

Union Calendar No. 256

117TH CONGRESS
2D SESSION

H. R. 2377

[Report No. 117-342]

To authorize the issuance of extreme risk protection orders.

IN THE HOUSE OF REPRESENTATIVES

APRIL 8, 2021

Mrs. MCBATH (for herself, Mr. NADLER, Mr. THOMPSON of California, Ms. JACKSON LEE, Ms. BASS, Mr. JOHNSON of Georgia, Mr. CICILLINE, Mr. LIEU, Mr. RASKIN, Ms. DEAN, Ms. GARCIA of Texas, Mr. NEGUSE, Mrs. BEATTY, Ms. CLARK of Massachusetts, Mr. EVANS, Mrs. CAROLYN B. MALONEY of New York, Ms. MOORE of Wisconsin, Mr. DANNY K. DAVIS of Illinois, Mr. DESAULNIER, Ms. WILSON of Florida, Mr. GALLEG0, Mr. SCHNEIDER, Mrs. TRAHAN, Mrs. WATSON COLEMAN, Ms. HOULAHAN, Ms. NEWMAN, Miss RICE of New York, Ms. ADAMS, Mr. RUPPERSBERGER, Mr. PASCRELL, Mr. COOPER, Mr. AUCHINCLOSS, Mr. CARSON, Mr. GARCÍA of Illinois, Mr. BROWN of Maryland, Ms. PRESSLEY, Mr. MEEKS, Mrs. DEMINGS, Mr. SCHRADER, Mr. CROW, Mr. BEYER, Mr. CRIST, and Ms. SHERRILL) introduced the following bill; which was referred to the Committee on the Judiciary

JUNE 3, 2022

Additional sponsors: Mr. DEFazio, Mr. RUSH, Ms. NORTON, Ms. KELLY of Illinois, Ms. MENG, Mr. KHANNA, Mr. POCAN, Mr. BLUMENAUER, Mr. MORELLE, Ms. ROSS, Ms. WILLIAMS of Georgia, Mr. SWALWELL, Mr. SUOZZI, Ms. SCANLON, Ms. SEWELL, Ms. MCCOLLUM, Mr. CORREA, Ms. BROWNLEY, Mr. DEUTCH, Ms. JAYAPAL, Mr. FOSTER, Mr. KIM of New Jersey, Mr. JEFFRIES, Mr. PHILLIPS, Mr. SARBANES, Ms. BONAMICI, Ms. WASSERMAN SCHULTZ, Mr. MOULTON, Mr. GARAMENDI, Mr. LYNCH, Mr. DELGADO, Ms. WEXTON, Ms. CLARKE of New York, Ms. ESCOBAR, Mr. CASTEN, Ms. UNDERWOOD, Mr. JONES, Mr. COHEN, Mr. LEVIN of Michigan, Mr. MCGOVERN, Mr. ESPAILLAT, Ms. LOFGREN, Mr. GREEN of Texas, Mr. TAKANO, Mr. KILDEE, Ms. SÁNCHEZ, Mr. SHERMAN, Mr. SEAN PATRICK MALONEY of New York, Mr. HORSFORD, Mr. CLEAVER, Ms. BLUNT ROCHESTER, Mrs. HAYES, Mr. TRONE, Ms. TLAIB, Mr. STANTON, Mr. MFUME, Ms. WATERS, Mr. SOTO, Ms. JOHN-

SON of Texas, Mr. TORRES of New York, Mr. YARMUTH, Mr. CARBAJAL, Ms. STRICKLAND, Mr. CARTER of Louisiana, Mrs. LAWRENCE, Ms. LEE of California, Ms. OMAR, Mr. THOMPSON of Mississippi, Mr. VEASEY, Ms. SCHAKOWSKY, Mr. ALLRED, Mr. LEVIN of California, Ms. STEVENS, Mr. KILMER, Ms. STANSBURY, Mr. BOWMAN, Mr. WELCH, Ms. MANNING, Mr. LARSON of Connecticut, Mr. SMITH of Washington, Mr. HIGGINS of New York, Ms. BARRAGÁN, Mr. LARSEN of Washington, Mr. MALINOWSKI, Ms. DELAURO, Ms. TITUS, Mr. RUIZ, Mrs. TORRES of California, Mr. PERLMUTTER, Mr. SABLAN, Mr. COURTNEY, Ms. PINGREE, Mrs. LEE of Nevada, Mr. PANETTA, Ms. ESHOO, Mr. KRISHNAMOORTHY, Ms. BROWN of Ohio, Ms. WILD, Mr. HIMES, Mr. SAN NICOLAS, Ms. ROYBAL-ALLARD, Mr. GOTTHEIMER, Ms. DELBENE, Mr. SCOTT of Virginia, and Mr. CASE

