
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1075 Session of
2019

INTRODUCED BY STEPHENS, ISAACSON, MURT, SCHLOSSBERG, SANCHEZ,
FREEMAN, SAPPEY, O'MARA, DALEY, NEILSON, CIRESI, COMITTA,
TOOHIL, OTTEN, McCLINTON, ZABEL, SHUSTERMAN AND MULLINS,
APRIL 5, 2019

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 5, 2019

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, in firearms and other dangerous articles, further
4 providing for persons not to possess, use, manufacture,
5 control, sell or transfer firearms and for abandonment of
6 firearms, weapons or ammunition; in community and municipal
7 courts, further providing for masters; and adding provisions
8 relating to extreme risk protection orders.

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

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

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

17 (a) Offense defined.--

18 * * *

19 (2) (i) Except as otherwise provided in this paragraph,
20 a person who is prohibited from possessing, using,

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

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

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

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

22 (a.1) Penalty.--

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

30 (1.1) The following shall apply:

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

7 (A) at the time of the commission of a violation
8 of subsection (a), the person has previously been
9 convicted of an offense under subsection (a); or

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

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

20 (2) A person who is the subject of an active final
21 protection from abuse order issued pursuant to 23 Pa.C.S. §
22 6108, is the subject of any other active protection from
23 abuse order issued pursuant to 23 Pa.C.S. § 6107(b) (relating
24 to hearings), which provided for the relinquishment of
25 firearms or other weapons or ammunition during the period of
26 time the order is in effect, or is otherwise prohibited from
27 possessing or acquiring a firearm under 18 U.S.C. § 922(g) (8)
28 (relating to unlawful acts), commits a misdemeanor of the
29 second degree if he intentionally or knowingly fails to
30 relinquish a firearm or other weapon or ammunition to the

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

9 (2.1) A person who is the subject of an extreme risk
10 protection order issued under 42 Pa.C.S. Ch. 64A (relating to
11 extreme risk protection orders) commits a misdemeanor of the
12 second degree if he intentionally or knowingly fails to
13 relinquish a firearm or firearms license as required by the
14 order.

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

28 (ii) This paragraph shall not apply to:

29 (A) a third party who accepts possession of a
30 firearm, other weapon or ammunition relinquished

1 pursuant to 23 Pa.C.S. § 6108.3; or

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

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

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

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

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

26 (i) The sheriff accepts return of the safekeeping
27 permit issued to the party pursuant to 23 Pa.C.S. §
28 6108.3(d) (1) (i).

29 (ii) The issuance of a court order pursuant to
30 subsection (f) (2) or 23 Pa.C.S. § 6108.1(b) (relating to

1 return of relinquished firearms, other weapons and
2 ammunition and additional relief) which modifies a valid
3 protection from abuse order issued pursuant to 23 Pa.C.S.
4 § 6108, which order provided for the relinquishment of
5 the firearm, other weapon or ammunition by allowing the
6 defendant to take possession of the firearm, other weapon
7 or ammunition that had previously been ordered
8 relinquished.

9 (iii) The expiration of an extreme risk protection
10 order or the issuance of a court order that terminates an
11 extreme risk protection order under 42 Pa.C.S. Ch. 64A.

12 * * *

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

17 * * *

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

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

25 * * *

26 (f) Other exemptions and proceedings.--

27 * * *

28 (4) (i) The owner of any seized or confiscated firearms
29 or of any firearms ordered relinquished under 23 Pa.C.S.
30 § 6108 or 42 Pa.C.S. Ch. 64A shall be provided with a

1 signed and dated written receipt by the appropriate law
2 enforcement agency. This receipt shall include, but not
3 limited to, a detailed identifying description indicating
4 the serial number and condition of the firearm. In
5 addition, the appropriate law enforcement agency shall be
6 liable to the lawful owner of said confiscated, seized or
7 relinquished firearm for any loss, damage or substantial
8 decrease in value of said firearm that is a direct result
9 of a lack of reasonable care by the appropriate law
10 enforcement agency.

11 * * *

12 Section 2. Section 6128(a) of Title 18, added October 12,
13 2018 (P.L.519, No.79), is amended to read:

14 § 6128. Abandonment of firearms, weapons or ammunition.

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

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

30 (2) Found, discovered or otherwise passed into the

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

10 * * *

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

12 § 1126. Masters.

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

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

19 CHAPTER 64A

20 EXTREME RISK PROTECTION ORDERS

21 Sec.

22 64A01. Scope of chapter.

