



Councilmember Charles Allen

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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on an emergency basis, the Firearms Control Regulations Act of 1975 to create a judicial process through which individuals who have been disqualified from receiving a firearms registration certificate due to having been voluntarily admitted or involuntarily committed to a mental health facility, determined to be an incapacitated individual, adjudicated as a mental defective, or committed to a mental institution, can petition the Superior Court of the District of Columbia for relief from that disqualification, to increase the penalty for possessing a large capacity ammunition feeding device to not more than 3 years' imprisonment, a fine, or both, to allow persons to petition the Superior Court of the District of Columbia for an extreme risk protection order, which would prohibit the respondent from possessing firearms or ammunition if the court finds that the subject poses a significant danger of causing bodily injury to self or others, to establish a process for the personal service, renewal, and termination of extreme risk protection orders, to establish procedures for the surrender, storage, assessment of fees for storage, and return of firearms and ammunition that are recovered pursuant to an extreme risk protection order, and to establish a penalty for a violation of an extreme risk protection order; To amend An Act to control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes to prohibit the possession of bump stocks.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Firearms Safety Omnibus Emergency Amendment Act of 2018".

Sec. 2. The Firearms Control Regulations Act of 1975, effective September 24, 1976 (D.C. Law 1-85; D.C. Official Code § 7-2501.01 *et seq.*), is amended as follows:

(a) Section 203 (D.C. Official Code § 7-2502.03) is amended as follows:

(1) Subsection (a) is amended as follows:

40 (A) The lead-in language is amended by striking the phrase “and his” and
41 inserting the phrase “and the person’s” in its place.

42 (B) Paragraph (1)(A) is amended by striking the phrase “his parent” and
43 inserting the phrase “the applicant’s parent” in its place.

44 (C) Paragraph (4) is amended as follows:

45 (i) Subparagraph (E) is amended by striking the phrase “; or” and
46 inserting a semicolon in its place.

47 (ii) Subparagraph (F) is amended by striking the phrase “D.C.
48 Official Code § 22-3133);” and inserting the phrase “D.C. Official Code § 22-3133); or” in its
49 place.

50 (ii) A new subparagraph (G) is added to read as follows:

51 “(G) Violation of an extreme risk protection order pursuant to section
52 1011;”.

53 (D) Paragraph (6) is amended to read as follows:

54 “(6)(A) Within the 5-year period immediately preceding the application, has not
55 been:

56 “(1) Voluntarily admitted to a mental health facility;

57 “(2) Involuntarily committed to a mental health facility by the
58 Superior Court of the District of Columbia, another court of competent jurisdiction, the
59 Commission on Mental Health, or a similar commission in another jurisdiction;

60 “(3) Determined by the Superior Court of the District of Columbia
61 or another court of competent jurisdiction to be an incapacitated individual, as that term is
62 defined in D.C. Official Code § 21-2011(11);

63 “(4) Adjudicated as a mental defective, as that term is defined in
64 27 C.F.R. § 478.11; or

65 “(5) Committed to a mental institution, as that term is defined in 27
66 C.F.R. § 478.11;

67 “(B) Subparagraph (A) of this paragraph shall not apply if the court has
68 granted the applicant relief pursuant to subsection (f) of this section, unless the applicant, since
69 the court granted the applicant relief pursuant to subsection (f) of this section, is again
70 disqualified under subparagraph (A) of this paragraph.”.

71 (E) Paragraph (13)(B)(iii) is amended by striking the phrase “; and” and
72 inserting a semicolon in its place.

73 (F) Paragraph (14) is amended by striking the period and inserting the
74 phrase “; and” in its place.

75 (G) A new paragraph (15) is added to read as follows:

76 “(15) Is not the subject of a final extreme risk protection order issued pursuant to
77 section 1003 or renewed pursuant to section 1006.”.

78 (2) A new subsection (f) is added to read as follows:

79 “(f)(1) A person disqualified under subsection (a)(6)(A) of this section or 18 U.S.C. §
80 922(g)(4) as a result of a commitment or adjudication that occurred in the District may petition
81 the Superior Court for the District of Columbia for relief from disqualification.

82 “(2) A petition for relief from disqualification filed under this subsection shall:

83 “(A) Be in writing;

84 “(B) State the reason the petitioner was disqualified;

85 “(C) State facts in support of the petitioner’s claim that the petitioner
86 should no longer be disqualified;

87 “(D) Include a statement, on a form approved by the court, signed by a
88 licensed physician, psychiatrist, or qualified psychologist within the 30-day period immediately
89 preceding the filing of the petition for relief, stating:

90 “(i) The symptoms or behaviors for which the petitioner has been
91 disqualified;

92 “(ii) The length of time that the petitioner has no longer
93 experienced those symptoms or behaviors;

94 “(iii) The length of time that the petitioner has been compliant with
95 any applicable treatment plans related to the reason the petitioner was disqualified; and

96 “(iv) That, in the physician, psychiatrist, or psychologist’s opinion,
97 the petitioner would not be likely to act in a manner dangerous to public safety if allowed to
98 register a firearm;