JUNE 3, 2022

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on April 8, 2021]

A BILL

To authorize the issuance of extreme risk protection orders.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Federal Extreme Risk*
5 *Protection Order Act of 2021”.*

6 **SEC. 2. FEDERAL EXTREME RISK PROTECTION ORDERS.**

7 *(a) IN GENERAL.—Chapter 44 of title 18, United*
8 *States Code, is amended by adding at the end the following:*

9 **“§ 932. Extreme risk protection orders**

10 *“(a) DEFINITIONS.—In this section—*

11 *“(1) the term ‘court’ means a district court of*
12 *the United States;*

13 *“(2) the term ‘designated law enforcement officer’*
14 *means a law enforcement officer, designated by a*
15 *United States marshal, who agrees to receive fire-*
16 *arms, ammunition, and permits, as applicable, sur-*
17 *rendered under subsection (f);*

18 *“(3) the term ‘Director’ means the Director of the*
19 *Administrative Office of the United States Courts;*

20 *“(4) the term ‘ex parte Federal extreme risk pro-*
21 *tection order’ or ‘ex parte Federal order’ means a*
22 *Federal extreme risk protection order issued under*
23 *subsection (c);*

24 *“(5) the term ‘Federal extreme risk protection*
25 *order’ means an order issued by a Federal court that*

1 *enjoins an individual from purchasing, possessing, or*
2 *receiving, in or affecting interstate and foreign com-*
3 *merce, a firearm or ammunition;*

4 “(6) the term ‘family or household member’, with
5 respect to a Federal order respondent, means any—

6 “(A) parent, spouse, sibling, or child related
7 by blood, marriage, or adoption to the respond-
8 ent;

9 “(B) dating partner of the respondent;

10 “(C) individual who has a child in common
11 with the respondent, regardless of whether the in-
12 dividual has—

13 “(i) been married to the respondent; or

14 “(ii) lived together with the respondent
15 at any time;

16 “(D) individual who resides or has resided
17 with the respondent during the past year;

18 “(E) domestic partner of the respondent;

19 “(F) individual who has a legal parent-
20 child relationship with the respondent, including
21 a stepparent-stepchild and grandparent-grand-
22 child relationship; and

23 “(G) individual who is acting or has acted
24 as the legal guardian of the respondent;

1 “(7) the term ‘Federal order petitioner’ means
2 an individual authorized to petition for an *ex parte*
3 or long-term Federal extreme risk protection order
4 under subsection (b)(1);

5 “(8) the term ‘Federal order respondent’ means
6 an individual named in the petition for an *ex parte*
7 or long-term Federal extreme risk protection order or
8 subject to an *ex parte* or long-term Federal extreme
9 risk protection order;

10 “(9) the term ‘long-term Federal extreme risk
11 protection order’ or ‘long-term Federal order’ means
12 a Federal extreme risk protection order issued under
13 subsection (d);

14 “(10) the term ‘mental health agency’ means an
15 agency of a State, Tribal, or local government or its
16 contracted agency that is responsible for mental
17 health services or co-occurring mental health and sub-
18 stance abuse services; and

19 “(11) the term ‘national instant criminal back-
20 ground check system’ means the national instant
21 criminal background check system established under
22 section 103 of the Brady Handgun Violence Preven-
23 tion Act (34 U.S.C. 40901).

24 “(b) PETITION.—

1 “(1) *IN GENERAL.*—A family or household mem-
2 ber of the applicable individual, or a law enforcement
3 officer, may submit to an appropriate district court
4 of the United States a petition requesting that the
5 court issue an *ex parte* Federal extreme risk protec-
6 tion order or long-term Federal extreme risk protec-
7 tion order with respect to an individual.

8 “(2) *NO FEES.*—A court or law enforcement
9 agency may not charge a petitioner or respondent
10 any fee for—

11 “(A) filing, issuing, serving, or reporting an
12 extreme risk protection order;

13 “(B) a petition for an extreme risk protec-
14 tion order or any pleading, subpoena, warrant,
15 or motion in connection with an extreme risk
16 protection order; or

17 “(C) any order or order to show cause nec-
18 essary to obtain or give effect to this section.

