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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1018 Session of  
2023

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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 AND KRUEGER,  
APRIL 21, 2023

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REFERRED TO COMMITTEE ON JUDICIARY, APRIL 21, 2023

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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.

18 (a) Offense defined.--

1 \* \* \*

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

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

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

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

25 (a.1) Penalty.--

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

1 of any other state, who violates subsection (a) commits a  
2 felony of the second degree.

3 (1.1) The following shall apply:

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

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

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

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

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 under 42 Pa.C.S. Ch. 64A (relating to  
14 extreme risk protection orders) commits a misdemeanor of the  
15 second degree if he intentionally or knowingly fails to  
16 relinquish a firearm or firearms license as required by the  
17 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 under 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 who possesses a firearm or firearms license under 42 Pa.C.S.  
23 Ch. 64A commits a misdemeanor of the ~~[first]~~ second degree if  
24 he intentionally or knowingly returns a firearm, other weapon  
25 or ammunition to a defendant or respondent or intentionally  
26 or knowingly allows a defendant or respondent to have access  
27 to the firearm, other weapon or ammunition prior to ~~[either]~~  
28 any 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 terminates an  
14 extreme risk protection order under 42 Pa.C.S. Ch. 64A.

15 \* \* \*

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

20 \* \* \*

21 (10) A person who has been convicted of an offense under  
22 subsection [(a.1) (2)] (a.1) (2.1) or (5). The prohibition  
23 shall terminate five years after the date of conviction,  
24 final release from confinement or final release from  
25 supervision, whichever is later.

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

28 \* \* \*

29 (f) Other exemptions and proceedings.--

30 \* \* \*

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

14 \* \* \*

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

16 § 6128. Abandonment of firearms, weapons or ammunition.

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

26 (1) Relinquished by its lawful owner pursuant to court  
27 order or executed warrant, and no written request to return  
28 or otherwise dispose of the firearms, weapons or ammunition  
29 is made by the lawful owner or the lawful owner's attorney or  
30 duly appointed representative after a period of one year from

1 the date an order of relinquishment or seizure has expired.

2 (2) Found, discovered or otherwise passed into the  
3 custody of the police department, Pennsylvania State Police,  
4 coroner, medical examiner, district attorney, sheriff or  
5 licensed dealer and no owner can be determined after a  
6 documented search of the database of firearms sales  
7 maintained by the Pennsylvania State Police is made at the  
8 time the firearms come into the custody of the police  
9 department, coroner, medical examiner, district attorney,  
10 sheriff or licensed dealer and is again made one year from  
11 the date of the first documented search.

12 \* \* \*

13 Section 3. Section 1126 of Title 42 is amended to read:

14 § 1126. Masters.

15 The President Judge of the Philadelphia Municipal Court may  
16 appoint attorneys who are members of the Pennsylvania Bar to  
17 serve as masters in proceedings under Chapter 64A (relating to  
18 extreme risk protection orders) or 23 Pa.C.S. Ch. 61 (relating  
19 to protection from abuse).

20 Section 4. Title 42 is amended by adding a chapter to read:

21 CHAPTER 64A

22 EXTREME RISK PROTECTION ORDERS

23 Sec.

24 64A01. Scope of chapter.

25 64A02. Definitions.

26 64A03. Preliminary matters.

27 64A04. Petition for extreme risk protection order.

28 64A05. Interim extreme risk protection order.

29 64A06. Hearing on petition.

30 64A07. Notice to law enforcement.



- 1 64A08. Service.
- 2 64A09. Order after hearing.
- 3 64A10. Termination hearing.
- 4 64A11. Extension of order.
- 5 64A12. Relinquishment of firearms.
- 6 64A13. Return of firearms.
- 7 64A14. Abuse of process.
- 8 64A15. Employment protection.
- 9 64A16. Mental health and chemical dependency services.
- 10 64A17. Instructional and informational material.