99 “(E) Be accompanied by any appropriate exhibits, affidavits, or supporting
100 documents, including records of any guardianship, conservatorship, or commitment proceeding
101 related to the petitioner’s disqualification;

102 “(F) Include two statements from individuals who are not related to the
103 petitioner by blood, adoption, guardianship, marriage, domestic partnership, having a child in
104 common, cohabitating, or maintaining a romantic, dating, or sexual relationship and have known
105 the petitioner for at least 3 years. The individuals’ statements must:

106 “(i) Be on a form approved by the court, and signed by the
107 individual within the 30-day period immediately preceding the filing of the petition for relief;

108 “(ii) Describe the petitioner’s reputation and character; and

109 “(iii) State that, in the individual’s opinion, the petitioner would
110 not be likely to act in a manner dangerous to public safety if allowed to register a firearm; and

111 “(G) Be served upon the Office of the Attorney General.

112 “(3)(A) Upon receipt of a petition filed under paragraph (1) of this subsection, the
113 court shall order the Office of the Attorney General to file a response to the petition within 60
114 days after the court’s order. The response shall indicate whether the Office of the Attorney
115 General supports or opposes the petition.

116 “(B) The Office of Attorney General shall:

117 “(i) Conduct a reasonable search of all available records of the
118 petitioner’s mental health;

119 “(ii) Perform a national criminal history background check on the
120 petitioner; and

121 “(iii) Include its findings under this subparagraph in its response to
122 the court.

123 “(C) The Metropolitan Police Department shall, upon request, provide to
124 the Office of Attorney General any records related to the petitioner it has in its possession, or
125 could obtain after conducting a reasonable search.

126 “(4)(A) The court shall hold a hearing on a petition filed under paragraph (1) of
127 this subsection within 60 days after the date on which the Office of Attorney General files its
128 response.

129 “(B) In determining whether to grant a petition for relief, the court shall
130 consider all relevant evidence, including:

131 “(i) The reason the petitioner was disqualified;
132 “(ii) The petitioner’s mental health and criminal history records;
133 and
134 “(iii) Evidence of the petitioner’s reputation.
135 “(5) The court shall grant a petition filed pursuant to paragraph (1) of this
136 subsection if the petitioner establishes, by a preponderance of the evidence, that:
137 “(A) The petitioner would not be likely to act in a manner dangerous to
138 public safety; and
139 “(B) Granting the relief would not be contrary to the public interest.
140 “(6)(A) If the court grants a petition for relief pursuant to paragraph (5) of this
141 subsection, the court shall issue an order that:
142 “(i) States the petitioner is no longer disqualified under subsection
143 (a)(6)(A) of this section;
144 “(ii) Orders the Clerk of the Court to submit a copy of the order to
145 the Metropolitan Police Department, the Office of the Attorney General, and any other relevant
146 law enforcement, pretrial, corrections, or community supervision agency; and
147 “(iii) Requires that the petitioner’s record be updated in the
148 National Instant Criminal Background Check System and any other system used to determine
149 firearm registration eligibility to reflect that the petitioner is no longer disqualified.
150 “(7) If the court denies a petition for relief, the court shall state the reasons for its
151 denial in writing.
152 “(8) An order granting or denying a petition filed under paragraph (1) of this
153 subsection shall be a final order for the purposes of appeal.”.

154 (b) Section 501 (D.C. Official Code § 7-2505.01) is amended by striking the phrase “or
155 705” and inserting the phrase “705, 1007, or 1009” in its place.

156 (c) Section 705 (D.C. Official Code § 7-2507.05) is amended to read as follows:

157 (1) Subsection (a) is amended to read as follows:

158 “(a)(1) If a person or organization within the District voluntarily and peaceably delivers
159 and abandons to the Chief any firearm, destructive device, or ammunition at any time, such
160 delivery shall preclude the arrest and prosecution of such person on a charge of violating any
161 provision of this act, with respect to the firearm, destructive device, or ammunition delivered and
162 abandoned.

163 “(2) Delivery and abandonment under this section may be made at any police
164 district, station, or central headquarters, or by summoning a police officer to the person’s
165 residence or place of business.

166 “(3) Every firearm to be delivered and abandoned to the Chief under this section
167 shall be transported in accordance with section 4b of An Act To control the possession, sale,
168 transfer, and use of pistols and other dangerous weapons in the District of Columbia, to provide
169 penalties, to prescribe rules of evidence, and for other purposes, effective May 20, 2009 (D.C.
170 Law 17-388; D.C. Official Code § 22-4504.02).

171 “(4) No person who delivers and abandons a firearm, destructive device, or
172 ammunition under this section shall be required to furnish identification, photographs, or
173 fingerprints.

174 “(5) No amount of money shall be paid for any firearm, destructive device, or
175 ammunition delivered and abandoned under this section.”

176 (2) Subsection (b) is amended by striking the phrase “section 210(c)(1)” and
177 inserting the phrase “section 210(c)(1) or section 1009(c)” in its place.