19 “(3) *CONFIDENTIALITY.*—A Federal order peti-
20 tioner who is a law enforcement officer may provide
21 the identity of the petitioner’s sources, and any iden-
22 tifying information, to the court under seal.

23 “(c) *EX PARTE ORDERS.*—

24 “(1) *TIMING.*—

1 “(A) *IN GENERAL.*—*Except as provided in*
2 *subparagraph (B), a court that receives a peti-*
3 *tion for an ex parte Federal order under sub-*
4 *section (b) shall grant or deny the petition on*
5 *the date on which the petition is submitted.*

6 “(B) *LATE PETITIONS.*—*If a court receives*
7 *a petition for an ex parte Federal order sub-*
8 *mitted under subsection (b) too late in the day*
9 *to permit effective review, the court shall grant*
10 *or deny the petition on the next day of judicial*
11 *business at a time early enough to permit the*
12 *court to file an order with the clerk of the court*
13 *during that day.*

14 “(2) *EVIDENCE REQUIRED.*—*Before issuing an*
15 *ex parte Federal order, a court shall require that the*
16 *petitioner for such order submit a signed affidavit,*
17 *sworn to before the court, that—*

18 “(A) *explains why such petitioner believes*
19 *that the Federal order respondent poses a risk of*
20 *imminent personal injury to self or another in-*
21 *dividual, by purchasing, possessing, or receiving*
22 *a firearm or ammunition; and*

23 “(B) *describes the interactions and con-*
24 *versations of the petitioner with—*

25 “(i) *the respondent; or*

1 “(ii) another individual, if such peti-
2 tioner believes that information obtained
3 from that individual is credible and reli-
4 able.

5 “(3) *STANDARD FOR ISSUANCE OF ORDER.*—A
6 court may issue an *ex parte* Federal order only upon
7 a finding of probable cause to believe that—

8 “(A) the Federal order respondent poses a
9 risk of imminent personal injury to self or an-
10 other individual, by purchasing, possessing, or
11 receiving a firearm or ammunition; and

12 “(B) the order is necessary to prevent the
13 injury described in subparagraph (A).

14 “(4) *DURATION.*—An *ex parte* Federal order
15 shall expire on the earlier of—

16 “(A) the date that is 14 days after the date
17 of issuance; or

18 “(B) the date on which the court determines
19 whether to issue a long-term Federal order with
20 respect to the respondent.

21 “(d) *LONG-TERM FEDERAL ORDERS.*—

22 “(1) *HEARING REQUIRED.*—If a court receives a
23 petition for a long-term Federal extreme risk protec-
24 tion order for a respondent under subsection (b), the
25 court shall hold a hearing to determine whether to

1 *issue a long-term Federal order with respect to the re-*
2 *spondent either—*

3 “(A)(i) *if the court issues an ex parte order*
4 *with respect to the respondent, not later than 72*
5 *hours after the ex parte order is served on the re-*
6 *spondent; or*

7 “(i) *if the respondent waives the right to a*
8 *hearing within the 72-hour period under clause*
9 *(i), or the court does not issue an ex parte order,*
10 *within 14 days after the date on which the court*
11 *receives the petition; or*

12 “(B) *in no event later than 14 days after*
13 *the date on which the court receives the petition.*

14 “(2) *NOTICE AND OPPORTUNITY TO BE HEARD.—*

15 “(A) *IN GENERAL.—The court shall provide*
16 *the Federal order respondent with notice and the*
17 *opportunity to be heard at a hearing under this*
18 *subsection, sufficient to protect the due process*
19 *rights of the respondent.*

20 “(B) *RIGHT TO COUNSEL.—*

21 “(i) *IN GENERAL.—At a hearing under*
22 *this subsection, the Federal order respondent*
23 *may be represented by counsel who is—*

24 “(I) *chosen by the respondent; and*

1 “(II) authorized to practice at
2 such a hearing.

3 “(ii) COURT-PROVIDED COUNSEL.—If
4 the Federal order respondent is financially
5 unable to obtain representation by counsel,
6 the court, at the request of the respondent,
7 shall ensure, to the extent practicable, that
8 the respondent is represented by an attorney
9 with respect to the petition.