23 64A02. Definitions.

24 64A03. Preliminary matters.

25 64A04. Petition for extreme risk protection order.

26 64A05. Interim extreme risk protection order.

27 64A06. Hearing on petition.

28 64A07. Notice to law enforcement.

29 64A08. Service.

30 64A09. Order after hearing.

1 64A10. Termination hearing.

2 64A11. Extension of order.

3 64A12. Relinquishment of firearms.

4 64A13. Return of firearms.

5 64A14. Abuse of process.

6 64A15. Employment protection.

7 64A16. Mental health and chemical dependency services.

8 § 64A01. Scope of chapter.

9 This chapter relates to extreme risk protection orders.

10 § 64A02. Definitions.

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

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

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

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

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

29 "Firearms dealer" or "dealer." A person licensed to sell
30 firearms under 18 Pa.C.S. § 6113 (relating to licensing of

1 dealers).

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

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

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

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

25 § 64A03. Preliminary matters.

26 (a) Standing.--A law enforcement officer or a family or
27 household member of a person believed to present a risk of
28 suicide or of causing the death of, or extreme bodily injury to,
29 another person may file a petition requesting that the court
30 issue an extreme risk protection order or renew an existing

1 extreme risk protection order.

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

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

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

12 § 64A04. Petition for extreme risk protection order.

13 (a) Petition.--A petition for an extreme risk protection
14 order shall state facts that demonstrate the risk presented by
15 the respondent's ability to purchase firearms or have possession
16 or control of firearms, and shall describe the number, types and
17 locations of any firearms known or believed to be owned by the
18 respondent or known or believed to be in the respondent's
19 possession or control. If the court is closed or is unavailable
20 during the business day, a petition may be filed with a hearing
21 officer.

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

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

30 (1) Suicide threats or attempts.

1 (2) Threats or acts of violence or attempted acts of
2 violence.

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

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

10 (5) Abuse of controlled substances or alcohol, or any
11 criminal offense that involves controlled substances or
12 alcohol.

13 (6) Unlawful or reckless use, display or brandishing of
14 a firearm.

15 (7) Recent acquisition or attempted acquisition of a
16 firearm.

17 (8) Any additional information the court finds to be
18 reliable, including a statement by the respondent.

19 § 64A05. Interim extreme risk protection order.

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

23 (1) the respondent presents a substantial risk of
24 suicide or of causing the death of, or serious bodily injury
25 to, another person; and

26 (2) the risk is imminent and other circumstances that
27 would make it safe to proceed by ordering a hearing under
28 section 64A06 (relating to hearing on petition) without
29 issuing an interim extreme risk protection order do not
30 exist.

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

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

4 (2) Instructions for relinquishment of any firearm or
5 firearms license that the respondent owns or that is in the
6 respondent's possession or control.

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

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

10 (5) If the order was issued by a court and a hearing is
11 scheduled under subsection (d), the order shall include:

12 (i) notice of the time, date and location of the
13 hearing;

14 (ii) notice of the right to request a continuance
15 and instructions on requesting a continuance or waiving
16 the hearing;

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

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

22 (6) If the order was issued by a hearing officer, the
23 order shall include notice of the date upon which the order
24 will expire.

25 (c) Duration.--An interim extreme risk protection order
26 issued by a hearing officer shall expire at the end of the next
27 business day the court deems itself available, but not more than
28 5 days after the issuance of the interim order. An interim
29 extreme risk protection order issued by a court shall be in
30 effect until the hearing under subsection (d).

1 (d) Hearing following interim order.--If the court orders an
2 interim extreme risk protection order under subsection (a), the
3 court shall conduct a hearing on the petition within 10 days of
4 the date of the interim order.

5 (e) Request for continuance.--The respondent may request a
6 continuance on a hearing scheduled to take place after the
7 issuance of an interim order, which the court shall grant. No
8 hearing shall be continued except with the consent of the
9 respondent.

10 § 64A06. Hearing on petition.

11 (a) Rule.--Upon reviewing a petition filed under section
12 64A04 (relating to petition for extreme risk protection order),
13 the court may issue an order for a hearing on the petition,
14 which shall be conducted within 10 days of the date of the
15 petition.

16 (b) Request for continuance.--If the hearing is scheduled to
17 take place fewer than three business days after service of the
18 order, the court shall grant a continuance until at least three
19 business days after service if requested by the respondent. The
20 court shall notify the respondent of the respondent's right to a
21 continuance under this subsection.