178 (f) Section 706(a) (D.C. Official Code § 7-2507.06(a)) is amended as follows:

179 (1) The lead-in language is amended by striking the phrase “and Title IX” and
180 inserting “Title IX, and section 1011” in its place.

181 (2) A new paragraph (4) is added to read as follows:

182 “(4) A person convicted of possessing a large capacity ammunition feeding device
183 in violation of section 601(b) shall be fined no more than the amount set forth in section 101 of
184 the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law
185 19-317; D.C. Official Code § 22-3571.01), or incarcerated for no more than 3 years, or both.”.

186 (g) A new Title X is added to read as follows:

187 “TITLE X – EXTREME RISK PROTECTION ORDERS.

188 “Sec. 1001. Definitions.

189 “For the purposes of this title, the term:

190 “(1) “Extreme risk protection order” means an order issued, pursuant to this title,
191 by a judge of the Superior Court of the District of Columbia prohibiting a respondent from
192 having possession or control of, purchasing, or receiving any firearm, ammunition, registration
193 certificate, license to carry a concealed pistol, or dealer’s license.

194 “(2) “Petitioner” means a person who petitions the Superior Court of the District
195 of Columbia for an extreme risk protection order under this title and is:

196 “(A) Related to the respondent by blood, adoption, guardianship,
197 marriage, domestic partnership, having a child in common, cohabitating, or maintaining a
198 romantic, dating, or sexual relationship rendering the application of this title appropriate;

199 “(B) A sworn member of the Metropolitan Police Department; or

200 “(C) A mental health professional, as that term is defined in section
201 101(11) of the District of Columbia Mental Health Information Act of 1978, effective March 3,
202 1979 (D.C. Law 2-136; D.C. Official Code § 7-1201.01(11)).

203 “(3) “Respondent” means a person against whom an extreme risk protection order
204 is sought.

205 “Sec. 1002. Petitions for extreme risk protection orders.

206 “(a) A petitioner may petition the Superior Court for the District of Columbia for a final
207 extreme risk protection order. A petition filed under this section shall:

208 “(1) Be in writing;

209 “(2) State facts in support of the claim that the respondent poses a significant
210 danger of causing bodily injury to self or others by having possession or control of, purchasing,
211 or receiving any firearm or ammunition;

212 “(3) To the best of the petitioner’s knowledge, identify the number, types, and
213 locations of any firearms or ammunition the petitioner believes to be in the respondent’s
214 possession, control, or ownership;

215 “(4) Be accompanied by any appropriate exhibits, affidavits, and supporting
216 documents; and

217 “(5) Be served on the Office of the Attorney General.

218 “(b) A petitioner may file a petition under this section regardless of whether there is any
219 other pending suit, complaint, petition, or other action between the parties.

220 “(c) The Office of Attorney General may provide individual legal representation to a
221 petitioner. If the Office of Attorney General decides to provide individual legal representation to
222 a petitioner, the representation shall continue until the earliest of:

223 “(1) The court denies the petition for a final extreme risk protection order
224 pursuant to section 1003;

225 “(2) The court terminates a final extreme risk protection order pursuant to section
226 1008; or

227 “(3) The Office of the Attorney General withdraws from representation.

228 “(d) At the request of the petitioner or respondent, the court may place any record or part
229 of a proceeding related to the issuance, renewal, or termination of an extreme risk protection
230 order under seal while the petition is pending.

231 “Sec. 1003. Final extreme risk protection orders.

232 “(a)(1) Upon receipt of a petition filed pursuant section 1002, the court shall order that a
233 hearing be held to determine whether to issue a final extreme risk protection order against the
234 respondent.

235 “(2) The hearing shall be held within 10 days after the date the petition was filed.

236 “(b)(1) Personal service of the notice of hearing and petition shall be made upon the
237 respondent by a Metropolitan Police Department officer not fewer than 5 business days before
238 the hearing.

239 “(2) If the respondent is unable to be personally served, the court shall set a new
240 hearing date and require additional attempts to accomplish personal service.

241 “(c) If the court issues an ex parte extreme risk protection order pursuant to section 1004,
242 the ex parte extreme risk protection order shall be served concurrently with the notice of hearing
243 and petition described in subsection (b)(1) of this section.

244 “(d) Before the hearing for a final extreme risk protection order, the court shall order that
245 the Office of the Attorney General:

246 “(1) Conduct a reasonable search of all available records to determine whether the
247 respondent owns any firearms or ammunition;

248 “(2) Conduct a reasonable search of all available records of the petitioner’s mental
249 health;

250 “(3) Perform a national criminal history background check; and

251 “(4) Submit its findings under this subsection to the court.

