

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1018 Session of 2023

INTRODUCED BY O'MARA, FRANKEL, GUENST, SAPPEY, PIELLI, KINKEAD, KINSEY, SIEGEL, HANBIDGE, SCHLOSSBERG, MADDEN, SAMUELSON, SANCHEZ, SHUSTERMAN, KHAN, HOWARD, CIRESI, KRAJEWSKI, CEPEDA-FREYTIZ, BOROWSKI, PROBST, BRENNAN, VENKAT, RABB, FIEDLER, FREEMAN, MARKOSEK, SOLOMON, HILL-EVANS, DEASY, WAXMAN, VITALI, GALLOWAY, STURLA, ZABEL, ISAACSON, D. WILLIAMS, McNEILL, DELLOSO, BOYLE, WARREN, OTTEN, N. NELSON, CONKLIN, KIM, CERRATO, MALAGARI, DALEY, FLEMING, MADSEN, KRUEGER, FRIEL, PASHINSKI, CURRY, WEBSTER, GUZMAN AND TAKAC, APRIL 21, 2023

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MAY 3, 2023

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 and for abandonment of
6 firearms, weapons or ammunition; in community and municipal
7 courts, further providing for masters; adding provisions
8 relating to extreme risk protection orders; imposing duties
9 on the Office of Attorney General; and imposing penalties.

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

12 Section 1. Section 6105(a)(2), (a.1), (c)(10) and (f)(4)(i)
13 of Title 18 of the Pennsylvania Consolidated Statutes are
14 amended and subsection (c) is amended by adding a paragraph to
15 read:

16 § 6105. Persons not to possess, use, manufacture, control, sell
17 or transfer firearms.

1 (a) Offense defined.--

2 * * *

3 (2) (i) Except as otherwise provided in this paragraph,
4 a person who is prohibited from possessing, using,
5 controlling, selling, transferring or manufacturing a
6 firearm under paragraph (1) or subsection (b) or (c)
7 shall have a reasonable period of time, not to exceed 60
8 days from the date of the imposition of the disability
9 under this subsection, in which to sell or transfer that
10 person's firearms to another eligible person who is not a
11 member of the prohibited person's 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 (iii) A person whose disability is imposed pursuant
16 to subsection (c) (9) shall relinquish any firearms and
17 firearm licenses under that person's possession or
18 control, as described in section 6105.2 (relating to
19 relinquishment of firearms and firearm licenses by
20 convicted persons).

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

26 (a.1) Penalty.--

27 (1) Except as provided under paragraph (1.1), a person
28 convicted of a felony enumerated under subsection (b) or a
29 felony under the act of April 14, 1972 (P.L.233, No.64),
30 known as The Controlled Substance, Drug, Device and Cosmetic

1 Act, or any equivalent Federal statute or equivalent statute
2 of any other state, who violates subsection (a) commits a
3 felony of the second degree.

4 (1.1) The following shall apply:

5 (i) A person convicted of a felony enumerated under
6 subsection (b) or a felony under The Controlled
7 Substance, Drug, Device and Cosmetic Act, or any
8 equivalent Federal statute or equivalent statute of any
9 other state, who violates subsection (a) commits a felony
10 of the first degree if:

11 (A) at the time of the commission of a violation
12 of subsection (a), the person has previously been
13 convicted of an offense under subsection (a); or

14 (B) at the time of the commission of a violation
15 of subsection (a), the person was in physical
16 possession or control of a firearm, whether visible,
17 concealed about the person or within the person's
18 reach.

19 (ii) The Pennsylvania Commission on Sentencing,
20 under 42 Pa.C.S. § 2154 (relating to adoption of
21 guidelines for sentencing), shall provide for a
22 sentencing enhancement for a sentence imposed pursuant to
23 this paragraph.

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

1 possessing or acquiring a firearm under 18 U.S.C. § 922(g) (8)
2 (relating to unlawful acts), commits a misdemeanor of the
3 second degree if he intentionally or knowingly fails to
4 relinquish a firearm or other weapon or ammunition to the
5 sheriff or appropriate law enforcement agency as defined in
6 23 Pa.C.S. § 6102 (relating to definitions) as required by
7 the order unless, in lieu of relinquishment, he provides an
8 affidavit which lists the firearms or other weapons or
9 ammunition to the sheriff in accordance with 23 Pa.C.S. §
10 6108(a) (7) (i) (B), 6108.2 (relating to relinquishment for
11 consignment sale, lawful transfer or safekeeping) or 6108.3
12 (relating to relinquishment to third party for safekeeping).