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

27 § 64A07. Notice to law enforcement.

28 (a) Notice.--The court or hearing officer issuing an order
29 under this chapter shall cause a copy of the order to be
30 delivered to the sheriff, the local law enforcement agency and

1 the Pennsylvania State Police.

2 (b) Entry into database.--Upon receipt of the order, the
3 Pennsylvania State Police shall cause the order to be entered
4 into the appropriate database so that notice of the order is
5 provided through the Pennsylvania Instant Check System and the
6 Federal Bureau of Investigation National Instant Criminal
7 Background Check System.

8 § 64A08. Service.

9 (a) Service.--Service of an extreme risk protection order or
10 an order for a hearing shall be made in person by the sheriff or
11 a law enforcement officer, as directed by the court or hearing
12 officer issuing the order. At the time of service, the sheriff
13 or law enforcement officer shall provide the respondent with a
14 copy of the petition.

15 (b) Return.--Immediately upon completion of service of an
16 extreme risk protection order, the sheriff or law enforcement
17 officer completing service shall make a return of service to the
18 court and shall provide a copy of the return of service to the
19 petitioner.

20 § 64A09. Order after hearing.

21 (a) Hearing and order.--The court shall issue an extreme
22 risk protection order after conducting a hearing ordered under
23 section 64A05 (relating to interim extreme risk protection
24 order) or 64A06 (relating to hearing on petition), or after the
25 respondent waives the right to a hearing under section 64A05, if
26 the court finds by clear and convincing evidence that the
27 respondent presents a substantial risk of suicide or of causing
28 the death of, or serious bodily injury to, another person.

29 (b) Duration.--An extreme risk protection order issued after
30 a hearing shall be made effective for not less than three months

1 nor more than one year.

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

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

4 (2) Notice of the right to petition the court for a
5 termination of the order.

6 (3) Instructions for relinquishment of any firearm that
7 the respondent owns or that is in the respondent's possession
8 or control, and any firearms license that is issued to the
9 respondent.

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

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

13 (6) Notice of the right to appeal to the Superior Court
14 within 30 days.

15 (d) Explanatory opinion.--The court shall issue a separate,
16 nonpublic explanatory opinion and shall provide the opinion to
17 the petitioner and respondent within seven days of the issuance
18 of the order.

19 § 64A10. Termination hearing.

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

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

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

1 (d) Burden of proof.--At a termination hearing, the
2 respondent seeking termination of the order shall have the
3 burden of proving, by a preponderance of the evidence, that the
4 order was issued in error or that circumstances have changed,
5 and that the respondent does not present a substantial risk of
6 suicide or of causing the death of, or serious bodily injury to,
7 another person.

8 § 64A11. Extension of order.

9 A petition to extend an extreme risk protection order shall
10 state facts that support an extension of the order. The court
11 may deny the petition based on the information stated in the
12 petition or may schedule a hearing. The court shall provide
13 notice of the hearing to the petitioner, the respondent, the
14 local law enforcement agency and the Pennsylvania State Police.
15 If the court finds by clear and convincing evidence, based on
16 factors specified under section 64A04 (relating to petition for
17 extreme risk protection order), that the respondent continues to
18 present a substantial risk of suicide or of causing the death
19 of, or serious bodily injury to, another person, the court shall
20 extended the extreme risk protection order for a duration of no
21 fewer than three months and no more than one year from the date
22 of the order.

23 § 64A12. Relinquishment of firearms.

24 (a) Rule.--An extreme risk protection order issued under
25 section 64A05 (relating to interim extreme risk protection
26 order) or section 64A09 (relating to order after hearing) shall
27 require the relinquishment of all firearms owned by the
28 respondent or in the respondent's possession or control within
29 24 hours following service of the order, except for cause shown,
30 in which case the court or hearing officer issuing the order

1 shall specify the time for relinquishment of any or all of the
2 respondent's firearms.

3 (b) Relinquishment upon service.--A law enforcement officer
4 or sheriff serving an extreme risk protection order shall
5 request that all firearms and any firearms license in the
6 respondent's possession or control be immediately relinquished
7 into the custody of the law enforcement officer or sheriff. A
8 law enforcement officer taking custody of a firearm or firearms
9 license under this subsection shall transfer the firearm or
10 firearms license to the sheriff or to a firearms dealer for
11 safekeeping.