252 “(e) In determining whether to issue a final extreme risk protection order pursuant to this
253 section, the court shall consider all relevant evidence, including:

254 “(1) Any history or pattern of threats of violence, or acts of violence, by the
255 respondent directed toward themselves or others;

256 “(2) Any recent threats of violence, or acts of violence, by the respondent directed
257 toward themselves or others;

258 “(3) The respondent’s acquisition of any firearms, ammunition, or other deadly or
259 dangerous weapons within one year before the filing of the petition;

260 “(4) The unlawful or reckless use, display, or brandishing of a firearm or other
261 weapon by the respondent;

262 “(5) Respondent’s criminal history;

263 “(6) Respondent’s violation of a court order;

264 “(7) Evidence of the respondent experiencing a mental health crisis, or other
265 dangerous mental health issues; and

266 “(8) Respondent’s use of a controlled substance, as that term is defined in section
267 102(4) of the District of Columbia Uniform Controlled Substances Act of 1981, effective August
268 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-901.02(4)).

269 “(f) The court shall, before issuing a final extreme risk protection order, examine any
270 witnesses under oath.

271 “(g) The court shall issue a final extreme risk protection order if the petitioner establishes
272 by a preponderance of the evidence that the respondent poses a significant danger of causing
273 bodily injury to self or others by having possession or control of, purchasing, or receiving any
274 firearm or ammunition.

275 “(h) A final extreme risk protection order issued under this section shall state:

276 “(1) That the respondent is prohibited from having possession or control of,
277 purchasing, or receiving any firearm, ammunition, registration certificate, license to carry a
278 concealed pistol, or dealer’s license for one year from the date and time the order was issued;

279 “(2) The date and time the order was issued;

280 “(3) The date and time the order will expire;

281 “(4) The grounds upon which the order was issued;

282 “(5) The procedures for the:

283 “(i) Renewal of a final extreme risk protection order pursuant to section
284 1006;

285 “(ii) Surrender of firearms, ammunition, registration certificates, licenses
286 to carry a concealed pistol, or dealer’s licenses in the respondent’s possession, control, or
287 ownership pursuant to section 1007; and

288 “(iii) Termination of a final extreme risk protection order pursuant to
289 section 1008; and

290 “(6) That the respondent may seek the advice of an attorney as to any matter
291 connected with a petition filed under this title.

292 “(i) A final extreme risk protection order issued pursuant to this section shall expire one
293 year after the issuance of the order, unless the order is terminated pursuant to section 1008 before
294 its expiration.

295 “Sec. 1004. Ex parte extreme risk protection orders.

296 “(a) When filing a petition for a final extreme risk protection order, a petitioner may also
297 request that an ex parte extreme risk protection order be issued without notice to the respondent.

298 “(b) The court may hold a hearing on any request for an ex parte extreme risk protection
299 order filed under this section.

300 “(c) In determining whether to issue an ex parte extreme risk protection order pursuant to
301 this section, the court shall consider all relevant evidence, including:

302 “(1) Any history or pattern of threats of violence, or acts of violence, by the
303 respondent directed toward themselves or others;

304 “(2) Any recent threats of violence, or acts of violence, by the respondent directed
305 toward themselves or others;

306 “(3) The respondent’s acquisition of any firearms, ammunition, or other deadly or
307 dangerous weapons within one year before the filing of the petition;

308 “(4) The unlawful or reckless use, display, or brandishing of a firearm by the
309 respondent;

310 “(5) Respondent’s criminal history;

311 “(6) Respondent’s violation of a court order;

312 “(7) Evidence of the respondent experiencing a mental health crisis, or other
313 dangerous mental health issues; and

314 “(8) Respondent’s use of a controlled substance, as that term is defined in section
315 102 of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5,
316 1981 (D.C. Law 4-29; D.C. Official Code § 48-901.02).

317 “(d) The court may grant a request under this section based solely on an affidavit or
318 sworn testimony of the petitioner.

319 “(e) The court shall issue an ex parte extreme risk protection order if the petitioner
320 establishes that there is probable cause to believe that the respondent poses a significant danger
321 of causing bodily injury to self or others by having possession or control of, purchasing, or
322 receiving any firearm or ammunition.

323 “(f) If the petitioner requests that the court issue an ex parte extreme risk protection order
324 pursuant to section, the court shall grant or deny the request on the same day that the request was
325 made, unless the request is filed too late in the day to permit effective review, in which case the
326 court shall grant or deny the request the next day the court is open.

327 “(g) An ex parte extreme risk protection order shall state:

328 “(1) That the respondent is prohibited from having possession or control of,
329 purchasing, or receiving any firearm, ammunition, registration certificate, license to carry a
330 concealed pistol, or dealer’s license while the order is in effect;

331 “(2) The date and time the order was issued;

332 “(3) That the ex parte extreme risk protection order will be in effect until the court
333 rules on whether to issue a final extreme risk protection order;

334 “(4) The grounds upon which the order was issued;

335 “(5) The time and place of the hearing to determine whether to issue a final
336 extreme risk protection order;

337 “(6) That following the hearing, the court may issue a final extreme risk
338 protection order that will be in effect for up to one year;

339 “(7) The procedures for the:

340 “(i) Renewal of a final extreme risk protection order pursuant to section
341 1006;

342 “(ii) Surrender of firearms, ammunition, registration certificates, licenses
343 to carry a concealed pistol, or dealer’s licenses in the respondent’s possession, control, or
344 ownership pursuant to section 1007; and

345 “(iii) Termination of a final extreme risk protection order pursuant to
346 section 1008; and

347 “(8) That the respondent may seek the advice of an attorney as to any matter
348 connected with this title, and that the attorney should be consulted promptly so that the attorney
349 may assist the respondent in any matter connected with the ex parte extreme risk protection
350 order.