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

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

1 order issued under 42 Pa.C.S. Ch. 64A.

2 (ii) This paragraph shall not apply to:

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

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

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

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

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

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

30 (i) The sheriff accepts return of the safekeeping

1 permit issued to the party pursuant to 23 Pa.C.S. §
2 6108.3(d) (1) (i).

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

13 (iii) The expiration of an extreme risk protection
14 order or the issuance of a court order that terminates an
15 extreme risk protection order under 42 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 (10) A person who has been convicted of an offense under
23 subsection [(a.1) (2)] (a.1) (2.1) or (5). The prohibition
24 shall terminate five years after the date of conviction,
25 final release from confinement or final release from
26 supervision, whichever is later.

27 (11) A person who is the subject of an active extreme
28 risk protection order issued under 42 Pa.C.S. Ch. 64A.

29 * * *

30 (f) Other exemptions and proceedings.--

1 * * *

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

15 * * *

16 Section 2. Section 6128(a) of Title 18 is amended to read:

17 § 6128. Abandonment of firearms, weapons or ammunition.

18 (a) General rule.--Firearms, weapons or ammunition which are
19 itemized on a list required under 23 Pa.C.S. § 6108(a)(7)(v)
20 (relating to relief) or the possession or acquisition of which
21 is prohibited under 42 Pa.C.S. Ch. 64A (relating to extreme risk
22 protection orders) or 18 U.S.C. § 922(g)(9) (relating to
23 unlawful acts) and relinquished into or otherwise coming into
24 the custody of a police department, Pennsylvania State Police,
25 coroner, medical examiner, district attorney, sheriff or
26 licensed dealer shall be deemed abandoned when:

27 (1) Relinquished by its lawful owner pursuant to court
28 order or executed warrant, and no written request to return
29 or otherwise dispose of the firearms, weapons or ammunition
30 is made by the lawful owner or the lawful owner's attorney or

1 64A07. Notice to law enforcement.

2 64A08. Service.

3 64A09. Order after hearing.

4 64A10. Termination hearing.

5 64A11. Extension of order.

6 64A12. Relinquishment of firearms.

7 64A13. Return of firearms.

8 64A14. Abuse of process.

9 64A15. Employment protection.

10 64A16. Mental health and chemical dependency services.

11 64A17. Instructional and informational material.

12 § 64A01. Scope of chapter.

13 This chapter relates to extreme risk protection orders.

14 § 64A02. Definitions.

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

18 "Court." A court of common pleas in this Commonwealth.

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

25 "Family or household member." Spouses or persons who have
26 been spouses, persons living as spouses or who lived as spouses,
27 parents and children, other persons related by consanguinity or
28 affinity, current or former sexual or intimate partners or
29 persons who share biological parenthood.

30 "Firearm." A weapon designed to or that may readily be

1 converted to expel a projectile by the action of an explosive or
2 the frame or receiver of such weapon.

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

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

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

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

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

29 § 64A03. Preliminary matters.

30 (a) Standing.--A law enforcement officer or a family or

1 household member of a person believed to present a risk of
2 suicide or of causing the death of, or extreme bodily injury to,
3 another person may file a petition requesting that the court
4 issue an extreme risk protection order or renew an existing
5 extreme risk protection order.

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

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

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

16 § 64A04. Petition for extreme risk protection order.

17 (a) Petition.--

18 (1) A petition for an extreme risk protection order
19 shall:

20 (i) be standardized and developed by the Office of
21 Attorney General as required under section 64A17

22 (relating to instructional and informational material);

23 (ii) be verified under the Pennsylvania Rules of
24 Civil Procedure, and a person signing the petition shall
25 be subject to penalties under 18 Pa.C.S. § 4904 (relating
26 to unsworn falsification to authorities);

27 (iii) at a minimum, state facts that demonstrate the
28 risk presented by the respondent's ability to purchase
29 firearms or have possession or control of firearms; and

30 (iv) describe the number, types and locations of any

1 firearms known or believed to be owned by the respondent
2 or known or believed to be in the respondent's possession
3 or control.

4 (2) If the court is closed or is unavailable during the
5 business day, a petition may be filed with a hearing officer.

6 (b) Evidence of risk.--The court or hearing officer may
7 consider all relevant evidence, but in no case shall an order be
8 issued under this chapter absent a demonstration of risk due to
9 behaviors or events occurring in the preceding 12 months.

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

14 (1) Suicide threats or attempts.

15 (2) Threats or acts of violence or attempted acts of
16 violence.