10 “(3) BURDEN OF PROOF; STANDARD.—At a hear-
11 ing under this subsection, the Federal order peti-
12 tioner—

13 “(A) shall have the burden of proving all
14 material facts; and

15 “(B) shall be required to demonstrate, by
16 clear and convincing evidence, that—

17 “(i) the respondent to such order poses
18 a risk of personal injury to self or another
19 individual, during the period to be covered
20 by the proposed Federal extreme risk protec-
21 tion order, by purchasing, possessing, or re-
22 ceiving a firearm or ammunition; and

23 “(ii) the order is necessary to prevent
24 the injury described in clause (i).

1 “(4) *ISSUANCE.*—Upon a showing of clear and
2 *convincing evidence under paragraph (3), the court*
3 *shall issue a long-term Federal order with respect to*
4 *the respondent that shall be in effect for a period of*
5 *not more than 180 days.*

6 “(5) *DENIAL.*—If the court finds that there is
7 *not clear and convincing evidence to support the*
8 *issuance of a long-term Federal order, the court shall*
9 *dissolve any ex parte Federal order then in effect with*
10 *respect to the respondent.*

11 “(6) *RENEWAL.*—

12 “(A) *NOTICE OF SCHEDULED EXPIRA-*
13 *TION.*—Thirty days before the date on which a
14 *long-term Federal order is scheduled to expire,*
15 *the court that issued the order shall—*

16 “(i) *notify the petitioner and the re-*
17 *spondent to such order that the order is*
18 *scheduled to expire; and*

19 “(ii) *advise the petitioner and the re-*
20 *spondent of the procedures for seeking a re-*
21 *newal of the order under this paragraph.*

22 “(B) *PETITION.*—If a family or household
23 *member of the Federal order respondent, or a*
24 *law enforcement officer, believes that the condi-*
25 *tions under paragraph (3)(B) continue to apply*

1 *with respect to a respondent who is subject to a*
2 *long-term Federal order, the family or household*
3 *member or law enforcement officer may submit*
4 *to the court that issued the order a petition for*
5 *a renewal of the order.*

6 “(C) *HEARING.*—*A court that receives a pe-*
7 *tition submitted under subparagraph (B) shall*
8 *hold a hearing to determine whether to issue a*
9 *renewed long-term Federal order with respect to*
10 *the respondent.*

11 “(D) *APPLICABLE PROCEDURES.*—*The re-*
12 *quirements under paragraphs (2) through (5)*
13 *shall apply to the consideration of a petition for*
14 *a renewed long-term Federal order submitted*
15 *under subparagraph (B) of this paragraph.*

16 “(E) *ISSUANCE.*—*Upon a showing by clear*
17 *and convincing evidence that the conditions*
18 *under paragraph (3)(B) continue to apply with*
19 *respect to the respondent, the court shall issue a*
20 *renewed long-term Federal order with respect to*
21 *the respondent.*

22 “(e) *FACTORS TO CONSIDER.*—*In determining whether*
23 *to issue a Federal extreme risk protection order, a court—*

24 “(1) *shall consider factors including—*

1 “(A) a recent threat or act of violence by the
2 respondent directed toward another individual;

3 “(B) a recent threat or act of violence by the
4 respondent directed toward self;

5 “(C) a recent act of cruelty to an animal by
6 the respondent; and

7 “(D) evidence of ongoing abuse of a con-
8 trolled substance or alcohol by the respondent
9 that has led to a threat or act of violence directed
10 to self or another individual; and

11 “(2) may consider other factors, including—

12 “(A) the reckless use, display, or bran-
13 dishing of a firearm by the respondent;

14 “(B) a history of violence or attempted vio-
15 lence by the respondent against another indi-
16 vidual; and

17 “(C) evidence of an explicit or implicit
18 threat made by the person through any medium
19 that demonstrate that the person poses a risk of
20 personal injury to self or another individual.

21 “(f) *RELINQUISHMENT OF FIREARMS AND AMMUNI-*
22 *TION.*—

23 “(1) *ORDER OF SURRENDER.*—Upon issuance of
24 an *ex parte* Federal order or long-term Federal order,
25 the court shall order the respondent to such order to

1 *surrender all firearms and ammunition that the re-*
2 *spondent possesses or owns, in or affecting interstate*
3 *commerce, as well as any permit authorizing the re-*
4 *spondent to purchase or possess firearms (including a*
5 *concealed carry permit), to—*