11 § 64A01. Scope of chapter.

12 This chapter relates to extreme risk protection orders.

13 § 64A02. Definitions.

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

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

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

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

29 "Firearm." A weapon designed to or that may readily be  
30 converted to expel a projectile by the action of an explosive or

1 the frame or receiver of such weapon.

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

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

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

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

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

28 § 64A03. Preliminary matters.

29 (a) Standing.--A law enforcement officer or a family or  
30 household member of a person believed to present a risk of

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

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

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

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

15 § 64A04. Petition for extreme risk protection order.

16 (a) Petition.--

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

19 (i) be standardized and developed by the Office of  
20 Attorney General as required under section 64A17  
21 (relating to instructional and informational material);

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

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

29 (iv) describe the number, types and locations of any  
30 firearms known or believed to be owned by the respondent

1 or known or believed to be in the respondent's possession  
2 or control.

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

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

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

13 (1) Suicide threats or attempts.

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

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

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

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

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

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

30 (8) Any additional information the court finds to be

1 reliable, if it is otherwise admissible, including a  
2 statement by the respondent.

3 § 64A05. Interim extreme risk protection order.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23           § 64A06. Hearing on petition.

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

29           (b) Request for continuance.--If the hearing is scheduled to  
30           take place fewer than three business days after service of the

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

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

10 § 64A07. Notice to law enforcement.

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

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

21 § 64A08. Service.

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

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

1 court and shall provide a copy of the return of service to the  
2 petitioner.

3 § 64A09. Order after hearing.

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

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

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

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

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

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

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

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

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

28 (d) Explanatory opinion.--The court shall issue a separate,  
29 nonpublic explanatory opinion and shall provide the opinion to  
30 the petitioner and respondent within seven days of the issuance



1 of the order.

2 § 64A10. Termination hearing.

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

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

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

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

21 § 64A11. Extension of order.

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

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

6 § 64A12. Relinquishment of firearms.

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

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

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

1 enforcement agency or sheriff a copy of the affidavit described  
2 in subsection (f) in lieu of the firearm listed in the  
3 affidavit. A sheriff accepting an affidavit in lieu of a firearm  
4 shall file a copy with the court.

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

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

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

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

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

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

30 (3) A list of all firearms relinquished to the dealer

1 and a detailed description of each firearm, including its  
2 condition and, if applicable, the manufacturer, model and  
3 serial number.

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

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

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

17 § 64A13. Return of firearms.

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

30 (b) Third party claims.--A third party may request the

1 return of a relinquished firearm at any time by providing proof  
2 of ownership and a sworn affidavit. Proof of ownership may  
3 consist of a statement in the affidavit. The affidavit shall  
4 affirm the following:

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

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

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

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

1 not later than the end of the next business day after the day on  
2 which the respondent makes the request.

3 § 64A14. Abuse of process.

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

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

16 § 64A15. Employment protection.

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

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

24 § 64A16. Mental health and chemical dependency services.

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

1 § 64A17. Instructional and informational material.

2 The Office of Attorney General shall develop and prepare  
3 instructions and informational brochures, standard petitions and  
4 extreme risk protection order forms and a staff handbook on the  
5 extreme risk protection order process. The following apply:

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

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

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

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

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

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

5           You have the sole responsibility to avoid or refrain  
6 from violating this order's provisions. Only the  
7 court can change the order and only upon written  
8 application.

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

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

25           (9) The Office of Attorney General shall determine the  
26 significant non-English-speaking or limited-English-speaking  
27 populations in this Commonwealth. The Office of Attorney  
28 General shall arrange for translation of the instructions and  
29 informational brochures required by this section, which shall  
30 contain a sample of the standard petition and order for



1 protection forms, into the languages spoken by those  
2 significant non-English-speaking populations and shall  
3 distribute a master copy of the translated instructions and  
4 informational brochures to all clerks of court within one  
5 year of the effective date of this paragraph.

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

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