351 “(h) An ex parte extreme risk protection order issued pursuant to this section shall expire
352 10 days from the date and time the order was issued, unless the court set a new hearing date

353 pursuant to section 1003(b)(2), in which case, the court may extend the duration of the ex parte
354 extreme risk protection order to not exceed 15 days.

355 “(i) The court shall terminate an ex parte extreme risk protection order in effect against
356 the respondent at the time the court grants or denies the petition for a final extreme risk
357 protection order.

358 “Sec. 1005. Service of extreme risk protection orders.

359 “(a)(1) Except as provided in subsection (b) of this section, an extreme risk protection
360 order issued pursuant to section 1003 or section 1004, or renewed pursuant to section 1006 shall
361 be personally served upon the respondent by a sworn member of the Metropolitan Police
362 Department.

363 “(2) The court shall submit a copy of extreme risk protection order to the
364 Metropolitan Police Department on or before the next business day after the issuance of the order
365 for service upon the respondent. Service of an extreme risk protection order shall take
366 precedence over the service of other documents, unless the other documents are of a similar
367 emergency nature.

368 “(3) If the Metropolitan Police Department cannot complete personal service upon
369 the respondent within 5 business days after receiving an order from the court under paragraph (2)
370 of this subsection, the Metropolitan Police Department shall notify the petitioner.

371 “(5) Within one business day after service, the Metropolitan Police Department
372 shall submit proof of service to the court.

373 “(b) If the respondent was personally served in court when the extreme risk protection
374 order was issued, the requirements of subsection (a) of this section shall be waived.

375 “Sec. 1006. Renewal of final extreme risk protection orders.

376 “(a) At least 120 days before the expiration of a final extreme risk protection order, the
377 court shall notify the petitioner of the date that the order is set to expire and advise the petitioner
378 of the procedures for seeking a renewal of the order.

379 “(b) A petitioner may request a renewal of a final extreme risk protection order, including
380 an order previously renewed under this section, at any time within the 120-day period
381 immediately preceding the expiration of the order.

382 “(c) Personal service of the notice of hearing and request for renewal shall be made upon
383 the respondent by a Metropolitan Police Department officer not fewer than 15 business days
384 before the hearing.

385 “(d) In determining whether renew an extreme risk protection order pursuant to this
386 section, the court shall consider all relevant evidence, including:

387 “(1) Any history or pattern of threats of violence, or acts of violence, by the
388 respondent directed toward themselves or others;

389 “(2) Any recent threats of violence, or acts of violence, by the respondent directed
390 toward themselves or others;

391 “(3) The respondent’s acquisition of any firearms, ammunition, or other deadly or
392 dangerous weapons within one year before the filing of the petition;

393 “(4) The unlawful or reckless use, display, or brandishing of a firearm by the
394 respondent;

395 “(5) Respondent’s criminal history;

396 “(6) Respondent’s violation of a court order;

397 “(7) Evidence of the respondent experiencing a mental health crisis, or other
398 dangerous mental health issues; and

399 “(8) Respondent’s use of a controlled substance, as that term is defined in section
400 102 of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5,
401 1981 (D.C. Law 4-29; D.C. Official Code § 48-901.02).

402 “(e) The court shall, before renewing a final extreme risk protection order, examine any
403 witnesses under oath.

404 “(f) The court shall, after notice and a hearing, renew a final extreme risk protection order
405 if the court finds, by a preponderance of the evidence, that the respondent continues to pose a
406 significant danger of causing bodily injury to self or others by having possession or control of,
407 purchasing, or receiving any firearm or ammunition.

408 “(g) A final extreme risk protection order renewed pursuant to this section, shall state:

409 “(1) That the respondent is prohibited from having possession or control of,
410 purchasing, or receiving any firearm, ammunition, registration certificate, license to carry a
411 concealed pistol, or dealer’s license for one year from the date and time the order was renewed;

412 “(2) The date and time the order was renewed;

413 “(3) The date and time the order will expire;

414 “(4) The grounds upon which the order was renewed;

415 “(5) The procedures for the:

416 “(i) Renewal of a final extreme risk protection order pursuant to section
417 1006;

418 “(ii) Surrender of firearms, ammunition, registration certificates, licenses
419 to carry a concealed pistol or dealer’s licenses in the respondent’s possession, control, or
420 ownership pursuant to section 1007; and

421 “(iii) Termination of a final extreme risk protection order pursuant to
422 section 1008; and

423 “(6) That the petitioner may seek the advice of an attorney as to any matter
424 connected with this title.

425 “(h) An extreme risk protection order renewed pursuant to this section shall expire one
426 year after the issuance of the order, unless that order is terminated pursuant to section 1008
427 before its expiration.

