

HOUSE BILL 1302

D4

8lr0310
CF 8lr3222

By: Delegates Valentino-Smith, Dumais, Atterbeary, Barve, Frush, Gutierrez, Jones, R. Lewis, Pena-Melnyk, Sanchez, Tarlau, ~~and A. Washington~~ A. Washington, Moon, Korman, Stein, Wilkins, Gilchrist, Jackson, Beidle, Hettleman, Frick, Lierman, Lam, P. Young, Ciliberti, A. Miller, and B. Barnes

Introduced and read first time: February 9, 2018

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 11, 2018

CHAPTER _____

1 AN ACT concerning

2 ~~Family Violence – Seizure of Lethal Weapons – Lethal Violence Protective Order~~
3 Public Safety – Extreme Risk Prevention Orders

4 ~~FOR the purpose of authorizing certain persons to seek an ex parte lethal violence~~
5 ~~protective order by filing a certain petition; specifying the contents of the petition;~~
6 ~~requiring that certain records provided in a certain petition or considered as evidence~~
7 ~~in a proceeding under this Act be protected from public disclosure under certain~~
8 ~~circumstances; requiring a court to set a certain hearing within a certain period of~~
9 ~~time under certain circumstances; requiring a certain notice to be served by a law~~
10 ~~enforcement officer or in accordance with the Maryland Rules; requiring a court to~~
11 ~~issue or deny a petition for an ex parte lethal violence protective order on the same~~
12 ~~day that the petition is filed; requiring a court to consider certain evidence in~~
13 ~~determining whether to issue an ex parte lethal violence protective order; requiring~~
14 ~~a court to issue an ex parte lethal violence protective order under certain~~
15 ~~circumstances; requiring an ex parte lethal violence protective order to contain~~
16 ~~certain information; requiring an ex parte lethal violence protective order to be~~
17 ~~served by a law enforcement officer or in accordance with the Maryland Rules;~~
18 ~~requiring a court to hold a certain hearing subsequent to the issuance of an ex parte~~
19 ~~lethal violence protective order within a certain period of time; requiring a court to~~
20 ~~consider certain information at a hearing for a 1-year lethal violence protective~~
21 ~~order; requiring a court to issue a 1-year lethal violence protective order under~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~certain circumstances; requiring a 1-year lethal violence protective order to contain certain information; requiring a 1-year lethal violence protective order to be served by a law enforcement officer or in accordance with the Maryland Rules; authorizing a respondent to request a hearing to terminate a 1-year lethal violence protective order within a certain period of time; requiring the court to schedule a certain hearing in accordance with certain requirements; requiring a court to terminate a 1-year lethal violence protective order under certain circumstances; authorizing an individual to request an extension of a 1-year lethal violence protective order within a certain period of time; authorizing a court to extend a 1-year lethal violence protective order under certain circumstances; specifying the duration of a certain extended lethal violence protective order; providing procedures for the surrender, seizure, and storage of certain items in connection with a lethal violence protective order; authorizing a law enforcement officer to seize certain firearms and ammunition under certain circumstances; authorizing a court to issue a warrant to search for certain firearms and ammunition under certain circumstances; authorizing a law enforcement agency holding firearms or ammunition in connection with a lethal violence protective order to charge a certain fee; providing for the return, sale, or destruction of firearms and ammunition after the termination of a lethal violence protective order under certain circumstances; providing that filing a petition for a lethal violence protective order under certain circumstances is a misdemeanor; providing that violating a lethal violence protective order under certain circumstances is a misdemeanor and establishing a certain penalty; providing that this Act does not affect certain other authority of a law enforcement officer; providing that this Act does not impose criminal or civil liability on certain persons under certain circumstances; defining certain terms; and generally relating to lethal violence protective orders.~~

FOR the purpose of authorizing certain individuals to file a certain petition for an extreme risk prevention order with a certain court or law enforcement agency under certain circumstances; specifying the contents of a petition; requiring certain health records and information to be protected from public disclosure to a certain extent; establishing that a petitioner who, in good faith, files a petition under this Act is not civilly or criminally liable for filing the petition; authorizing a certain duty judge to enter a certain interim extreme risk prevention order under certain circumstances; requiring an interim extreme risk prevention order to order the respondent to surrender to law enforcement authorities any firearm in the respondent's possession and to refrain from possession of any firearm for a certain period of time; specifying the required contents of an interim extreme risk prevention order; requiring a temporary extreme risk prevention order hearing to be held on a certain day; requiring a circuit court or District Court duty judge to take certain actions when issuing an interim extreme risk prevention order; requiring a law enforcement officer to take certain actions; specifying the effective period of an interim extreme risk prevention order; authorizing a judge to enter a temporary extreme risk prevention order under certain circumstances; requiring a temporary extreme risk prevention order to order the respondent to surrender to law enforcement authorities any firearm in the respondent's possession and to refrain from possession of any firearm for a certain period of time; requiring a certain respondent to be served with a temporary extreme risk prevention order at a certain place or in a certain manner

1 under certain circumstances; providing that there shall be no cost to the petitioner
2 for service of a temporary extreme risk prevention order; providing for the effective
3 period of a temporary extreme risk prevention order; authorizing a judge to extend
4 a temporary extreme risk prevention order for a certain amount of time for a certain
5 purpose; authorizing a judge to proceed with a final extreme risk prevention order
6 hearing instead of a temporary extreme risk prevention order hearing under certain
7 circumstances; establishing that a respondent shall have the opportunity to be heard
8 on the question of whether the judge should issue a final extreme risk prevention
9 order; requiring a temporary extreme risk prevention order to state the date and
10 time of the final extreme risk prevention order hearing; requiring a final extreme
11 risk prevention order hearing to be held at a certain time with certain exceptions;
12 specifying the required contents of a temporary extreme risk prevention order;
13 authorizing a judge to proceed with a final extreme risk prevention order hearing
14 and enter a certain final extreme risk prevention order under certain circumstances;
15 requiring a court to review certain records before granting, denying, or modifying a
16 final extreme risk prevention order; requiring a copy of a final extreme risk
17 prevention order to be served on certain persons at a certain time or in a certain
18 manner; specifying the effective period of a final extreme risk prevention order;
19 requiring a law enforcement officer to take certain actions if a respondent surrenders
20 a firearm under this Act; authorizing a respondent to retake possession of a certain
21 firearm at the expiration of an interim, temporary, or final extreme risk prevention
22 order, with certain exceptions; authorizing a respondent to transport a firearm under
23 certain circumstances; authorizing a court to issue a search warrant for the removal
24 of a firearm from a certain location under certain circumstances; establishing that a
25 final extreme risk prevention order may be modified or rescinded at a certain time
26 under certain circumstances; authorizing a judge to extend the term of a final
27 extreme risk prevention order for a certain amount of time under certain
28 circumstances; requiring the court to hold a hearing within a certain period of time
29 on a certain motion to extend the term of a final extreme risk prevention order;
30 requiring the court to keep the terms of a final extreme risk prevention order in full
31 force and effect until a certain hearing on a certain motion under certain
32 circumstances; specifying procedures for appeal of the grant or denial of a petition
33 for an extreme risk prevention order; prohibiting a person from failing to comply
34 with the relief granted in an interim, temporary, or final extreme risk prevention
35 order; establishing certain penalties; requiring a law enforcement officer to arrest
36 with or without a warrant and take into custody a person who the officer has
37 probable cause to believe is in violation of a certain interim, temporary, or final
38 extreme risk prevention order; defining certain terms; and generally relating to
39 extreme risk prevention orders.

40 ~~BY adding to~~

41 ~~Article — Family Law~~

42 ~~Section 4-533 through 4-542 to be under the new part “Part V. Lethal Violence~~
43 ~~Protective Order”~~

44 ~~Annotated Code of Maryland~~

45 ~~(2012 Replacement Volume and 2017 Supplement)~~

1 BY adding to

2 Article – Public Safety

3 Section 5–601 through 5–609 to be under the new subtitle “Subtitle 6. Extreme Risk
4 Prevention Orders”

5 Annotated Code of Maryland

6 (2011 Replacement Volume and 2017 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
8 That the Laws of Maryland read as follows:

9 ~~Article – Family Law~~

10 ~~4–531. RESERVED.~~

11 ~~4–532. RESERVED.~~

12 ~~PART V. LETHAL VIOLENCE PROTECTIVE ORDER.~~

13 ~~4–533.~~

14 ~~(A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS~~
15 ~~INDICATED.~~

16 ~~(B) “EX PARTE LETHAL VIOLENCE PROTECTIVE ORDER” MEANS AN ORDER~~
17 ~~ISSUED BY A COURT UNDER § 4–535 OF THIS SUBTITLE, PROHIBITING THE~~
18 ~~RESPONDENT FROM HAVING IN THE RESPONDENT’S CUSTODY OR CONTROL OR~~
19 ~~FROM OWNING, PURCHASING, POSSESSING, OR RECEIVING ANY FIREARMS OR~~
20 ~~AMMUNITION UNTIL THE COURT SCHEDULED HEARING FOR A 1-YEAR LETHAL~~
21 ~~VIOLENCE PROTECTIVE ORDER.~~