6 “(A) *the United States Marshals Service; or*

7 “(B) *a designated law enforcement officer.*

8 “(2) *SURRENDER AND REMOVAL.—*

9 “(A) *MANNER OF SERVICE.—*

10 “(i) *PERSONAL SERVICE.—Except as*
11 *provided in clause (ii), a United States*
12 *marshal or designated law enforcement offi-*
13 *cer shall serve a Federal extreme risk pro-*
14 *tection order on a respondent by handing*
15 *the order to the respondent to such order.*

16 “(ii) *ALTERNATIVE SERVICE.—If the*
17 *respondent cannot reasonably be located for*
18 *service as described in clause (i), a Federal*
19 *extreme risk protection order may be served*
20 *on the respondent in any manner author-*
21 *ized under the Federal Rules of Civil Proce-*
22 *dure.*

23 “(B) *REMOVAL.—Except as provided in*
24 *subparagraph (C), a United States marshal or*
25 *designated law enforcement officer serving a Fed-*

1 *eral extreme risk protection order personally on*
2 *the respondent shall—*

3 “(i) request that all firearms and am-
4 munition, in or affecting interstate com-
5 merce, as well as any permit authorizing
6 the respondent to purchase or possess fire-
7 arms (including a concealed carry permit),
8 that the respondent possesses or owns—

9 “(I) be immediately surrendered
10 to the United States marshal or des-
11 ignated law enforcement officer; or

12 “(II) at the option of the respond-
13 ent, be immediately surrendered and
14 sold to a federally licensed firearms
15 dealer; and

16 “(ii) take possession of all firearms
17 and ammunition described in clause (i)
18 that are not sold under subclause (II) of
19 that clause, as well as any permit described
20 in that clause, that are—

21 “(I) surrendered;

22 “(II) in plain sight; or

23 “(III) discovered pursuant to a
24 lawful search.

1 “(C) *ALTERNATIVE SURRENDER.*—If a
2 *United States marshal or designated law enforce-*
3 *ment officer is not able to personally serve a*
4 *Federal extreme risk protection order under sub-*
5 *paragraph (A)(i), or is not reasonably able to*
6 *take custody of the firearms, ammunition, and*
7 *permits under subparagraph (B), the respondent*
8 *shall surrender the firearms, ammunition, and*
9 *permits in a safe manner to the control of a*
10 *United States marshal or designated law enforce-*
11 *ment officer not later than 48 hours after being*
12 *served with the order.*

13 “(3) *RECEIPT.*—

14 “(A) *ISSUANCE.*—At the time of surrender
15 or removal under paragraph (2), a United States
16 marshal or designated law enforcement officer
17 taking possession of a firearm, ammunition, or
18 a permit pursuant to a Federal extreme risk pro-
19 tection order shall—

20 “(i) issue a receipt identifying all fire-
21 arms, ammunition, and permits that have
22 been surrendered or removed; and

23 “(ii) provide a copy of the receipt
24 issued under clause (i) to the respondent to
25 such order.

1 “(B) *FILING*.—Not later than 72 hours after
2 issuance of a receipt under subparagraph (A),
3 the United States marshal who issued the receipt
4 or designated another law enforcement officer to
5 do so shall—

6 “(i) *file the original receipt issued*
7 *under subparagraph (A) of this paragraph*
8 *with the court that issued the Federal ex-*
9 *treme risk protection order; and*

10 “(ii) *ensure that the United States*
11 *Marshals Service retains a copy of the re-*
12 *ceipt.*

13 “(C) *DESIGNATED LAW ENFORCEMENT OF-*
14 *FICER*.—If a designated law enforcement officer
15 issues a receipt under subparagraph (A), the offi-
16 cer shall submit the original receipt and a copy
17 of the receipt to the appropriate United States
18 marshal to enable the United States marshal to
19 comply with subparagraph (B).

20 “(4) *FORFEITURE*.—If a respondent knowingly
21 attempts, in violation of a Federal extreme risk pro-
22 tection order, to access a firearm, ammunition, or a
23 permit that was surrendered or removed under this
24 subsection, the firearm, ammunition, or permit shall

1 *be subject to seizure and forfeiture under section*
2 *924(d).*

3 *“(g) RETURN OF FIREARMS AND AMMUNITION.—*

4 *“(1) NOTICE.—If a Federal extreme risk protec-*
5 *tion order is dissolved, or expires and is not renewed,*
6 *the court that issued the order shall order the United*
7 *States Marshals Service to—*

8 *“(A) confirm, through the national instant*
9 *criminal background check system and any other*
10 *relevant law enforcement databases, that the re-*
11 *spondent to such order may lawfully own and*
12 *possess firearms and ammunition; and*