428 “Sec. 1007. Surrender of firearms, ammunition, registration certificates, and dealer’s
429 licenses.

430 “(a) If the court issues a final extreme risk protection order pursuant to section 1003,
431 issues an ex parte extreme risk protection order pursuant to section 1004, or renews a final
432 extreme risk protection order pursuant to section 1006, the court may issue a search warrant that:

433 “(1) Describes the number and types of firearms and ammunition to be seized;

434 “(2) Describes any registration certificates and dealer’s licenses to be seized;

435 “(3) Describes the location where the firearms, ammunition, registration
436 certificates, and dealer’s licenses are believed to be located; and

437 “(4) Authorizes the seizure of any firearms, ammunition, registration certificates,
438 and dealer’s licenses discovered pursuant to such a search.

439 “(b) A Metropolitan Police Department officer serving an extreme risk protection order
440 shall:

441 “(1) Request that all firearms, ammunition, registration certificates, and dealer’s
442 licenses be immediately surrendered; and

443 “(2) Take possession of all firearms, ammunition, registration certificates, and
444 dealer’s licenses in the respondent’s possession, control, or ownership that are surrendered or
445 discovered pursuant to a lawful search.

446 “(c)(1) At the time of surrender or removal, the Metropolitan Police Department officer
447 taking possession of a firearm, ammunition, registration certificate, or dealer’s license pursuant
448 to an extreme risk protection order shall make a record identifying all firearms, ammunition,
449 registration certificates, and dealer’s licenses that have been surrendered or removed and provide
450 a receipt to the respondent.

451 “(2) Within 72 hours after serving an extreme risk protection order, the officer
452 shall file a copy of the receipt provided to the respondent pursuant to paragraph (1) of this
453 subsection with the court and the Chief of Police.

454 “(d) If a person other than the respondent claims title to any firearm or ammunition
455 surrendered or removed pursuant to this section, and he or she is determined by the Metropolitan
456 Police Department to be the lawful owner of the firearm or ammunition, the firearm or
457 ammunition shall be returned to him or her; provided, that the firearm or ammunition is removed
458 from the respondent’s possession or control, and the lawful owner agrees to store the firearm or
459 ammunition in a manner such that the respondent does not have possession or control of the
460 firearm or ammunition.

461 “(e) The Metropolitan Police Department may charge the respondent a fee not to exceed
462 the actual costs incurred by the Metropolitan Police Department for storing any firearms or
463 ammunition surrendered or removed pursuant to this section for the duration of the extreme risk
464 protection order, including a renewal of the extreme risk protection order, and up to 6 months
465 after the date the order expires or is terminated.

466 “(f)(1) If a respondent peaceably surrenders any firearms or ammunition pursuant to this
467 section, such surrender shall preclude the arrest and prosecution of the respondent for violating,
468 with respect to the firearms or ammunition surrendered:

469 “(A) Section 601 of The Firearms Control Regulations Act of 1975,
470 effective September 24, 1976 (D.C. Law 1-85; D.C. Official Code § 7-2506.01); and

471 “(B) Sections 3 and 4(a) and (a-1) of An Act To control the possession,
472 sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia, to
473 provide penalties, to prescribe rules of evidence, and for other purposes, approved July 8, 1932
474 (47 Stat. 651; D.C. Official Code §§ 22-4503 and 22-4504(a) and (a-1)).

475 “(2) The surrender of any firearm or ammunition pursuant to this section shall not
476 constitute a voluntary surrender for the purposes of section 705.

477 “Sec. 1008. Termination of extreme risk protection orders.

478 “(a) Any respondent against whom a final extreme risk protection order, including a
479 renewal of the extreme risk protection order, was issued may, on one occasion during the one-
480 year period the order is in effect, submit a written motion to the Superior Court for the District of
481 Columbia requesting that the order be terminated.

482 “(b) Upon receipt of the motion for termination, the court shall set a date for a hearing,
483 and notice of the request shall be served on the petitioner. The hearing shall occur at least 14
484 days after the date of service of the motion upon the petitioner.

485 “(c) In determining whether to terminate a final extreme risk protection order pursuant to
486 this section, the court shall consider all relevant evidence, including:

487 “(1) Any history or pattern of threats of violence, or acts of violence, by the
488 respondent directed toward themselves or others;

489 “(2) Any recent threats of violence, or acts of violence, by the respondent directed
490 toward themselves or others;

491 “(3) The respondent’s acquisition of any firearms, ammunition, or other deadly or
492 dangerous weapons within one year before the filing of the petition;

493 “(4) The unlawful or reckless use, display, or brandishing of a firearm by the
494 respondent;

495 “(5) Respondent’s criminal history;

496 “(6) Respondent’s violation of a court order;

497 “(7) Evidence of the respondent experiencing a mental health crisis, or other
498 dangerous mental health issues; and

499 “(8) Respondent’s use of a controlled substance, as that term is defined in section
500 102 of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5,
501 1981 (D.C. Law 4-29; D.C. Official Code § 48–901.02).