22 ~~(C) “FAMILY MEMBER” INCLUDES:~~

23 ~~(1) ANY PERSON RELATED TO THE RESPONDENT BY BLOOD,~~
24 ~~MARRIAGE, OR ADOPTION;~~

25 ~~(2) A CURRENT DATING PARTNER OF THE RESPONDENT;~~

26 ~~(3) A FORMER DATING PARTNER OF THE RESPONDENT SEPARATED BY~~
27 ~~1 YEAR OR LESS;~~

28 ~~(4) ANY PERSON WHO RESIDES WITH THE RESPONDENT;~~

29 ~~(5) ANY PERSON WHO HAS RESIDED WITH THE RESPONDENT WITHIN~~
30 ~~1 YEAR BEFORE THE FILING OF A PETITION UNDER THIS SUBTITLE; OR~~

1 ~~(6) A CURRENT OR FORMER LEGAL GUARDIAN FOR THE~~
2 ~~RESPONDENT.~~

3 ~~(D) "1 YEAR LETHAL VIOLENCE PROTECTIVE ORDER" MEANS AN ORDER~~
4 ~~ISSUED BY A COURT UNDER § 4-536 OF THIS SUBTITLE, PROHIBITING THE~~
5 ~~RESPONDENT FROM HAVING IN THE RESPONDENT'S CUSTODY OR CONTROL OR~~
6 ~~FROM OWNING, PURCHASING, POSSESSING, OR RECEIVING ANY FIREARMS OR~~
7 ~~AMMUNITION FOR A PERIOD OF 1 YEAR.~~

8 ~~(E) "PETITIONER" MEANS A LAW ENFORCEMENT OFFICER OR A FAMILY~~
9 ~~MEMBER WHO FILES A PETITION UNDER § 4-534 OF THIS SUBTITLE.~~

10 ~~(F) "RESPONDENT" MEANS A PERSON AGAINST WHOM A PETITION IS FILED~~
11 ~~UNDER § 4-534 OF THIS SUBTITLE.~~

12 ~~4-534.~~

13 ~~(A) A PETITIONER MAY SEEK AN EX PARTE LETHAL VIOLENCE PROTECTIVE~~
14 ~~ORDER BY FILING WITH THE COURT A PETITION THAT ALLEGES, BASED ON~~
15 ~~PERSONAL KNOWLEDGE, THAT THE RESPONDENT POSES AN IMMEDIATE AND~~
16 ~~PRESENT DANGER OF CAUSING INJURY TO HIMSELF OR HERSELF OR TO OTHERS BY~~
17 ~~HAVING IN THE RESPONDENT'S CUSTODY OR CONTROL OR BY OWNING,~~
18 ~~PURCHASING, POSSESSING, OR RECEIVING A FIREARM OR AMMUNITION.~~

19 ~~(B) THE PETITION SHALL SET FORTH THE GROUNDS FOR ISSUANCE OF THE~~
20 ~~ORDER AND DESCRIBE THE NUMBER, TYPES, AND LOCATIONS OF ANY FIREARMS OR~~
21 ~~AMMUNITION BELIEVED BY THE PETITIONER TO BE CURRENTLY POSSESSED OR~~
22 ~~CONTROLLED BY THE RESPONDENT.~~

23 ~~(C) ALL HEALTH RECORDS AND OTHER HEALTH INFORMATION PROVIDED~~
24 ~~IN A PETITION OR CONSIDERED AS EVIDENCE IN A PROCEEDING UNDER THIS PART~~
25 ~~SHALL BE PROTECTED FROM PUBLIC DISCLOSURE TO THE EXTENT THAT THE~~
26 ~~INFORMATION IDENTIFIES A RESPONDENT OR PETITIONER.~~

27 ~~(D) (1) A COURT SHALL SET A HEARING ON A 1 YEAR LETHAL VIOLENCE~~
28 ~~PROTECTIVE ORDER NOT LATER THAN 14 DAYS AFTER RECEIPT OF A PETITION,~~
29 ~~REGARDLESS OF WHETHER THE COURT ISSUES AN EX PARTE LETHAL VIOLENCE~~
30 ~~PROTECTIVE ORDER UNDER § 4-535 OF THIS SUBTITLE.~~

31 ~~(2) IF THE COURT ISSUES AN EX PARTE LETHAL VIOLENCE~~
32 ~~PROTECTIVE ORDER UNDER § 4-535 OF THIS SUBTITLE, NOTICE OF THE HEARING~~
33 ~~SHALL BE SERVED ON THE RESPONDENT AT THE SAME TIME AS THE EX PARTE~~
34 ~~ORDER.~~

~~(3) NOTICE OF THE HEARING SHALL BE PERSONALLY SERVED ON THE RESPONDENT BY A LAW ENFORCEMENT OFFICER OR, IF PERSONAL SERVICE BY A LAW ENFORCEMENT OFFICER IS NOT PRACTICABLE, IN ACCORDANCE WITH THE MARYLAND RULES.~~

~~4-535.~~

~~(A) A COURT SHALL ISSUE OR DENY A PETITION FOR AN EX PARTE LETHAL VIOLENCE PROTECTIVE ORDER FILED UNDER § 4-534 OF THIS SUBTITLE ON THE SAME DAY THAT THE PETITION IS FILED.~~

~~(B) IN DETERMINING WHETHER TO ISSUE AN EX PARTE LETHAL VIOLENCE PROTECTIVE ORDER, THE COURT SHALL CONSIDER ALL RELEVANT EVIDENCE PRESENTED BY THE PETITIONER, AND MAY ALSO CONSIDER EVIDENCE PERTAINING TO THE RESPONDENT'S:~~

~~(1) UNLAWFUL, RECKLESS, OR NEGLIGENT USE, DISPLAY, STORAGE, POSSESSION, OR BRANDISHING OF A FIREARM;~~

~~(2) ACT OR THREAT OF VIOLENCE AGAINST HIMSELF OR HERSELF OR AGAINST ANOTHER, WHETHER OR NOT THE THREAT OF VIOLENCE INVOLVED A FIREARM;~~

~~(3) VIOLATION OF ANY OTHER PROTECTIVE ORDER IN THE STATE OR IN ANOTHER STATE;~~

~~(4) ABUSE OF CONTROLLED SUBSTANCES OR ALCOHOL OR ANY CONVICTION FOR A CRIMINAL OFFENSE THAT INVOLVED CONTROLLED SUBSTANCES OR ALCOHOL; AND~~

~~(5) RECENT ACQUISITION OF A FIREARM, AMMUNITION, OR ANOTHER DEADLY WEAPON.~~

~~(C) THE COURT SHALL ALSO CONSIDER THE TIME THAT HAS ELAPSED SINCE ANY EVENTS DESCRIBED IN SUBSECTION (B) OF THIS SECTION OCCURRED.~~

~~(D) IF THE COURT FINDS REASONABLE CAUSE TO BELIEVE THAT THE RESPONDENT POSES AN IMMEDIATE AND PRESENT DANGER OF CAUSING INJURY TO HIMSELF OR HERSELF OR TO ANOTHER BY HAVING IN THE RESPONDENT'S CUSTODY OR CONTROL OR BY OWNING, PURCHASING, POSSESSING, OR RECEIVING A FIREARM OR AMMUNITION, THE COURT SHALL ISSUE AN EX PARTE LETHAL VIOLENCE PROTECTIVE ORDER.~~

~~(E) AN EX PARTE LETHAL VIOLENCE PROTECTIVE ORDER SHALL INCLUDE:~~

1 ~~(1) A STATEMENT THAT THE RESPONDENT MAY NOT HAVE IN THE~~
2 ~~RESPONDENT'S CUSTODY OR CONTROL OR OWN, PURCHASE, POSSESS, RECEIVE, OR~~
3 ~~ATTEMPT TO PURCHASE OR RECEIVE A FIREARM OR AMMUNITION WHILE THE~~
4 ~~ORDER IS IN EFFECT;~~

5 ~~(2) A DESCRIPTION OF THE REQUIREMENTS FOR RELINQUISHMENT~~
6 ~~OF FIREARMS AND AMMUNITION UNDER § 4-538 OF THIS SUBTITLE;~~

7 ~~(3) A STATEMENT OF THE GROUNDS ASSERTED FOR THE ORDER;~~

8 ~~(4) A NOTICE OF THE HEARING REQUIRED UNDER § 4-534(D) OF THIS~~
9 ~~SUBTITLE TO DETERMINE WHETHER TO ISSUE A 1-YEAR LETHAL VIOLENCE~~
10 ~~PROTECTIVE ORDER, INCLUDING THE ADDRESS OF THE COURT AND THE DATE AND~~
11 ~~TIME THE HEARING IS SCHEDULED;~~

12 ~~(5) A STATEMENT THAT AT THE HEARING THE COURT MAY EXTEND~~
13 ~~THE ORDER FOR UP TO 1 YEAR; AND~~

14 ~~(6) A STATEMENT THAT THE RESPONDENT MAY SEEK THE ADVICE OF~~
15 ~~AN ATTORNEY AS TO ANY MATTER RELATED TO THE ORDER, AND THAT THE~~
16 ~~ATTORNEY SHOULD BE CONSULTED PROMPTLY SO THAT THE ATTORNEY MAY ASSIST~~
17 ~~THE RESPONDENT.~~