13 *“(B)(i) if the respondent may lawfully own*
14 *and possess firearms and ammunition, notify the*
15 *respondent that the respondent may retrieve each*
16 *firearm, ammunition, or permit surrendered by*
17 *or removed from the respondent under subsection*
18 *(f); or*

19 *“(ii) if the respondent may not lawfully*
20 *own or possess firearms and ammunition, notify*
21 *the respondent that each firearm, ammunition,*
22 *or permit surrendered by or removed from the re-*
23 *spondent under subsection (f) will be returned*
24 *only when the respondent demonstrates to the*
25 *United States Marshals Service that the respond-*

1 *ent may lawfully own and possess firearms and*
2 *ammunition.*

3 “(2) *RETURN.*—*If a Federal extreme risk protec-*
4 *tion order is dissolved, or expires and is not renewed,*
5 *and the United States Marshals Service confirms*
6 *under paragraph (1)(A) that the respondent may law-*
7 *fully own and possess firearms and ammunition, the*
8 *court that issued the order shall order the entity that*
9 *possesses each firearm, ammunition, or permit sur-*
10 *rendered by or removed from the respondent under*
11 *subsection (f) to return those items to the respondent.*

12 “(h) *RETURN OF FIREARMS AND AMMUNITION IM-*
13 *PROPERLY RECEIVED.*—*If a court, in a hearing under sub-*
14 *section (d), determines that a firearm or ammunition sur-*
15 *rendered by or removed from a respondent under subsection*
16 *(f) is owned by an individual other than the respondent,*
17 *the court may order the United States marshal or des-*
18 *ignated law enforcement officer in possession of the firearm*
19 *or ammunition to transfer the firearm or ammunition to*
20 *that individual if—*

21 “(1) *the individual may lawfully own and pos-*
22 *sess firearms and ammunition; and*

23 “(2) *the individual will not provide the respond-*
24 *ent with access to the firearm or ammunition.*

1 “(i) *PENALTY FOR FALSE REPORTING OR FRIVOLOUS*
2 *PETITIONS.*—*An individual who knowingly submits mate-*
3 *rially false information to the court in a petition for a Fed-*
4 *eral extreme risk protection order under this section, or who*
5 *knowingly files such a petition that is frivolous, unreason-*
6 *able, or without foundation, shall be fined not more than*
7 *\$5,000, or imprisoned not more than 5 years, or both, except*
8 *to the extent that a greater sentence is otherwise provided*
9 *by any other provision of law, as the court deems necessary*
10 *to deter such abuse of process.*

11 “(j) *MODEL POLICY.*—

12 “(1) *IN GENERAL.*—*The Director shall draft a*
13 *model policy to maximize the accessibility of Federal*
14 *extreme risk protection orders.*

15 “(2) *CONTENTS.*—*In drafting the model policy*
16 *under paragraph (1), the Director shall—*

17 “(A) *ensure that State, Tribal, and local*
18 *law enforcement officers and members of the pub-*
19 *lic without legal training are able to easily file*
20 *petitions for Federal extreme risk protection or-*
21 *ders;*

22 “(B) *prescribe outreach efforts by employees*
23 *of the district courts of the United States to fa-*
24 *miliarize relevant law enforcement officers and*

1 *the public with the procedures for filing peti-*
2 *tions, either—*

3 *“(i) through direct outreach; or*

4 *“(ii) in coordination with—*

5 *“(I) relevant officials in the execu-*
6 *tive or legislative branch of the Federal*
7 *Government; or*

8 *“(II) with relevant State, Tribal,*
9 *and local officials;*

10 *“(C) prescribe policies for allowing the fil-*
11 *ing of petitions and prompt adjudication of peti-*
12 *tions on weekends and outside of normal court*
13 *hours;*

14 *“(D) prescribe policies for coordinating*
15 *with law enforcement agencies to ensure the safe,*
16 *timely, and effective service of Federal extreme*
17 *risk protection orders and relinquishment of fire-*
18 *arms, ammunition, and permits, as applicable;*
19 *and*

20 *“(E) identify governmental and non-govern-*
21 *mental resources and partners to help officials of*
22 *the district courts of the United States coordi-*
23 *nate with civil society organizations to ensure*
24 *the safe and effective implementation of this sec-*
25 *tion.*

1 “(k) *REPORTING.*—

2 “(1) *INDIVIDUAL REPORTS.*—

3 “(A) *IN GENERAL.*—Not later than 2 court
4 days after the date on which a court issues or
5 dissolves a Federal extreme risk protection order
6 under this section or a Federal extreme risk pro-
7 tection order expires without being renewed, the
8 court shall notify—

9 “(i) the Attorney General;

10 “(ii) each relevant mental health agen-
11 cy in the State in which the order is issued;
12 and

13 “(iii) State and local law enforcement
14 officials in the jurisdiction in which the
15 order is issued, including the national in-
16 stant criminal background check system sin-
17 gle point of contact for the State of resi-
18 dence of the respondent, where applicable.