502 “(d) The court shall, before terminating a final extreme risk protection order, examine
503 any witnesses under oath.

504 “(e) The court shall terminate a final extreme risk protection order if the respondent
505 establishes by a preponderance of the evidence that the respondent does not pose a significant
506 danger of causing bodily injury to self or others by having possession or control of, purchasing,
507 or receiving any firearm or ammunition.

508 “(f)(1) If the court grants a motion to terminate pursuant to this section, notice of the
509 termination shall be personally served upon the petitioner by a sworn member of the
510 Metropolitan Police Department and sent to the petitioner by electronic mail.

511 “(2) The court shall submit a copy of the order issued under this section to the
512 Metropolitan Police Department on or before the next business day for service upon the
513 respondent. Service of a notice of termination shall take precedence over the service of other
514 documents, unless the other documents are of a similar emergency nature.

515 “(3) If the Metropolitan Police Department cannot complete personal service upon
516 the petitioner within 5 business days after receiving an order from the court under paragraph (2)
517 of this subsection, the Metropolitan Police Department shall notify the court.

518 “(4) Within one business day after service, the Metropolitan Police Department
519 shall submit proof of service to the court.

520 “Sec. 1009. Return or disposal of firearms or ammunition.

521 “(a)(1) If an extreme risk protection order is terminated, or expires and is not renewed,
522 the Metropolitan Police Department shall notify the respondent that he or she may request the
523 return of any firearm or ammunition surrendered or removed if that firearm or ammunition had
524 been lawfully possessed.

525 “(2) The Metropolitan Police Department shall return any surrendered or removed
526 firearm or ammunition requested by a respondent only after confirming that:

527 “(A) The respondent is eligible to own or possess the firearms and
528 ammunition;

529 “(B) The firearm or ammunition was lawfully possessed; and

530 “(C) The respondent has paid any applicable fee charged against the
531 respondent by the Metropolitan Police Department pursuant to subsection 1007(e).

532 “(b)(1) If a respondent who lawfully possessed a firearm or ammunition does not wish to
533 have the firearm or ammunition returned, or the respondent is no longer eligible to own or

534 possess firearms or ammunition, the respondent may sell or transfer title of the firearm or
535 ammunition in accordance with applicable law.

536 “(2) The Metropolitan Police Department shall transfer possession of a firearm or
537 ammunition through a licensed firearm dealer to a purchaser or recipient, but only after the
538 licensed firearms dealer has displayed written proof of the sale or transfer of the firearm or
539 ammunition from the respondent to the dealer, and the Metropolitan Police Department has
540 verified the transfer with the respondent.

541 “(c) If the respondent does not request return of a firearm or ammunition under
542 subsection (a) of this section, or sell or transfer a firearm or ammunition under subsection (b) of
543 this section, within 6 months after the date the extreme risk protection order is terminated, or
544 expires and is not renewed, the Metropolitan Police Department shall treat the firearm or
545 ammunition as surrendered and the firearm or ammunition shall be subject to section 705(b).

546 “Sec. 1010. Recording requirements.

547 “(a) The Metropolitan Police Department shall:

548 “(1) Maintain a searchable database of extreme risk protection orders issued,
549 terminated, and renewed pursuant to this title; and

550 “(2) Make the information maintained in paragraph (1) of this subsection
551 available to any other relevant law enforcement, pretrial, corrections, or community supervision
552 agency upon request.

553 “(b) The Superior Court of the District of Columbia shall immediately submit
554 information about extreme risk protection orders issued, renewed, or terminated pursuant to this
555 title to the National Instant Criminal Background Check System for the purposes of firearm
556 purchaser background checks.

557 “Sec. 1011. Violation of an extreme risk protection order.

558 “(a) A person violates an extreme risk protection order if, after receiving actual notice of
559 being subject to an extreme risk protection order, the person knowingly has custody or control
560 of, keeps, owns, purchases, possesses, or receives a firearm or ammunition.

561 “(b) A person convicted of violating an extreme risk protection order shall be:

562 “(1) Fined no more than the amount set forth in section 101 of the Criminal Fine
563 Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C.
564 Official Code § 22-3571.01), or incarcerated for no more than 180 days, or both; and

565 “(2) Prohibited from having possession or control of, purchasing, or receiving a
566 firearm or ammunition for a period of 5 years after the date of conviction.

567 “(c) A violation of an extreme risk protection order shall not be considered a:

568 “(1) Weapons offense; or

569 “(2) Gun offense, as that term is defined in section 801(3).

570 “Sec. 1012. Law enforcement to retain other authority.

571 “Nothing in this title shall be construed to affect the ability of a law enforcement officer,
572 as that term is defined in section 901(3), to remove firearms or ammunition from any person
573 pursuant to other lawful authority.”

574 Sec. 3. An Act To control the possession, sale, transfer, and use of pistols and other
575 dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of
576 evidence, and for other purposes, approved July 8, 1932 (47 Stat. 650; D.C. Official Code § 22-
577 4501 *et seq.*), is amended as follows:

578 (a) Section 1 (D.C. Official Code § 22-4501) is amended as follows:

579 (1) Paragraph (1) is redesignated as paragraph (1A).