18 ~~(F) AN EX PARTE LETHAL VIOLENCE PROTECTIVE ORDER SHALL BE~~
19 ~~PERSONALLY SERVED ON THE RESPONDENT BY A LAW ENFORCEMENT OFFICER OR,~~
20 ~~IF PERSONAL SERVICE BY A LAW ENFORCEMENT OFFICER IS NOT PRACTICABLE, IN~~
21 ~~ACCORDANCE WITH THE MARYLAND RULES.~~

22 ~~(G) (1) THE COURT SHALL SCHEDULE A HEARING WITHIN 14 DAYS AFTER~~
23 ~~THE ISSUANCE OF AN EX PARTE LETHAL VIOLENCE PROTECTIVE ORDER TO~~
24 ~~DETERMINE WHETHER A 1-YEAR LETHAL VIOLENCE PROTECTIVE ORDER SHALL BE~~
25 ~~ISSUED.~~

26 ~~(2) A RESPONDENT MAY SEEK TO RESCHEDULE THE HEARING ON A~~
27 ~~DATE NOT LATER THAN 30 DAYS AFTER THE INITIAL SCHEDULED HEARING.~~

28 ~~(3) THE COURT SHALL DISMISS ANY EX PARTE LETHAL VIOLENCE~~
29 ~~PROTECTIVE ORDER IN EFFECT AGAINST THE RESPONDENT AT THE SUBSEQUENT~~
30 ~~HEARING.~~

31 ~~4-536.~~

1 ~~(A) AT A HEARING TO DETERMINE WHETHER TO ISSUE A 1-YEAR LETHAL~~
2 ~~VIOLENCE PROTECTIVE ORDER UNDER THIS SECTION, THE COURT SHALL CONSIDER~~
3 ~~ALL RELEVANT EVIDENCE PRESENTED BY THE PETITIONER AND MAY ALSO~~
4 ~~CONSIDER OTHER RELEVANT EVIDENCE, INCLUDING THE FACTORS DESCRIBED IN §~~
5 ~~4-535(B) OF THIS SUBTITLE.~~

6 ~~(B) IF THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT THE~~
7 ~~RESPONDENT POSES A SIGNIFICANT DANGER OF INJURY TO HIMSELF OR HERSELF~~
8 ~~OR TO OTHERS BY HAVING IN THE RESPONDENT'S CUSTODY OR CONTROL OR BY~~
9 ~~OWNING, PURCHASING, POSSESSING, OR RECEIVING A FIREARM OR AMMUNITION,~~
10 ~~THE COURT SHALL ISSUE A 1-YEAR LETHAL VIOLENCE PROTECTIVE ORDER.~~

11 ~~(C) A 1-YEAR LETHAL VIOLENCE PROTECTIVE ORDER ISSUED UNDER THIS~~
12 ~~SECTION SHALL INCLUDE:~~

13 ~~(1) A STATEMENT THAT THE RESPONDENT MAY NOT HAVE IN THE~~
14 ~~RESPONDENT'S CUSTODY OR CONTROL OR OWN, POSSESS, PURCHASE, OR RECEIVE,~~
15 ~~OR ATTEMPT TO PURCHASE OR RECEIVE, A FIREARM OR AMMUNITION WHILE THE~~
16 ~~ORDER IS IN EFFECT;~~

17 ~~(2) A DESCRIPTION OF THE REQUIREMENTS FOR RELINQUISHMENT~~
18 ~~OF FIREARMS AND AMMUNITION UNDER § 4-538 OF THIS SUBTITLE;~~

19 ~~(3) A STATEMENT OF THE GROUNDS SUPPORTING THE ISSUANCE OF~~
20 ~~THE ORDER;~~

21 ~~(4) THE DATE AND TIME THE ORDER EXPIRES;~~

22 ~~(5) THE ADDRESS OF THE COURT THAT ISSUED THE ORDER;~~

23 ~~(6) A STATEMENT THAT THE RESPONDENT SHALL HAVE THE RIGHT TO~~
24 ~~REQUEST ONE HEARING TO TERMINATE THE ORDER WITHIN THE FIRST 6 MONTHS~~
25 ~~AFTER THE ORDER'S EFFECTIVE DATE, OR AFTER THE FIRST 6 MONTHS OF A~~
26 ~~RENEWED ORDER'S EFFECTIVE DATE; AND~~

27 ~~(7) A STATEMENT THAT THE RESPONDENT MAY SEEK THE ADVICE OF~~
28 ~~AN ATTORNEY AS TO ANY MATTER RELATED TO THE ORDER.~~

29 ~~(D) IF THE RESPONDENT FAILS TO APPEAR AT THE HEARING, A 1-YEAR~~
30 ~~LETHAL VIOLENCE PROTECTIVE ORDER ISSUED UNDER THIS SECTION SHALL BE~~
31 ~~PERSONALLY SERVED ON THE RESPONDENT BY A LAW ENFORCEMENT OFFICER OR,~~
32 ~~IF PERSONAL SERVICE BY A LAW ENFORCEMENT OFFICER IS NOT PRACTICABLE, IN~~
33 ~~ACCORDANCE WITH THE MARYLAND RULES.~~

1 ~~4-537.~~

2 (A) (1) ~~A RESPONDENT TO A 1-YEAR LETHAL VIOLENCE PROTECTIVE~~
3 ~~ORDER ISSUED UNDER § 4-536 OF THIS SUBTITLE MAY SUBMIT ONE WRITTEN~~
4 ~~REQUEST WITHIN THE FIRST 6 MONTHS AFTER THE ORDER'S EFFECTIVE DATE FOR~~
5 ~~A HEARING TO TERMINATE THE ORDER.~~

6 (2) (i) ~~ON RECEIPT OF THE REQUEST FOR TERMINATION, THE~~
7 ~~COURT SHALL SET A DATE FOR A HEARING.~~

8 (ii) ~~NOTICE OF THE REQUEST SHALL BE SERVED ON THE~~
9 ~~PETITIONER IN ACCORDANCE WITH THE MARYLAND RULES.~~

10 (iii) ~~THE HEARING MAY NOT BE SCHEDULED EARLIER THAN 14~~
11 ~~DAYS AFTER THE DATE OF SERVICE OF THE REQUEST ON THE PETITIONER.~~

12 (3) ~~AT THE HEARING, IF THE COURT FINDS BY CLEAR AND~~
13 ~~CONVINCING EVIDENCE THAT THE RESPONDENT DOES NOT POSE A SIGNIFICANT~~
14 ~~DANGER OF CAUSING INJURY TO HIMSELF OR HERSELF OR TO OTHERS BY HAVING~~
15 ~~IN THE RESPONDENT'S CUSTODY OR CONTROL OR BY OWNING, PURCHASING,~~
16 ~~POSSESSING, OR RECEIVING A FIREARM OR AMMUNITION, THE COURT SHALL~~
17 ~~TERMINATE THE ORDER.~~

18 (4) ~~THE RESPONDENT BEARS THE BURDEN OF PROVING THAT THE~~
19 ~~RESPONDENT DOES NOT POSE A DANGER UNDER THE PROVISIONS OF PARAGRAPH~~
20 ~~(3) OF THIS SUBSECTION.~~

21 (B) (1) ~~A PETITIONER MAY REQUEST AN EXTENSION OF A 1-YEAR LETHAL~~
22 ~~VIOLENCE PROTECTIVE ORDER AT ANY TIME WITHIN 3 MONTHS BEFORE THE~~
23 ~~EXPIRATION DATE OF THE ORDER.~~

24 (2) ~~A COURT MAY, AFTER NOTICE AND A HEARING, EXTEND A~~
25 ~~1-YEAR LETHAL VIOLENCE PROTECTIVE ORDER ISSUED UNDER THIS PART IF THE~~
26 ~~COURT FINDS, BY CLEAR AND CONVINCING EVIDENCE, THAT THE RESPONDENT~~
27 ~~CONTINUES TO POSE A SIGNIFICANT DANGER OF CAUSING INJURY TO HIMSELF OR~~
28 ~~HERSELF OR TO ANOTHER BY HAVING IN THE RESPONDENT'S CUSTODY OR CONTROL~~
29 ~~OR BY OWNING, PURCHASING, POSSESSING, OR RECEIVING A FIREARM OR~~
30 ~~AMMUNITION.~~

31 (3) ~~IN DETERMINING WHETHER TO EXTEND A 1-YEAR LETHAL~~
32 ~~VIOLENCE PROTECTIVE ORDER ISSUED UNDER THIS PART, THE COURT SHALL~~
33 ~~CONSIDER ALL RELEVANT EVIDENCE PRESENTED BY THE PETITIONER, AND MAY~~
34 ~~ALSO CONSIDER OTHER RELEVANT EVIDENCE, INCLUDING THE FACTORS~~
35 ~~DESCRIBED IN § 4-535(B) OF THIS SUBTITLE.~~

~~(4) A 1-YEAR LETHAL VIOLENCE PROTECTIVE ORDER EXTENDED IN ACCORDANCE WITH THIS SECTION SHALL EXPIRE AFTER 1 YEAR, SUBJECT TO TERMINATION BY ORDER OF THE COURT AT A HEARING HELD IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION AND FURTHER EXTENSION BY ORDER OF THE COURT IN ACCORDANCE WITH THIS SUBSECTION.~~