19 “(B) *FORMAT.*—A court shall submit a no-
20 tice under subparagraph (A) in an electronic for-
21 mat, in a manner prescribed by the Attorney
22 General.

23 “(C) *UPDATE OF DATABASES.*—As soon as
24 practicable and not later than 5 days after re-
25 ceiving a notice under subparagraph (A), the At-

1 *torney General shall update the background*
2 *check databases of the Attorney General to reflect*
3 *the prohibitions articulated in the applicable*
4 *Federal extreme risk protection order.*

5 *“(2) ANNUAL REPORTS.—Not later than 1 year*
6 *after the date of enactment of the Federal Extreme*
7 *Risk Protection Order Act of 2021, and annually*
8 *thereafter, the Director shall submit to the Committee*
9 *on the Judiciary of the Senate and the Committee on*
10 *the Judiciary of the House of Representatives a report*
11 *that includes, with respect to the preceding year—*

12 *“(A) the number of petitions for ex parte*
13 *Federal orders filed, as well as the number of*
14 *such orders issued and the number denied,*
15 *disaggregated by—*

16 *“(i) the jurisdiction;*

17 *“(ii) whether the individual authorized*
18 *under subsection (b) to petition for a Fed-*
19 *eral extreme risk protection order is a law*
20 *enforcement officer, or a family or household*
21 *member, and in the case of a family or*
22 *household member, which of subparagraphs*
23 *(A) through (G) of subsection (a)(6) de-*
24 *scribes the relationship; and*

1 “(iii) the alleged danger posed by the
2 Federal order respondent, including whether
3 the danger involved a risk of suicide, unin-
4 tentional injury, domestic violence, or other
5 interpersonal violence;

6 “(B) the number of petitions for long-term
7 Federal orders filed, as well as the number of
8 such orders issued and the number denied,
9 disaggregated by—

10 “(i) the jurisdiction;

11 “(ii) whether the individual authorized
12 under subsection (b) to petition for a Fed-
13 eral extreme risk protection order is a law
14 enforcement officer, or a family or household
15 member, and in the case of a family or
16 household member, which of subparagraphs
17 (A) through (G) of subsection (a)(6) de-
18 scribes the relationship; and

19 “(iii) the alleged danger posed by the
20 Federal order respondent, including whether
21 the danger involved a risk of suicide, unin-
22 tentional injury, domestic violence, or other
23 interpersonal violence;

24 “(C) the number of petitions for renewals of
25 long-term Federal orders filed, as well as the

1 *number of such orders issued and the number de-*
2 *nied;*

3 “(D) *the number of cases in which a court*
4 *has issued a penalty for false reporting or frivo-*
5 *lous petitions;*

6 “(E) *demographic data of Federal order pe-*
7 *tioners, including race, ethnicity, national ori-*
8 *gin, sex, gender, age, disability, average annual*
9 *income, and English language proficiency, if*
10 *available;*

11 “(F) *demographic data of Federal order re-*
12 *spondents, including race, ethnicity, national or-*
13 *igin, sex, gender, age, disability, average annual*
14 *income, and English language proficiency, if*
15 *available; and*

16 “(G) *the total number of firearms removed*
17 *pursuant to Federal extreme risk protection or-*
18 *ders, and, if available, the number of firearms*
19 *removed pursuant to each such order.*

20 “(I) *TRAINING FOR FEDERAL LAW ENFORCEMENT OF-*
21 *FICERS.—*

22 “(1) *TRAINING REQUIREMENTS.—The head of*
23 *each Federal law enforcement agency shall require*
24 *each Federal law enforcement officer employed by the*
25 *agency to complete training in the safe, impartial, ef-*

1 *fective, and equitable use and administration of Fed-*
2 *eral extreme risk protection orders, including training*
3 *to address—*