580 (2) A new paragraph (1) is added to read as follows:

581 “(1) “Bump stock” means any object that, when installed in or attached to a
582 firearm, increases the rate of fire of the firearm by using energy from the recoil of the firearm to
583 generate a reciprocating action that facilitates repeated activation of the trigger.”.

584 (b) Section 14(a) (D.C. Official Code § 22-4514(a)) is amended by striking the phrase
585 “sawed-off shotgun, knuckles” both times it appears and inserting the phrase “sawed-off
586 shotgun, bump stock, knuckles” in its place.”.

587 Sec. 4. Fiscal impact statement.

588 The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact
589 statement required by section 4a of the General Legislative Procedures Act of 1975, approved
590 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

591 Sec. 5. Effective date.

592 This act shall take effect following approval by the Mayor (or in the event of veto by the
593 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than
594 90 days, as provided for emergency acts of the Council of the District of Columbia in section
595 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
596 D.C. Official Code § 1-204.12(a)).

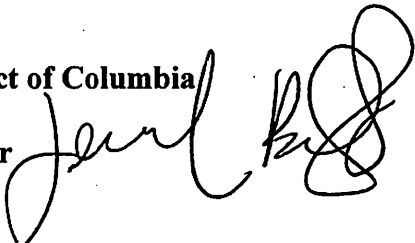
COUNCIL OF THE DISTRICT OF COLUMBIA
Office of the Budget Director



Jennifer Budoff
Budget Director

FISCAL IMPACT STATEMENT

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jennifer Budoff, Budget Director 

DATE: December 4, 2018

SHORT TITLE: B22-588 "Firearms Control Omnibus Amendment Act of 2018"

TYPE: Amendment in the Nature of a Substitute

REQUESTED BY: Councilmember Charles Allen

Conclusion

This amendment in the nature of a substitute does not have an impact on the District's budget or the financial plan, because there is no cost associated with implementing it.

Background

This amendment in the nature of a substitute (ANS) makes four changes to the bill. First, the ANS would prohibit issuing a firearm registration certificate to anyone who has, within five years preceding the application, been convicted of violating an extreme risk protection order or who has been committed to a mental institution. Second, the ANS prohibits a respondent under an extreme risk protection order from possessing a firearms registration certificate, a concealed carry permit or a dealer's license while the protection order is in effect. Third, the ANS requires a Superior Court judge to schedule a hearing on a final protection order within 10 rather than 14 days from when the petition for the protection order was issued. Finally, the ANS transfers the reporting obligations associated with relief from extreme protection and firearms disqualifier orders from MPD to the Superior Court.

Analysis of Impact on Spending

This amendment in the nature of a substitute does not impact spending.

Analysis of Impact on Revenue

This amendment in the nature of a substitute does not impact revenues.

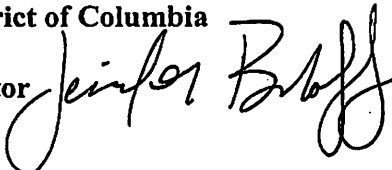
COUNCIL OF THE DISTRICT OF COLUMBIA
Office of the Budget Director



Jennifer Budoff
Budget Director

FISCAL IMPACT STATEMENT

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jennifer Budoff, Budget Director 

DATE: December 18, 2018

SHORT TITLE: B22-588 "Firearms Control Omnibus Amendment Act of 2018"

TYPE: Amendment

REQUESTED BY: Councilmember Charles Allen

Conclusion

This amendment does not have an impact on the District's budget or the financial plan, because there is no cost associated with implementing it.

Background

This amendment maintains the immunity already provided in current law for individuals who voluntarily and peaceably surrender firearms, destructive devices or ammunition to the Chief of Police. Also, the amendment limits the immunity available for firearms and ammunition removed pursuant to an extreme risk protection order to violations of certain provisions of the code as opposed to all of 22-4504.

Analysis of Impact on Spending

This amendment does not impact spending.

Analysis of Impact on Revenue

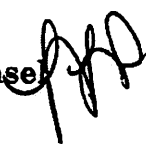
This amendment does not impact revenues.



OFFICE OF THE GENERAL COUNSEL
Council of the District of Columbia
1850 Pennsylvania Avenue NW, Suite 4
Washington, DC 20004
(202) 724-8026

MEMORANDUM

TO: Councilmember Charles Allen

FROM: Nicole L. Streeter, General Counsel 

DATE: December 14, 2018

RE: Legal sufficiency determination for Bill 22-XXX, the
Firearms Safety Omnibus Emergency Amendment
Act of 2018

The measure is legally and technically sufficient for Council consideration.

This emergency measure mirrors the Firearms Safety Omnibus Amendment Act of 2018, passed on 1st reading on December 4, 2018 (Engrossed version of Bill 22-588), which this office previously reviewed for legal and technical sufficiency.

I am available if you have any questions.