~~4-538.~~

~~(A) ON THE ISSUANCE OF AN EX PARTE OR 1-YEAR LETHAL VIOLENCE PROTECTIVE ORDER, THE COURT SHALL ORDER THE RESPONDENT TO SURRENDER TO THE LOCAL LAW ENFORCEMENT AGENCY ALL FIREARMS AND AMMUNITION OWNED OR POSSESSED BY THE RESPONDENT OR IN THE RESPONDENT'S CUSTODY OR CONTROL.~~

~~(B) (1) A LAW ENFORCEMENT OFFICER SERVING A LETHAL VIOLENCE PROTECTIVE ORDER SHALL REQUEST THAT ALL FIREARMS AND AMMUNITION OWNED OR POSSESSED BY THE RESPONDENT OR IN THE RESPONDENT'S CUSTODY OR CONTROL BE IMMEDIATELY SURRENDERED AND SHALL TAKE POSSESSION OF ALL FIREARMS AND AMMUNITION THAT ARE SURRENDERED, IN PLAIN SIGHT, OR DISCOVERED IN ACCORDANCE WITH A LAWFUL SEARCH.~~

~~(2) IF PERSONAL SERVICE BY A LAW ENFORCEMENT OFFICER IS NOT PRACTICABLE, AND THE RESPONDENT IS SERVED IN ACCORDANCE WITH THE MARYLAND RULES, THE RESPONDENT SHALL SURRENDER THE FIREARMS AND AMMUNITION IN A SAFE MANNER TO THE CONTROL OF A LOCAL LAW ENFORCEMENT OFFICER WITHIN 48 HOURS AFTER SERVICE OF THE ORDER.~~

~~(C) (1) AT THE TIME OF SURRENDER OR SEIZURE OF FIREARMS, A LAW ENFORCEMENT OFFICER TAKING POSSESSION OF A FIREARM OR AMMUNITION IN ACCORDANCE WITH A LETHAL VIOLENCE PROTECTIVE ORDER SHALL ISSUE A RECEIPT IDENTIFYING ALL FIREARMS AND AMMUNITION THAT HAVE BEEN SURRENDERED OR SEIZED AND PROVIDE A COPY OF THE RECEIPT TO THE RESPONDENT.~~

~~(2) NOT LATER THAN 72 HOURS AFTER SERVICE OF THE ORDER, THE LAW ENFORCEMENT OFFICER SHALL FILE THE ORIGINAL RECEIPT WITH THE COURT THAT ISSUED THE LETHAL VIOLENCE PROTECTIVE ORDER AND RETAIN A COPY OF THE RECEIPT.~~

~~(D) A COURT THAT HAS PROBABLE CAUSE TO BELIEVE A RESPONDENT TO A LETHAL VIOLENCE PROTECTIVE ORDER HAS IN THE RESPONDENT'S CUSTODY OR CONTROL OR OWNS OR POSSESSES FIREARMS OR AMMUNITION THAT THE RESPONDENT HAS FAILED TO SURRENDER IN ACCORDANCE WITH THIS SECTION, OR~~

~~1 HAS RECEIVED OR PURCHASED A FIREARM OR AMMUNITION WHILE SUBJECT TO THE
2 ORDER, SHALL ISSUE A WARRANT DESCRIBING THE FIREARM OR AMMUNITION AND
3 AUTHORIZING A SEARCH OF ANY LOCATION WHERE THE FIREARM OR AMMUNITION
4 IS REASONABLY BELIEVED TO BE AND THE SEIZURE OF ANY FIREARMS OR
5 AMMUNITION DISCOVERED IN ACCORDANCE WITH SUCH A SEARCH.~~

~~6 (E) A LAW ENFORCEMENT AGENCY MAY CHARGE THE RESPONDENT A FEE
7 NOT TO EXCEED THE REASONABLE AND ACTUAL COSTS INCURRED BY THE LAW
8 ENFORCEMENT AGENCY FOR STORING A FIREARM OR AMMUNITION SURRENDERED
9 OR SEIZED UNDER THIS SECTION FOR THE DURATION OF THE LETHAL VIOLENCE
10 PROTECTIVE ORDER AND ANY ADDITIONAL TIME NECESSARY UNDER § 4-539 OF
11 THIS SUBTITLE.~~

~~12 4-539.~~

~~13 (A) (1) IF A LETHAL VIOLENCE PROTECTIVE ORDER IS TERMINATED OR
14 EXPIRES AND IS NOT EXTENDED, A LAW ENFORCEMENT AGENCY HOLDING ANY
15 FIREARM OR AMMUNITION THAT HAS BEEN SURRENDERED OR SEIZED IN
16 ACCORDANCE WITH THE ORDER SHALL NOTIFY THE RESPONDENT THAT THE
17 RESPONDENT MAY REQUEST THE RETURN OF THE FIREARM OR AMMUNITION.~~

~~18 (2) A LAW ENFORCEMENT AGENCY SHALL RETURN ANY
19 SURRENDERED OR SEIZED FIREARM OR AMMUNITION REQUESTED BY A
20 RESPONDENT ONLY AFTER CONFIRMING:~~

~~21 (I) THROUGH A BACKGROUND CHECK, THAT THE RESPONDENT
22 IS CURRENTLY ELIGIBLE TO OWN OR POSSESS FIREARMS AND AMMUNITION; AND~~

~~23 (H) THE RESPONDENT HAS PAID THE FULL AMOUNT DUE UNDER
24 § 4-538(E) OF THIS SUBTITLE.~~

~~25 (B) (1) A RESPONDENT WHO HAS SURRENDERED ANY FIREARM OR
26 AMMUNITION TO A LAW ENFORCEMENT AGENCY AND WHO DOES NOT WISH TO HAVE
27 THE FIREARM OR AMMUNITION RETURNED OR WHO IS NO LONGER ELIGIBLE TO OWN
28 OR POSSESS FIREARMS OR AMMUNITION MAY:~~

~~29 (I) SELL OR TRANSFER TITLE OF THE FIREARM OR
30 AMMUNITION TO A LICENSED FIREARMS DEALER; OR~~

~~31 (H) REQUEST THE DESTRUCTION OF THE FIREARMS OR
32 AMMUNITION.~~

~~33 (2) THE LAW ENFORCEMENT AGENCY SHALL TRANSFER POSSESSION
34 OF THE FIREARM OR AMMUNITION TO A LICENSED FIREARMS DEALER ONLY AFTER~~

~~1 THE DEALER HAS DISPLAYED WRITTEN PROOF OF TRANSFER OF THE FIREARM OR
2 AMMUNITION FROM THE RESPONDENT TO THE DEALER AND THE LAW
3 ENFORCEMENT AGENCY HAS VERIFIED THE TRANSFER WITH THE RESPONDENT.~~

~~4 (3) ON REQUEST OF THE RESPONDENT, A LAW ENFORCEMENT
5 AGENCY MAY DESTROY ANY FIREARMS OR AMMUNITION HELD IN ACCORDANCE WITH
6 A LETHAL VIOLENCE PROTECTIVE ORDER UNDER THIS PART.~~

~~7 (C) IF A PERSON OTHER THAN THE RESPONDENT CLAIMS TITLE TO ANY
8 FIREARM OR AMMUNITION SURRENDERED OR SEIZED IN ACCORDANCE WITH A
9 LETHAL VIOLENCE PROTECTIVE ORDER, AND THE PERSON IS DETERMINED BY THE
10 LAW ENFORCEMENT AGENCY TO BE THE LAWFUL OWNER OF THE FIREARM OR
11 AMMUNITION, THE LAW ENFORCEMENT AGENCY SHALL RETURN THE FIREARM OR
12 AMMUNITION TO THAT PERSON.~~

~~13 (D) (1) A LAW ENFORCEMENT AGENCY HOLDING ANY FIREARM OR
14 AMMUNITION SURRENDERED OR SEIZED IN ACCORDANCE WITH A LETHAL VIOLENCE
15 PROTECTIVE ORDER MAY DISPOSE OF THE FIREARM OR AMMUNITION NOT EARLIER
16 THAN 6 MONTHS AFTER THE DATE OF PROPER NOTICE TO THE RESPONDENT OF THE
17 INTENT TO DISPOSE OF THE FIREARM OR AMMUNITION, UNLESS THE FIREARM OR
18 AMMUNITION HAS BEEN CLAIMED BY THE LAWFUL OWNER.~~

~~19 (2) IF THE FIREARM OR AMMUNITION REMAINS UNCLAIMED AFTER 6
20 MONTHS FROM THE DATE OF NOTICE, NO PARTY SHALL HAVE THE RIGHT TO ASSERT
21 OWNERSHIP OF THE FIREARM OR AMMUNITION AND THE LAW ENFORCEMENT
22 AGENCY MAY SELL, TRANSFER, OR DESTROY THE FIREARM OR AMMUNITION.~~