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

22 (d) Receipt.--A sheriff or law enforcement officer taking
23 custody of a firearm or license from a respondent shall provide
24 the respondent with a copy of a signed and dated receipt. The
25 receipt shall include a detailed description of each firearm and
26 its condition. The sheriff or law enforcement officer issuing
27 the receipt shall file the original with the court.

28 (e) Transfer to firearms dealer.--A respondent whose firearm
29 is in the custody of a sheriff may request that the firearm be
30 transferred to a firearms dealer for consignment sale, lawful

1 transfer or safekeeping. Upon receiving the request, the sheriff
2 shall transport the firearm to a dealer at no cost to the
3 respondent or the dealer.

4 (f) Affidavit.--A firearms dealer accepting custody of a
5 firearm under this chapter shall provide the respondent, sheriff
6 or law enforcement officer from which the dealer accepts custody
7 with an affidavit on a form prescribed by the Pennsylvania State
8 Police. A sheriff or law enforcement officer delivering custody
9 of a firearm to a dealer shall file a copy of the affidavit with
10 the court.

11 (g) Contents of affidavit.--The affidavit shall include the
12 following:

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

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

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

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

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

26 (6) An acknowledgment that the firearm, if sold or
27 transferred, will be sold or transferred in compliance with
28 18 Pa.C.S. Ch. 61 (relating to firearms and other dangerous
29 articles), and that no firearm will be returned to a
30 respondent or any third party until the dealer has

1 independently confirmed that the person requesting return of
2 the firearm is legally eligible to possess firearms under
3 Federal and State law.

4 § 64A13. Return of firearms.

5 (a) Return to respondent.--Subject to subsection (c), if,
6 following a hearing, a court vacates an interim extreme risk
7 protection order, the court shall order the immediate return of
8 all relinquished firearms and licenses to the respondent. Upon
9 termination or expiration of an extreme risk protection order,
10 the respondent may request that the sheriff or firearms dealer
11 in possession of a relinquished firearm or license return the
12 firearm or license. Subject to subsection (c), the sheriff or
13 dealer shall return the firearm or license to the respondent as
14 soon as possible, but not later than the end of the next
15 business day after the day on which the respondent makes the
16 request.

17 (b) Third party claims.--A third party may request the
18 return of a relinquished firearm at any time by providing proof
19 of ownership and a sworn affidavit. Proof of ownership may
20 consist of a statement in the affidavit. The affidavit shall
21 affirm the following:

22 (1) The third party will not intentionally or knowingly
23 return a firearm to a person subject to an extreme risk
24 protection order nor intentionally or knowingly allow a
25 person subject to an extreme risk protection order to have
26 access to a firearm.

27 (2) The third party understands that intentionally or
28 knowingly allowing a person subject to an extreme risk
29 protection order to have access to a firearm constitutes a
30 misdemeanor of the second degree under 18 Pa.C.S. § 6105(a.1)

1 (relating to persons not to possess, use, manufacture,
2 control, sell or transfer firearms), punishable by up to two
3 years' imprisonment and up to a \$5,000 fine and resulting in
4 a five-year prohibition on firearm acquisition or possession.

5 (3) If the third party is a member of the household of a
6 person who is subject to an extreme risk protection order,
7 that any firearm returned to the third party will be stored
8 either in a gun safe to which the person does not have and
9 will not be permitted to access, or in a location outside the
10 home to which the person does not have access.

11 (c) Background check.--Prior to returning a firearm to any
12 person, the sheriff or firearms dealer in possession of the
13 firearm shall independently confirm that the person requesting
14 return of the firearm is legally eligible to possess firearms
15 under Federal and State law. The sheriff or dealer receiving a
16 request under subsection (a) shall conduct the required
17 background check as soon as possible, but not later than the end
18 of the next business day after the day on which the respondent
19 makes the request.

20 § 64A14. Abuse of process.

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

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

1 (c) Restitution.--A person convicted of false reporting or
2 false swearing under this section or determined by the court to
3 have acted in bad faith for the purpose of harassing the
4 respondent shall be ordered to pay full restitution to the
5 respondent. For purposes of this section, restitution shall
6 include, but not be limited to, reasonable attorney fees, costs
7 of storage and other expenses incurred by the respondent as a
8 result of the false reporting or false swearing.

9 § 64A15. Employment protection.

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

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

17 § 64A16. Mental health and chemical dependency services.

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

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