17 (3) Domestic abuse, including any violation of a
18 protection from abuse order, under 23 Pa.C.S. Ch. 61
19 (relating to protection from abuse) or a similar law in
20 another state.

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

24 (5) Abuse of controlled substances or alcohol, or any
25 criminal offense that involves controlled substances or
26 alcohol.

27 (6) Unlawful or reckless use, display or brandishing of
28 a firearm.

29 (7) Recent acquisition or attempted acquisition of a
30 firearm.

1 (8) Any additional information the court finds to be
2 reliable, if it is otherwise admissible, including a
3 statement by the respondent.

4 § 64A05. Interim extreme risk protection order.

5 (a) Rule.--The court or hearing officer reviewing a petition
6 shall issue an interim extreme risk protection order if it
7 finds, by a preponderance of the evidence, that:

8 (1) the respondent presents a substantial risk of
9 suicide or of causing the death of, or serious bodily injury
10 to, another person; and

11 (2) the risk is imminent and other circumstances that
12 would make it safe to proceed by ordering a hearing under
13 section 64A06 (relating to hearing on petition) without
14 issuing an interim extreme risk protection order do not
15 exist.

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

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

19 (2) Instructions for relinquishment of any firearm or
20 firearms license that the respondent owns or that is in the
21 respondent's possession or control.

22 (3) Notice of the penalties for violating the order.

23 (4) Notice of the provisions of 18 Pa.C.S. § 6128
24 (relating to abandonment of firearms, weapons or ammunition).

25 (5) If the order was issued by a court and a hearing is
26 scheduled under subsection (d), the following:

27 (i) notice of the time, date and location of the
28 hearing;

29 (ii) notice of the right to request a continuance
30 and instructions on requesting a continuance or waiving

1 the hearing;

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

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

7 (6) If the order was issued by a hearing officer, notice
8 of the date upon which the order will expire.

9 (c) Duration.--An interim extreme risk protection order
10 issued by a hearing officer shall expire at the end of the next
11 business day the court deems itself available, but not more than
12 five days after the issuance of the interim order. An interim
13 extreme risk protection order issued by a court shall be in
14 effect until the hearing under subsection (d).

15 (d) Hearing following interim order.--If the court orders an
16 interim extreme risk protection order under subsection (a), the
17 court shall conduct a hearing on the petition within 10 days of
18 the date of the interim order.

19 (e) Request for continuance.--The respondent may request a
20 continuance on a hearing scheduled to take place after the
21 issuance of an interim order, which the court shall grant. No
22 hearing shall be continued except with the consent of the
23 respondent.

24 § 64A06. Hearing on petition.

25 (a) Rule.--Upon reviewing a petition filed under section
26 64A04 (relating to petition for extreme risk protection order),
27 the court may issue an order for a hearing on the petition,
28 which shall be conducted within 10 days of the date of the
29 petition.

30 (b) Request for continuance.--If the hearing is scheduled to

1 take place fewer than three business days after service of the
2 order, the court shall grant a continuance until at least three
3 business days after service if requested by the respondent. The
4 court shall notify the respondent of the respondent's right to a
5 continuance under this subsection.

6 (c) Failure to appear.--If the respondent waives the right
7 to be present at a hearing or fails to appear for a hearing on a
8 petition scheduled under this section, the court may proceed
9 with the hearing and may issue an extreme risk protection order
10 in the respondent's absence.

11 § 64A07. Notice to law enforcement.

12 (a) Notice.--The court or hearing officer issuing an order
13 under this chapter shall cause a copy of the order to be
14 delivered to the sheriff, the local law enforcement agency and
15 the Pennsylvania State Police.

16 (b) Entry into database.--Upon receipt of the order, the
17 Pennsylvania State Police shall cause the order to be entered
18 into the appropriate database so that notice of the order is
19 provided through the Pennsylvania Instant Check System and the
20 Federal Bureau of Investigation National Instant Criminal
21 Background Check System.

22 § 64A08. Service.

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

29 (b) Return.--Immediately upon completion of service of an
30 extreme risk protection order, the sheriff or law enforcement

1 officer completing service shall make a return of service to the
2 court and shall provide a copy of the return of service to the
3 petitioner.

4 § 64A09. Order after hearing.

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

13 (b) Duration.--An extreme risk protection order issued after
14 a hearing shall be made effective for not less than three months
15 nor more than one year.

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

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

18 (2) Notice of the right to petition the court for a
19 termination of the order.