~~23 4-540.~~

~~24 (A) A PERSON WHO FILES A PETITION FOR A LETHAL VIOLENCE
25 PROTECTIVE ORDER, KNOWING THE INFORMATION IN THE PETITION TO BE
26 MATERIALLY FALSE OR WITH AN INTENT TO HARASS THE RESPONDENT, IS GUILTY
27 OF A MISDEMEANOR.~~

~~28 (B) A PERSON WHO HAS IN THE PERSON'S CUSTODY OR CONTROL OR WHO
29 OWNS, PURCHASES, POSSESSES, OR RECEIVES A FIREARM OR AMMUNITION WITH
30 KNOWLEDGE THAT THE PERSON IS PROHIBITED FROM DOING SO BY A LETHAL
31 VIOLENCE PROTECTIVE ORDER IS GUILTY OF A MISDEMEANOR AND ON CONVICTION
32 SHALL BE PROHIBITED FROM HAVING IN THE PERSON'S CUSTODY OR CONTROL OR
33 OWNING, PURCHASING, POSSESSING, RECEIVING, OR ATTEMPTING TO PURCHASE OR
34 RECEIVE A FIREARM OR AMMUNITION FOR A PERIOD OF 5 YEARS FROM THE DATE
35 OF CONVICTION.~~

~~36 4-541.~~

~~THIS PART MAY NOT BE CONSTRUED TO AFFECT THE AUTHORITY OF A LAW ENFORCEMENT OFFICER TO REMOVE FIREARMS OR AMMUNITION FROM ANY PERSON IN ACCORDANCE WITH ANY OTHER LAW.~~

~~4-542.~~

~~THIS PART MAY NOT BE CONSTRUED TO IMPOSE CRIMINAL OR CIVIL LIABILITY ON ANY PERSON WHO DOES NOT PETITION FOR A LETHAL VIOLENCE PROTECTIVE ORDER UNDER THIS PART.~~

Article – Public Safety

SUBTITLE 6. EXTREME RISK PREVENTION ORDERS.

5-601.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “FIREARM” HAS THE MEANING STATED IN § 5-101 OF THIS TITLE.

(C) (1) “PETITIONER” MEANS AN INDIVIDUAL WHO FILES A PETITION FOR AN EXTREME RISK PREVENTION ORDER UNDER THIS SUBTITLE.

(2) “PETITIONER” INCLUDES:

(I) A PHYSICIAN, PSYCHOLOGIST, CLINICAL SOCIAL WORKER, LICENSED CLINICAL PROFESSIONAL COUNSELOR, CLINICAL NURSE SPECIALIST IN PSYCHIATRIC AND MENTAL HEALTH NURSING, PSYCHIATRIC NURSE PRACTITIONER, LICENSED CLINICAL MARRIAGE OR FAMILY THERAPIST, OR HEALTH OFFICER OR DESIGNEE OF A HEALTH OFFICER WHO HAS EXAMINED THE INDIVIDUAL;

(II) A LAW ENFORCEMENT OFFICER; OR

(III) ANY OTHER INTERESTED PERSON.

(D) “RESPONDENT” MEANS A PERSON AGAINST WHOM A PETITION FOR AN EXTREME RISK PREVENTION ORDER IS FILED.

5-602.

(A) A PETITION FOR AN EXTREME RISK PREVENTION ORDER SHALL:

1 **(1) BE SIGNED AND SWORN TO BY THE PETITIONER UNDER THE**
2 **PENALTY OF PERJURY;**

3 **(2) INCLUDE ANY INFORMATION KNOWN TO THE PETITIONER THAT:**

4 **(I) THE RESPONDENT POSES AN IMMEDIATE AND PRESENT**
5 **DANGER OF CAUSING PERSONAL INJURY TO THE RESPONDENT, THE PETITIONER, OR**
6 **ANOTHER BY POSSESSING A FIREARM; AND**

7 **(II) THE EXTREME RISK PREVENTION ORDER IS NECESSARY TO**
8 **PREVENT PERSONAL INJURY TO THE RESPONDENT, THE PETITIONER, OR ANOTHER;**

9 **(3) SET FORTH SPECIFIC FACTS IN SUPPORT OF THE INFORMATION**
10 **DESCRIBED IN ITEM (2) OF THIS SUBSECTION;**

11 **(4) EXPLAIN THE BASIS FOR THE PETITIONER'S KNOWLEDGE OF THE**
12 **SUPPORTING FACTS, INCLUDING A DESCRIPTION OF THE BEHAVIOR AND**
13 **STATEMENTS OF THE RESPONDENT OR ANY OTHER INFORMATION THAT LED THE**
14 **PETITIONER TO BELIEVE THAT THE RESPONDENT PRESENTS AN IMMEDIATE AND**
15 **PRESENT DANGER OF CAUSING PERSONAL INJURY TO THE RESPONDENT OR**
16 **OTHERS;**

17 **(5) DESCRIBE THE NUMBER, TYPES, AND LOCATION OF ANY KNOWN**
18 **FIREARMS BELIEVED TO BE POSSESSED BY THE RESPONDENT;**

19 **(6) INCLUDE, TO THE EXTENT DISCLOSURE IS NOT OTHERWISE**
20 **PROHIBITED, HEALTH RECORDS OR OTHER HEALTH INFORMATION CONCERNING**
21 **THE RESPONDENT; AND**

22 **(7) INCLUDE ANY SUPPORTING DOCUMENTS OR INFORMATION**
23 **REGARDING:**

24 **(I) ANY UNLAWFUL, RECKLESS, OR NEGLIGENT USE, DISPLAY,**
25 **STORAGE, POSSESSION, OR BRANDISHING OF A FIREARM BY THE RESPONDENT;**

26 **(II) ANY ACT OR THREAT OF VIOLENCE THE RESPONDENT MADE**
27 **AGAINST THE RESPONDENT OR AGAINST ANOTHER, WHETHER OR NOT THE THREAT**
28 **OF VIOLENCE INVOLVED A FIREARM;**

29 **(III) ANY VIOLATION BY THE RESPONDENT OF A PROTECTIVE**
30 **ORDER UNDER TITLE 4, SUBTITLE 5 OF THE FAMILY LAW ARTICLE; AND**

1 **(IV) ANY ABUSE OF A CONTROLLED DANGEROUS SUBSTANCE OR**
2 **ALCOHOL BY THE RESPONDENT, INCLUDING ANY CONVICTION FOR A CRIMINAL**
3 **OFFENSE INVOLVING A CONTROLLED DANGEROUS SUBSTANCE OR ALCOHOL.**

4 **(B) A PETITIONER SEEKING AN EXTREME RISK PREVENTION ORDER UNDER**
5 **THIS SUBTITLE MAY FILE A PETITION WITH:**

6 **(1) THE DISTRICT COURT;**

7 **(2) A CIRCUIT COURT; OR**

8 **(3) WHEN NEITHER THE OFFICE OF THE CLERK OF THE CIRCUIT**
9 **COURT NOR THE OFFICE OF THE DISTRICT COURT CLERK IS OPEN FOR BUSINESS,**
10 **A LAW ENFORCEMENT AGENCY FOR PRESENTATION TO A CIRCUIT COURT OR**
11 **DISTRICT COURT DUTY JUDGE.**

12 **(C) ALL HEALTH RECORDS AND OTHER HEALTH INFORMATION PROVIDED**
13 **IN A PETITION OR CONSIDERED AS EVIDENCE IN A PROCEEDING UNDER THIS**
14 **SUBTITLE SHALL BE PROTECTED FROM PUBLIC DISCLOSURE TO THE EXTENT THAT**
15 **THE INFORMATION IDENTIFIES A RESPONDENT OR A PETITIONER.**

16 **(D) A PETITIONER WHO, IN GOOD FAITH, FILES A PETITION UNDER THIS**
17 **SUBTITLE IS NOT CIVILLY OR CRIMINALLY LIABLE FOR FILING THE PETITION.**

18 **5-603.**

19 **(A) (1) ON REVIEW OF A PETITION PRESENTED BY A LAW ENFORCEMENT**
20 **AGENCY UNDER § 5-602(B)(3) OF THIS SUBTITLE, A CIRCUIT COURT OR DISTRICT**
21 **COURT DUTY JUDGE MAY ENTER AN INTERIM EXTREME RISK PREVENTION ORDER**
22 **TO PROHIBIT THE RESPONDENT FROM POSSESSING A FIREARM IF THE JUDGE FINDS**
23 **BY A PREPONDERANCE OF THE EVIDENCE THAT:**

24 **(I) THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE**
25 **RESPONDENT POSES AN IMMEDIATE AND PRESENT DANGER OF CAUSING PERSONAL**
26 **INJURY TO THE RESPONDENT, THE PETITIONER, OR ANOTHER BY POSSESSING A**
27 **FIREARM; AND**

28 **(II) AN INTERIM EXTREME RISK PREVENTION ORDER IS**
29 **NECESSARY TO PREVENT PERSONAL INJURY TO THE RESPONDENT, THE**
30 **PETITIONER, OR ANOTHER.**

31 **(2) THE INTERIM EXTREME RISK PREVENTION ORDER SHALL ORDER**
32 **THE RESPONDENT TO SURRENDER TO LAW ENFORCEMENT AUTHORITIES ANY**
33 **FIREARM IN THE RESPONDENT'S POSSESSION AND TO REFRAIN FROM POSSESSION**

1 OF ANY FIREARM FOR THE DURATION OF THE INTERIM EXTREME RISK PREVENTION
2 ORDER.

3 (B) (1) (I) AN INTERIM EXTREME RISK PREVENTION ORDER SHALL
4 STATE THE DATE, TIME, AND LOCATION FOR A TEMPORARY EXTREME RISK
5 PREVENTION ORDER HEARING AND A TENTATIVE DATE, TIME, AND LOCATION FOR A
6 FINAL EXTREME RISK PREVENTION ORDER HEARING.

