A firearms dealer accepting custody of a
16 firearm under this chapter shall provide the respondent, sheriff
17 or law enforcement officer from which the dealer accepts custody
18 with an affidavit on a form prescribed by the Pennsylvania State
19 Police. A sheriff or law enforcement officer delivering custody
20 of a firearm to a dealer shall file a copy of the affidavit with
21 the court.

22 (g) Contents of affidavit.--The affidavit shall include the
23 following:

24 (1) The caption of the case in which the extreme risk
25 protection order was issued.

26 (2) The name, address, date of birth and Social Security
27 number of the respondent.

28 (3) A list of all firearms relinquished to the dealer
29 and a detailed description of each firearm, including its
30 condition and, if applicable, the manufacturer, model and

1 serial number.

2 (4) The name and license number of the dealer and the
3 address of the licensed premises.

4 (5) An acknowledgment that the dealer will not return a
5 firearm to the respondent while the respondent is subject to
6 an extreme risk protection order.

7 (6) An acknowledgment that the firearm, if sold or
8 transferred, will be sold or transferred in compliance with
9 18 Pa.C.S. Ch. 61 (relating to firearms and other dangerous
10 articles), and that no firearm will be returned to a
11 respondent or any third party until the dealer has
12 independently confirmed that the person requesting return of
13 the firearm is legally eligible to possess firearms under
14 Federal and State law.

15 § 64A13. Return of firearms.

16 (a) Return to respondent.--Subject to subsection (c), if,
17 following a hearing, a court vacates an interim extreme risk
18 protection order, the court shall order the immediate return of
19 all relinquished firearms and licenses to the respondent. Upon
20 termination or expiration of an extreme risk protection order,
21 the respondent may request that the sheriff or firearms dealer
22 in possession of a relinquished firearm or license return the
23 firearm or license. Subject to subsection (c), the sheriff or
24 dealer shall return the firearm or license to the respondent as
25 soon as possible but not later than the end of the next business
26 day after the day on which the respondent makes the request.

27 (b) Third party claims.--A third party may request the
28 return of a relinquished firearm at any time by providing proof
29 of ownership and a sworn affidavit. Proof of ownership may
30 consist of a statement in the affidavit. The affidavit shall

1 affirm the following:

2 (1) The third party will not intentionally or knowingly
3 return a firearm to a person subject to an extreme risk
4 protection order nor intentionally or knowingly allow a
5 person subject to an extreme risk protection order to have
6 access to a firearm.

7 (2) The third party understands that intentionally or
8 knowingly allowing a person subject to an extreme risk
9 protection order to have access to a firearm constitutes a
10 misdemeanor of the second degree under 18 Pa.C.S. § 6105(a.1)
11 (relating to persons not to possess, use, manufacture,
12 control, sell or transfer firearms), punishable by up to two
13 years' imprisonment and up to a \$5,000 fine and resulting in
14 a five-year prohibition on firearm acquisition or possession.

15 (3) If the third party is a member of the household of a
16 person who is subject to an extreme risk protection order,
17 that any firearm returned to the third party will be stored
18 either in a gun safe to which the person does not have and
19 will not be permitted to access, or in a location outside the
20 home to which the person does not have access.

21 (c) Background check.--Prior to returning a firearm to any
22 person, the sheriff or firearms dealer in possession of the
23 firearm shall independently confirm that the person requesting
24 return of the firearm is legally eligible to possess firearms
25 under Federal and State law. The sheriff or dealer receiving a
26 request under subsection (a) shall conduct the required
27 background check as soon as possible, but not later than the end
28 of the next business day after the day on which the respondent
29 makes the request.

30 § 64A14. Abuse of process.

1 (a) False reporting.--A person who gives information to a
2 law enforcement officer knowing the information to be materially
3 false, or with the intent to harass another, commits an offense
4 under 18 Pa.C.S. § 4906 (relating to false reports to law
5 enforcement authorities).

6 (b) False swearing.--A person who files a petition for an
7 extreme risk protection order knowing the information in the
8 petition to be materially false, or with the intent to harass
9 another, commits an offense under 18 Pa.C.S. § 4903 (relating to
10 false swearing).

11 (c) Penalty.--A person convicted of false reporting or false
12 swearing under this section or determined by the court to have
13 acted in bad faith for the purpose of harassing the respondent
14 shall be ordered to pay full restitution to the respondent. For
15 purposes of this section, restitution shall include, but not be
16 limited to, reasonable attorney fees, costs of storage and other
17 expenses incurred by the respondent as a result of the false
18 reporting or false swearing.

19 (d) Grading.--An offense under this section shall be graded
20 as a misdemeanor of the second degree.

21 § 64A15. Mental health and chemical dependency services.

22 During any proceeding under this chapter, the court shall
23 consider whether a mental health or chemical dependency
24 evaluation or any proceeding under the act of July 9, 1976
25 (P.L.817, No.143), known as the Mental Health Procedures Act, is
26 necessary, and may order an evaluation or proceeding as it deems
27 necessary.

28 Section 4. This act shall take effect September 1, 2019, or
29 immediately, whichever is later.