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

24 (4) Notice of the provisions of 18 Pa.C.S. § 6128
25 (relating to abandonment of firearms, weapons or ammunition).

26 (5) Notice of the penalties for violating the order.

27 (6) Notice of the right to appeal to the Superior Court
28 within 30 days.

29 (d) Explanatory opinion.--The court shall issue a separate,
30 nonpublic explanatory opinion and shall provide the opinion to

1 the petitioner and respondent within seven days of the issuance
2 of the order.

3 § 64A10. Termination hearing.

4 (a) General rule.--A respondent subject to an extreme risk
5 protection order may petition the court at any time during the
6 effective period of the order for a hearing to determine whether
7 the order should be terminated.

8 (b) Notice.--Upon receipt of a request for a termination
9 hearing, the court shall set a date for the hearing and shall
10 provide notice of the hearing to the petitioner, the local law
11 enforcement agency and the Pennsylvania State Police.

12 (c) Hearing.--The court shall conduct a hearing and issue an
13 order on a petition to terminate an extreme risk protection
14 order within 10 business days of receiving the petition.

15 (d) Burden of proof.--At a termination hearing, the
16 respondent seeking termination of the order shall have the
17 burden of proving, by a preponderance of the evidence, that the
18 order was issued in error or that circumstances have changed,
19 and that the respondent does not present a substantial risk of
20 suicide or of causing the death of, or serious bodily injury to,
21 another person.

22 § 64A11. Extension of order.

23 A petition to extend an extreme risk protection order shall
24 state facts that support an extension of the order. The court
25 may deny the petition based on the information stated in the
26 petition or may schedule a hearing. The court shall provide
27 notice of the hearing to the petitioner, the respondent, the
28 local law enforcement agency and the Pennsylvania State Police.
29 If the court finds by clear and convincing evidence, based on
30 factors specified under section 64A04 (relating to petition for

1 extreme risk protection order), that the respondent continues to
2 present a substantial risk of suicide or of causing the death
3 of, or serious bodily injury to, another person, the court shall
4 extend the extreme risk protection order for a duration of no
5 fewer than three months and no more than one year from the date
6 of the order.

7 § 64A12. Relinquishment of firearms.

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

17 (b) Relinquishment upon service.--A law enforcement officer
18 or sheriff serving an extreme risk protection order shall
19 request that all firearms and any firearms license in the
20 respondent's possession or control be immediately relinquished
21 into the custody of the law enforcement officer or sheriff. A
22 law enforcement officer taking custody of a firearm or firearms
23 license under this subsection shall transfer the firearm or
24 firearms license to the sheriff or to a firearms dealer for
25 safekeeping.

26 (c) Subsequent relinquishment.--A respondent shall, within
27 the time frame specified in the order, relinquish to the sheriff
28 or a firearms dealer any firearm or license remaining in the
29 respondent's possession or control after the time of service. A
30 respondent relinquishing a firearm directly to a dealer shall,

1 within the time frame specified in the order, provide to the law
2 enforcement agency or sheriff a copy of the affidavit described
3 in subsection (f) in lieu of the firearm listed in the
4 affidavit. A sheriff accepting an affidavit in lieu of a firearm
5 shall file a copy with the court.

6 (d) Receipt.--A sheriff or law enforcement officer taking
7 custody of a firearm or license from a respondent shall provide
8 the respondent with a copy of a signed and dated receipt. The
9 receipt shall include a detailed description of each firearm and
10 its condition. The sheriff or law enforcement officer issuing
11 the receipt shall file the original receipt with the court.

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

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

25 (g) Contents of affidavit.--The affidavit shall include the
26 following:

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

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

1 (3) A list of all firearms relinquished to the dealer
2 and a detailed description of each firearm, including its
3 condition and, if applicable, the manufacturer, model and
4 serial number.

5 (4) The name and license number of the dealer and the
6 address of the licensed premises.

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

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

18 § 64A13. Return of firearms.

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

1 (b) Third party claims.--A third party may request the
2 return of a relinquished firearm at any time by providing proof
3 of ownership and a sworn affidavit. Proof of ownership may
4 consist of a statement in the affidavit. The affidavit shall
5 affirm the following:

6 (1) The third party will not recklessly, knowingly or
7 intentionally return a firearm to a person subject to an
8 extreme risk protection order nor intentionally or knowingly
9 allow a person subject to an extreme risk protection order to
10 have access to a firearm.