7 (II) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION,
8 OR UNLESS THE JUDGE CONTINUES THE HEARING FOR GOOD CAUSE, A TEMPORARY
9 EXTREME RISK PREVENTION ORDER HEARING SHALL BE HELD ON THE FIRST OR
10 SECOND DAY ON WHICH A CIRCUIT COURT OR DISTRICT COURT JUDGE IS SITTING
11 AFTER ISSUANCE OF THE INTERIM EXTREME RISK PREVENTION ORDER.

12 (2) AN INTERIM EXTREME RISK PREVENTION ORDER SHALL INCLUDE
13 IN AT LEAST 10 POINT BOLD TYPE:

14 (I) NOTICE TO THE RESPONDENT THAT:

15 1. THE RESPONDENT MUST GIVE THE COURT WRITTEN
16 NOTICE OF EACH CHANGE OF ADDRESS;

17 2. IF THE RESPONDENT FAILS TO APPEAR AT THE
18 TEMPORARY EXTREME RISK PREVENTION ORDER HEARING OR ANY LATER HEARING,
19 THE RESPONDENT MAY BE SERVED WITH ANY ORDERS OR NOTICES IN THE CASE BY
20 FIRST-CLASS MAIL AT THE RESPONDENT'S LAST KNOWN ADDRESS;

21 3. THE DATE, TIME, AND LOCATION OF THE FINAL
22 EXTREME RISK PREVENTION ORDER HEARING IS TENTATIVE ONLY AND SUBJECT TO
23 CHANGE; AND

24 4. IF THE RESPONDENT DOES NOT ATTEND THE
25 TEMPORARY EXTREME RISK PREVENTION ORDER HEARING, THE RESPONDENT MAY
26 CALL THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OR THE OFFICE OF THE
27 DISTRICT COURT CLERK AT THE NUMBER PROVIDED IN THE ORDER TO FIND OUT
28 THE ACTUAL DATE, TIME, AND LOCATION OF ANY FINAL EXTREME RISK PREVENTION
29 ORDER HEARING;

30 (II) A STATEMENT SPECIFYING THE CONTENTS AND DURATION
31 OF A TEMPORARY EXTREME RISK PREVENTION ORDER;

32 (III) NOTICE TO THE PETITIONER AND RESPONDENT THAT, AT
33 THE HEARING, A JUDGE MAY ISSUE A TEMPORARY EXTREME RISK PREVENTION

1 ORDER PROHIBITING THE RESPONDENT FROM POSSESSING A FIREARM OR MAY
2 DENY THE PETITION, WHETHER OR NOT THE RESPONDENT IS IN COURT;

3 (IV) A WARNING TO THE RESPONDENT THAT VIOLATION OF AN
4 INTERIM EXTREME RISK PREVENTION ORDER IS A CRIME AND THAT A LAW
5 ENFORCEMENT OFFICER SHALL ARREST THE RESPONDENT, WITH OR WITHOUT A
6 WARRANT, AND TAKE THE RESPONDENT INTO CUSTODY IF THE OFFICER HAS
7 PROBABLE CAUSE TO BELIEVE THAT THE RESPONDENT HAS VIOLATED A PROVISION
8 OF THE INTERIM EXTREME RISK PREVENTION ORDER; AND

9 (V) THE PHONE NUMBER OF THE OFFICE OF THE CLERK OF THE
10 CIRCUIT COURT OR THE OFFICE OF THE DISTRICT COURT CLERK.

11 (C) WHENEVER A DUTY JUDGE ISSUES AN INTERIM EXTREME RISK
12 PREVENTION ORDER, THE JUDGE SHALL:

13 (1) IMMEDIATELY FORWARD A COPY OF THE PETITION AND INTERIM
14 EXTREME RISK PREVENTION ORDER TO THE APPROPRIATE LAW ENFORCEMENT
15 AGENCY FOR SERVICE ON THE RESPONDENT; AND

16 (2) BEFORE THE HEARING SCHEDULED FOR THE TEMPORARY
17 EXTREME RISK PREVENTION ORDER, TRANSFER THE CASE FILE TO THE CLERK OF
18 COURT.

19 (D) A LAW ENFORCEMENT OFFICER SHALL:

20 (1) IMMEDIATELY ON RECEIPT OF AN INTERIM EXTREME RISK
21 PREVENTION ORDER, SERVE IT ON THE RESPONDENT NAMED IN THE ORDER;

22 (2) MAKE A RETURN OF SERVICE TO THE CLERK OF COURT; AND

23 (3) WITHIN 2 HOURS AFTER SERVICE OF THE ORDER ON THE
24 RESPONDENT, ELECTRONICALLY NOTIFY THE DEPARTMENT OF PUBLIC SAFETY
25 AND CORRECTIONAL SERVICES OF THE SERVICE USING AN ELECTRONIC SYSTEM
26 APPROVED AND PROVIDED BY THE DEPARTMENT OF PUBLIC SAFETY AND
27 CORRECTIONAL SERVICES.

28 (E) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, AN
29 INTERIM EXTREME RISK PREVENTION ORDER SHALL BE EFFECTIVE UNTIL THE
30 EARLIER OF:

31 (I) THE TEMPORARY EXTREME RISK PREVENTION ORDER
32 HEARING UNDER § 5-604 OF THIS SUBTITLE; OR

1 (II) THE END OF THE SECOND BUSINESS DAY THE OFFICE OF
2 THE CLERK OF THE CIRCUIT COURT OR THE OFFICE OF THE DISTRICT COURT
3 CLERK IS OPEN FOLLOWING THE ISSUANCE OF THE INTERIM EXTREME RISK
4 PREVENTION ORDER.

5 (2) IF THE COURT IS CLOSED ON THE DAY ON WHICH THE INTERIM
6 EXTREME RISK PREVENTION ORDER IS DUE TO EXPIRE, THE INTERIM EXTREME RISK
7 PREVENTION ORDER SHALL BE EFFECTIVE UNTIL THE NEXT DAY ON WHICH THE
8 COURT IS OPEN, AT WHICH TIME THE COURT SHALL HOLD A TEMPORARY EXTREME
9 RISK PREVENTION ORDER HEARING.

10 5-604.

11 (A) (1) AFTER A HEARING ON A PETITION, WHETHER EX PARTE OR
12 OTHERWISE, A JUDGE MAY ENTER A TEMPORARY EXTREME RISK PREVENTION
13 ORDER TO PROHIBIT THE RESPONDENT FROM POSSESSING A FIREARM IF THE
14 JUDGE FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT:

15 (I) THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE
16 RESPONDENT POSES AN IMMEDIATE AND PRESENT DANGER OF CAUSING PERSONAL
17 INJURY TO THE RESPONDENT, THE PETITIONER, OR ANOTHER BY POSSESSING A
18 FIREARM; AND

19 (II) A TEMPORARY EXTREME RISK PREVENTION ORDER IS
20 NECESSARY TO PREVENT PERSONAL INJURY TO THE RESPONDENT, THE
21 PETITIONER, OR ANOTHER.

22 (2) THE TEMPORARY EXTREME RISK PREVENTION ORDER SHALL
23 ORDER THE RESPONDENT TO SURRENDER TO LAW ENFORCEMENT AUTHORITIES
24 ANY FIREARM IN THE RESPONDENT'S POSSESSION AND TO REFRAIN FROM
25 POSSESSION OF ANY FIREARM FOR THE DURATION OF THE TEMPORARY EXTREME
26 RISK PREVENTION ORDER.

27 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
28 LAW ENFORCEMENT OFFICER SHALL:

29 (I) IMMEDIATELY SERVE THE TEMPORARY EXTREME RISK
30 PREVENTION ORDER ON THE RESPONDENT UNDER THIS SECTION; AND

31 (II) WITHIN 2 HOURS AFTER SERVICE OF THE ORDER ON THE
32 RESPONDENT, ELECTRONICALLY NOTIFY THE DEPARTMENT OF PUBLIC SAFETY
33 AND CORRECTIONAL SERVICES OF THE SERVICE USING AN ELECTRONIC SYSTEM
34 APPROVED AND PROVIDED BY THE DEPARTMENT OF PUBLIC SAFETY AND
35 CORRECTIONAL SERVICES.

1 **(2) A RESPONDENT WHO HAS BEEN SERVED WITH AN INTERIM**
2 **EXTREME RISK PREVENTION ORDER UNDER § 5-603 OF THIS SUBTITLE SHALL BE**
3 **SERVED WITH THE TEMPORARY EXTREME RISK PREVENTION ORDER IN OPEN COURT**
4 **OR, IF THE RESPONDENT IS NOT PRESENT AT THE TEMPORARY EXTREME RISK**
5 **PREVENTION ORDER HEARING, BY FIRST-CLASS MAIL AT THE RESPONDENT'S LAST**
6 **KNOWN ADDRESS.**

7 **(3) THERE SHALL BE NO COST TO THE PETITIONER FOR SERVICE OF**
8 **THE TEMPORARY EXTREME RISK PREVENTION ORDER.**

9 **(C) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE**
10 **TEMPORARY EXTREME RISK PREVENTION ORDER SHALL BE EFFECTIVE FOR NOT**
11 **MORE THAN 7 DAYS AFTER SERVICE OF THE ORDER.**

12 **(2) THE JUDGE MAY EXTEND THE TEMPORARY EXTREME RISK**
13 **PREVENTION ORDER AS NEEDED, BUT NOT TO EXCEED 6 MONTHS, TO EFFECTUATE**
14 **SERVICE OF THE ORDER WHERE NECESSARY TO PROVIDE PROTECTION OR FOR**
15 **OTHER GOOD CAUSE.**

16 **(3) IF THE COURT IS CLOSED ON THE DAY ON WHICH THE TEMPORARY**
17 **EXTREME RISK PREVENTION ORDER IS DUE TO EXPIRE, THE TEMPORARY EXTREME**
18 **RISK PREVENTION ORDER SHALL BE EFFECTIVE UNTIL THE SECOND DAY ON WHICH**
19 **THE COURT IS OPEN, BY WHICH TIME THE COURT SHALL HOLD A FINAL EXTREME**
20 **RISK PREVENTION ORDER HEARING.**

21 **(D) THE JUDGE MAY PROCEED WITH A FINAL EXTREME RISK PREVENTION**
22 **ORDER HEARING INSTEAD OF A TEMPORARY EXTREME RISK PREVENTION ORDER**
23 **HEARING IF:**

24 **(1) (I) THE RESPONDENT APPEARS AT THE HEARING;**

25 **(II) THE RESPONDENT HAS BEEN SERVED WITH AN INTERIM**
26 **EXTREME RISK PREVENTION ORDER; OR**

27 **(III) THE COURT OTHERWISE HAS PERSONAL JURISDICTION**
28 **OVER THE RESPONDENT; AND**

29 **(2) THE PETITIONER AND THE RESPONDENT EXPRESSLY CONSENT TO**
30 **WAIVE THE TEMPORARY EXTREME RISK PREVENTION ORDER HEARING.**

31 **5-605.**

1 (A) A RESPONDENT UNDER § 5-604 OF THIS SUBTITLE SHALL HAVE AN
2 OPPORTUNITY TO BE HEARD ON THE QUESTION OF WHETHER THE JUDGE SHOULD
3 ISSUE A FINAL EXTREME RISK PREVENTION ORDER.

4 (B) (1) (I) THE TEMPORARY EXTREME RISK PREVENTION ORDER
5 SHALL STATE THE DATE AND TIME OF THE FINAL EXTREME RISK PREVENTION
6 ORDER HEARING.

7 (II) EXCEPT AS PROVIDED IN § 5-604(C) OF THIS SUBTITLE OR
8 UNLESS CONTINUED FOR GOOD CAUSE, THE FINAL EXTREME RISK PREVENTION
9 ORDER HEARING SHALL BE HELD NOT LATER THAN 7 DAYS AFTER THE TEMPORARY
10 EXTREME RISK PREVENTION ORDER IS SERVED ON THE RESPONDENT.

11 (2) THE TEMPORARY EXTREME RISK PREVENTION ORDER SHALL
12 INCLUDE NOTICE TO THE RESPONDENT:

13 (I) IN AT LEAST 10 POINT BOLD TYPE, THAT IF THE
14 RESPONDENT FAILS TO APPEAR AT THE FINAL EXTREME RISK PREVENTION ORDER
15 HEARING, THE RESPONDENT MAY BE SERVED BY FIRST-CLASS MAIL AT THE
16 RESPONDENT'S LAST KNOWN ADDRESS WITH THE FINAL EXTREME RISK
17 PREVENTION ORDER AND ALL OTHER NOTICES CONCERNING THE FINAL EXTREME
18 RISK PREVENTION ORDER;

19 (II) OF THE CONTENTS OF A FINAL EXTREME RISK PREVENTION
20 ORDER;

21 (III) THAT THE FINAL EXTREME RISK PREVENTION ORDER
22 SHALL BE EFFECTIVE FOR THE PERIOD STATED IN THE ORDER, NOT TO EXCEED 1
23 YEAR, UNLESS THE JUDGE EXTENDS THE TERM OF THE ORDER UNDER § 5-607(A)(2)
24 OF THIS SUBTITLE; AND

25 (IV) IN AT LEAST 10 POINT BOLD TYPE, THAT THE RESPONDENT
26 MUST NOTIFY THE COURT IN WRITING OF ANY CHANGE OF ADDRESS.

27 (C) IF THE RESPONDENT APPEARS BEFORE THE COURT AT A FINAL
28 EXTREME RISK PREVENTION ORDER HEARING OR HAS BEEN SERVED WITH AN
29 INTERIM OR TEMPORARY EXTREME RISK PREVENTION ORDER OR IF THE COURT
30 OTHERWISE HAS PERSONAL JURISDICTION OVER THE RESPONDENT, THE JUDGE:

31 (1) MAY PROCEED WITH THE FINAL EXTREME RISK PREVENTION
32 ORDER HEARING; AND

33 (2) MAY ENTER A FINAL EXTREME RISK PREVENTION ORDER TO
34 ORDER THE RESPONDENT TO SURRENDER TO LAW ENFORCEMENT AUTHORITIES

1 ANY FIREARM IN THE RESPONDENT'S POSSESSION AND TO REFRAIN FROM
2 POSSESSION OF ANY FIREARM FOR THE DURATION OF THE FINAL EXTREME RISK
3 PREVENTION ORDER IF THE JUDGE FINDS BY CLEAR AND CONVINCING EVIDENCE
4 THAT:

5 (I) THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE
6 RESPONDENT POSES AN IMMEDIATE AND PRESENT DANGER OF CAUSING PERSONAL
7 INJURY TO THE RESPONDENT, THE PETITIONER, OR ANOTHER BY POSSESSING A
8 FIREARM; AND

9 (II) A FINAL EXTREME RISK PREVENTION ORDER IS NECESSARY
10 TO PREVENT PERSONAL INJURY TO THE RESPONDENT, THE PETITIONER, OR
11 ANOTHER.

12 (D) (1) BEFORE GRANTING, DENYING, OR MODIFYING A FINAL EXTREME
13 RISK PREVENTION ORDER UNDER THIS SECTION, THE COURT SHALL REVIEW ALL
14 OPEN AND SHIELDED COURT RECORDS INVOLVING THE PETITIONER AND THE
15 RESPONDENT, INCLUDING RECORDS OF PROCEEDINGS UNDER:

16 (I) THE CRIMINAL LAW ARTICLE;

17 (II) TITLE 3, SUBTITLE 15 OF THE COURTS ARTICLE;

18 (III) TITLE 4, SUBTITLE 5 OF THE FAMILY LAW ARTICLE;

19 (IV) TITLE 10, SUBTITLE 6 OF THE HEALTH - GENERAL
20 ARTICLE; AND

21 (V) THIS ARTICLE.

22 (2) THE COURT'S FAILURE TO REVIEW RECORDS UNDER THIS
23 SUBSECTION DOES NOT AFFECT THE VALIDITY OF AN ORDER ISSUED UNDER THIS
24 SECTION.

25 (E) (1) A COPY OF THE FINAL EXTREME RISK PREVENTION ORDER SHALL
26 BE SERVED ON THE PETITIONER, THE RESPONDENT, THE APPROPRIATE LAW
27 ENFORCEMENT AGENCY, AND ANY OTHER PERSON THE JUDGE DETERMINES IS
28 APPROPRIATE IN OPEN COURT OR, IF THE PERSON IS NOT PRESENT AT THE FINAL
29 EXTREME RISK PREVENTION ORDER HEARING, BY FIRST-CLASS MAIL TO THE
30 PERSON'S LAST KNOWN ADDRESS.

31 (2) (I) A COPY OF THE FINAL EXTREME RISK PREVENTION ORDER
32 SERVED ON THE RESPONDENT IN ACCORDANCE WITH PARAGRAPH (1) OF THIS

1 SUBSECTION CONSTITUTES ACTUAL NOTICE TO THE RESPONDENT OF THE
2 CONTENTS OF THE FINAL EXTREME RISK PREVENTION ORDER.

3 (II) SERVICE IS COMPLETE ON MAILING.

4 (F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
5 ALL RELIEF GRANTED IN A FINAL EXTREME RISK PREVENTION ORDER SHALL BE
6 EFFECTIVE FOR THE PERIOD STATED IN THE ORDER, NOT TO EXCEED 1 YEAR.

7 (2) A SUBSEQUENT CIRCUIT COURT ORDER PERTAINING TO ANY OF
8 THE PROVISIONS INCLUDED IN THE FINAL EXTREME RISK PREVENTION ORDER
9 SHALL SUPERSEDE THOSE PROVISIONS IN THE FINAL EXTREME RISK PREVENTION
10 ORDER.