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

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

25 (c) Background check.--Prior to returning a firearm to any
26 person other than a licensed dealer, the sheriff or firearms
27 dealer in possession of the firearm shall independently confirm
28 that the person requesting return of the firearm is legally
29 eligible to possess firearms under Federal and State law. The
30 sheriff or dealer receiving a request under subsection (a) shall

1 conduct the required background check as soon as possible, but
2 not later than the end of the next business day after the day on
3 which the respondent makes the request.

4 § 64A14. Abuse of process.

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5 (a) Construction.--Nothing in this chapter shall be
6 construed to preclude or restrict prosecution under 18 Pa.C.S.
7 Ch. 49 (relating to falsification and intimidation) based on
8 false or misleading statements in a petition. FALSE ALLEGATIONS <--
9 BY PETITIONER.

10 (A) OFFENSE.--IT SHALL BE A FELONY OF THE THIRD DEGREE FOR A
11 PETITIONER TO KNOWINGLY, INTENTIONALLY OR RECKLESSLY MAKE A
12 FALSE STATEMENT UNDER THIS SECTION FOR AN IMPROPER PURPOSE.

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

21 § 64A15. Employment protection.

22 (a) General rule.--No public employee who is subject to an
23 extreme risk protection order may be terminated from employment
24 based upon the prohibition of possessing a firearm.

25 (b) Construction.--Nothing in this section shall be
26 construed to prohibit an employer from discharging or otherwise
27 disciplining a public employee for reasons other than the
28 prohibition of possessing a firearm.

29 § 64A16. 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 § 64A17. Instructional and informational material.

7 The Office of Attorney General shall develop and prepare
8 instructions and informational brochures, standard petitions and
9 extreme risk protection order forms and a staff handbook on the
10 extreme risk protection order process. The following apply:

11 (1) The standard petition and order forms or petitions
12 or forms which are substantially similar must be used for all
13 petitions filed and orders issued under this chapter.

14 (2) The instructions, brochures, forms and handbook
15 shall be prepared in consultation with interested persons,
16 including representatives of gun violence prevention groups,
17 judges and law enforcement personnel. Materials shall be
18 based on best practices and available electronically online
19 to the public.

20 (3) The instructions shall be designed to assist
21 petitioners in completing the petition and include a sample
22 of a standard petition and order for protection forms.

23 (4) The instructions and standard petition shall include
24 a means for a petitioner to identify, with only lay
25 knowledge, the firearms the respondent may own, possess,
26 receive or have in the respondent's custody or control. The
27 instructions shall provide pictures of types of firearms that
28 a petitioner may choose from to identify the relevant
29 firearms or an equivalent means to allow a petitioner to
30 identify firearms without requiring specific or technical

1 knowledge regarding firearms.

2 (5) The informational brochure shall describe the use of
3 and the process for obtaining, modifying and terminating an
4 extreme risk protection order under this chapter and provide
5 relevant forms.

6 (6) The extreme risk protection order form shall
7 include, in a conspicuous location, notice of criminal
8 penalties resulting from violation of the order and the
9 following statement:

10 You have the sole responsibility to avoid or refrain
11 from violating this order's provisions. Only the
12 court can change the order and only upon written
13 application.

14 (7) The staff handbook shall allow for the addition of a
15 community resource list by the clerk of court. All clerks of
16 court may create a community resource list of crisis
17 intervention, mental health, substance abuse, interpreter,
18 counseling and other relevant resources serving the county in
19 which the court is located. The clerk of court may make the
20 community resource list available as part of or in addition
21 to the informational brochure described in this section.

22 (8) The Office of Attorney General shall distribute a
23 master copy of the petition and order forms, instructions and
24 informational brochures to all clerks of court and shall
25 distribute a master copy of the petition and order forms to
26 all superior, district and municipal courts. Distribution of
27 all documents shall, at a minimum, be in an electronic format
28 or formats accessible to all courts and clerks of court in
29 this Commonwealth.

30 (9) The Office of Attorney General shall determine the

1 significant non-English-speaking or limited-English-speaking
2 populations in this Commonwealth. The Office of Attorney
3 General shall arrange for translation of the instructions and
4 informational brochures required by this section, which shall
5 contain a sample of the standard petition and order for
6 protection forms, into the languages spoken by those
7 significant non-English-speaking populations and shall
8 distribute a master copy of the translated instructions and
9 informational brochures to all clerks of court within one
10 year of the effective date of this paragraph.

11 (10) The Office of Attorney General shall update the
12 instructions, brochures, standard petition and extreme risk
13 protection order forms and staff handbook as necessary,
14 including when changes in the law necessitate an update.

15 Section 5. This act shall take effect in 90 days.