11 5-606.

12 (A) IF A RESPONDENT SURRENDERS A FIREARM UNDER THIS SUBTITLE, A
13 LAW ENFORCEMENT OFFICER SHALL:

14 (1) PROVIDE TO THE RESPONDENT INFORMATION ON THE PROCESS
15 FOR RETAKING POSSESSION OF THE FIREARM; AND

16 (2) TRANSPORT AND STORE THE FIREARM IN A PROTECTIVE CASE IF
17 ONE IS AVAILABLE AND IN A MANNER INTENDED TO PREVENT DAMAGE TO THE
18 FIREARM DURING THE TIME THE EXTREME RISK PREVENTION ORDER IS IN EFFECT.

19 (B) (1) THE RESPONDENT MAY RETAKE POSSESSION OF THE FIREARM AT
20 THE EXPIRATION OF AN INTERIM EXTREME RISK PREVENTION ORDER UNLESS:

21 (I) THE RESPONDENT IS ORDERED TO SURRENDER THE
22 FIREARM IN A TEMPORARY EXTREME RISK PREVENTION ORDER ISSUED UNDER §
23 5-604 OF THIS SUBTITLE OR A FINAL EXTREME RISK PREVENTION ORDER ISSUED
24 UNDER § 5-605 OF THIS SUBTITLE; OR

25 (II) THE RESPONDENT IS NOT OTHERWISE LEGALLY ENTITLED
26 TO OWN OR POSSESS THE FIREARM.

27 (2) THE RESPONDENT MAY RETAKE POSSESSION OF THE FIREARM AT
28 THE EXPIRATION OF A TEMPORARY EXTREME RISK PREVENTION ORDER UNLESS:

29 (I) THE RESPONDENT IS ORDERED TO SURRENDER THE
30 FIREARM IN A FINAL EXTREME RISK PREVENTION ORDER ISSUED UNDER § 5-605 OF
31 THIS SUBTITLE; OR

1 **(II) THE RESPONDENT IS NOT OTHERWISE LEGALLY ENTITLED**
2 **TO OWN OR POSSESS THE FIREARM.**

3 **(3) THE RESPONDENT MAY RETAKE POSSESSION OF THE FIREARM AT**
4 **THE EXPIRATION OF A FINAL EXTREME RISK PREVENTION ORDER UNLESS:**

5 **(I) THE EXTREME RISK PREVENTION ORDER IS EXTENDED**
6 **UNDER § 5-607(A)(2) OF THIS SUBTITLE; OR**

7 **(II) THE RESPONDENT IS NOT OTHERWISE LEGALLY ENTITLED**
8 **TO OWN OR POSSESS THE FIREARM.**

9 **(C) NOTWITHSTANDING ANY OTHER LAW, A RESPONDENT MAY TRANSPORT**
10 **A FIREARM IF:**

11 **(1) THE RESPONDENT IS CARRYING AN EXTREME RISK PREVENTION**
12 **ORDER REQUIRING THE SURRENDER OF THE FIREARM;**

13 **(2) THE FIREARM IS UNLOADED;**

14 **(3) THE RESPONDENT HAS NOTIFIED THE LAW ENFORCEMENT UNIT,**
15 **BARRACKS, OR STATION THAT THE FIREARM IS BEING TRANSPORTED IN**
16 **ACCORDANCE WITH THE PROTECTIVE ORDER; AND**

17 **(4) THE RESPONDENT TRANSPORTS THE FIREARM DIRECTLY TO THE**
18 **LAW ENFORCEMENT UNIT, BARRACKS, OR STATION.**

19 **(D) IN ACCORDANCE WITH THE PROVISIONS OF § 1-203 OF THE CRIMINAL**
20 **PROCEDURE ARTICLE, ON APPLICATION BY A STATE'S ATTORNEY OR A LAW**
21 **ENFORCEMENT OFFICER WITH PROBABLE CAUSE TO BELIEVE THAT A RESPONDENT**
22 **WHO IS SUBJECT TO AN EXTREME RISK PREVENTION ORDER POSSESSES A FIREARM**
23 **AND FAILED TO SURRENDER THE FIREARM IN ACCORDANCE WITH THE ORDER, A**
24 **COURT MAY ISSUE A SEARCH WARRANT FOR THE REMOVAL OF THE FIREARM AT ANY**
25 **LOCATION IDENTIFIED IN THE APPLICATION FOR THE WARRANT.**

26 **5-607.**

27 **(A) (1) A FINAL EXTREME RISK PREVENTION ORDER MAY BE MODIFIED**
28 **OR RESCINDED DURING THE TERM OF THE EXTREME RISK PREVENTION ORDER**
29 **AFTER:**

30 **(I) GIVING NOTICE TO ALL AFFECTED PERSONS AND THE**
31 **RESPONDENT; AND**

1 (II) A HEARING.

2 (2) FOR GOOD CAUSE SHOWN, A JUDGE MAY EXTEND THE TERM OF A
3 FINAL EXTREME RISK PREVENTION ORDER FOR 6 MONTHS BEYOND THE PERIOD
4 SPECIFIED IN § 5-605(F) OF THIS SUBTITLE AFTER:

5 (I) GIVING NOTICE TO ALL AFFECTED PERSONS AND THE
6 RESPONDENT; AND

7 (II) A HEARING.

8 (3) (I) IF, DURING THE TERM OF A FINAL EXTREME RISK
9 PREVENTION ORDER, A PETITIONER FILES A MOTION TO EXTEND THE TERM OF THE
10 ORDER UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE COURT SHALL HOLD A
11 HEARING ON THE MOTION WITHIN 30 DAYS AFTER THE MOTION IS FILED.

12 (II) IF THE HEARING ON THE MOTION IS SCHEDULED AFTER THE
13 ORIGINAL EXPIRATION DATE OF THE FINAL EXTREME RISK PREVENTION ORDER,
14 THE COURT SHALL EXTEND THE ORDER AND KEEP THE TERMS OF THE ORDER IN
15 FULL FORCE AND EFFECT UNTIL THE HEARING ON THE MOTION.

16 (B) (1) IF A DISTRICT COURT JUDGE GRANTS OR DENIES A PETITION
17 FILED UNDER THIS SUBTITLE, A RESPONDENT OR A PETITIONER MAY APPEAL TO
18 THE CIRCUIT COURT FOR THE COUNTY WHERE THE DISTRICT COURT IS LOCATED.

19 (2) AN APPEAL TAKEN UNDER THIS SUBSECTION TO THE CIRCUIT
20 COURT SHALL BE HEARD DE NOVO IN THE CIRCUIT COURT.

21 (3) (I) IF AN APPEAL IS FILED UNDER THIS SUBSECTION, THE
22 DISTRICT COURT JUDGMENT SHALL REMAIN IN EFFECT UNTIL SUPERSEDED BY A
23 JUDGMENT OF THE CIRCUIT COURT.

24 (II) UNLESS THE CIRCUIT COURT ORDERS OTHERWISE,
25 MODIFICATION OR ENFORCEMENT OF THE DISTRICT COURT ORDER SHALL BE BY
26 THE DISTRICT COURT.

27 5-608.

28 (A) AN INTERIM EXTREME RISK PREVENTION ORDER, TEMPORARY
29 EXTREME RISK PREVENTION ORDER, AND FINAL EXTREME RISK PREVENTION
30 ORDER ISSUED UNDER THIS SUBTITLE SHALL STATE THAT A VIOLATION OF THE
31 ORDER MAY RESULT IN:

32 (1) CRIMINAL PROSECUTION; AND

1 **(2) IMPRISONMENT OR FINE OR BOTH.**

2 **(B) A TEMPORARY EXTREME RISK PREVENTION ORDER AND FINAL**
3 **EXTREME RISK PREVENTION ORDER ISSUED UNDER THIS SUBTITLE SHALL STATE**
4 **THAT A VIOLATION OF THE ORDER MAY RESULT IN A FINDING OF CONTEMPT.**

5 **5-609.**

6 **(A) A PERSON WHO FAILS TO COMPLY WITH THE PROVISIONS OF AN**
7 **INTERIM EXTREME RISK PREVENTION ORDER, A TEMPORARY EXTREME RISK**
8 **PREVENTION ORDER, OR A FINAL EXTREME RISK PREVENTION ORDER UNDER THIS**
9 **SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:**

10 **(1) FOR A FIRST OFFENSE, A FINE NOT EXCEEDING \$1,000 OR**
11 **IMPRISONMENT NOT EXCEEDING 90 DAYS OR BOTH; AND**

12 **(2) FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE NOT EXCEEDING**
13 **\$2,500 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.**

14 **(B) A LAW ENFORCEMENT OFFICER SHALL ARREST WITH OR WITHOUT A**
15 **WARRANT AND TAKE INTO CUSTODY A PERSON WHO THE OFFICER HAS PROBABLE**
16 **CAUSE TO BELIEVE IS IN VIOLATION OF AN INTERIM, TEMPORARY, OR FINAL**
17 **EXTREME RISK PREVENTION ORDER IN EFFECT AT THE TIME OF THE VIOLATION.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2018.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.