4 *“(A) bias based on race and racism, eth-*
5 *nicity, gender, sexual orientation, gender iden-*
6 *tity, religion, language proficiency, mental*
7 *health condition, disability, and classism in the*
8 *use and administration of Federal extreme risk*
9 *protection orders;*

10 *“(B) the appropriate use of Federal extreme*
11 *risk protection orders in cases of domestic vio-*
12 *lence, including the applicability of other policies*
13 *and protocols to address domestic violence in sit-*
14 *uations that may also involve Federal extreme*
15 *risk protection orders and the necessity of safety*
16 *planning with the victim before law enforcement*
17 *petitions for and executes a Federal extreme risk*
18 *protection order, if applicable;*

19 *“(C) interacting with persons with mental,*
20 *behavioral, or physical disabilities, or emotional*
21 *distress, including de-escalation techniques and*
22 *crisis intervention;*

23 *“(D) training on community relations; and*

24 *“(E) best practices for referring persons*
25 *subject to Federal extreme risk protection orders*

1 *and associated victims of violence to social serv-*
2 *ice providers that may be available in the juris-*
3 *isdiction and appropriate for those individuals,*
4 *including health care, mental health, substance*
5 *abuse, and legal services, employment and voca-*
6 *tional services, housing assistance, case manage-*
7 *ment, and veterans and disability benefits.*

8 “(2) *TRAINING DEVELOPMENT.*—*Federal law en-*
9 *forcement agencies developing law enforcement train-*
10 *ing required under this section shall seek advice from*
11 *domestic violence service providers (including cul-*
12 *turally specific (as defined in section 40002 of the Vi-*
13 *olence Against Women Act of 1994 (34 U.S.C.*
14 *12291)) providers), social service providers, suicide*
15 *prevention advocates, violence intervention specialists,*
16 *law enforcement agencies, mental health disability ex-*
17 *perts, and other community groups working to reduce*
18 *suicides and violence, including domestic violence,*
19 *within the State.*

20 “(m) *RULE OF CONSTRUCTION.*—*Nothing in this sec-*
21 *tion or shall be construed to alter the requirements of sub-*
22 *sections (d)(8) or (g)(8) of section 922, related to domestic*
23 *violence protective orders.”.*

24 “(b) *TECHNICAL AND CONFORMING AMENDMENTS.*—

1 (1) *TABLE OF SECTIONS.*—*The table of sections*
2 *for chapter 44 of title 18, United States Code, is*
3 *amended by adding at the end the following:*

 “932. *Extreme risk protection orders.*”.

4 (2) *FORFEITURE.*—*Section 924(d)(3) of title 18,*
5 *United States Code, is amended—*

6 (A) *in subparagraph (E), by striking “and”*
7 *at the end;*

8 (B) *in subparagraph (F), by striking the*
9 *period at the end and inserting “; and”; and*

10 (C) *by adding at the end the following:*

11 “*(G) any attempt to violate a Federal extreme*
12 *risk protection order issued under section 932.*”.

13 **SEC. 3. FEDERAL FIREARMS PROHIBITION.**

14 *Section 922 of title 18, United States Code, is amend-*
15 *ed—*

16 (1) *in subsection (d)—*

17 (A) *in paragraph (8)(B)(ii), by striking*
18 “*or*” *at the end;*

19 (B) *in paragraph (9), by striking the period*
20 *at the end and inserting “; or”; and*

21 (C) *by inserting after paragraph (9) the fol-*
22 *lowing:*

23 “*(10) is subject to a court order that—*

1 “(A)(i) was issued after a hearing of which
2 the person received actual notice, and at which
3 the person had an opportunity to participate; or

4 “(ii) in the case of an *ex parte* order, rel-
5 ative to which notice and opportunity to be
6 heard are provided—

7 “(I) within the time required by Fed-
8 eral, State, Tribal, or territorial law; and

9 “(II) in any event within a reasonable
10 time after the order is issued, sufficient to
11 protect the due process rights of the person;

12 “(B) prevents such person from possessing
13 or receiving firearm; and

14 “(C) includes a finding that such person
15 poses a danger of harm to self or others.”; and
16 (2) in subsection (g)—

17 (A) in paragraph (8)(C)(ii), by striking
18 “or” at the end;

19 (B) in paragraph (9), by striking the
20 comma at the end and inserting “; or”; and

21 (C) by inserting after paragraph (9) the fol-
22 lowing:

23 “(10) is subject to a court order that—

1 “(A)(i) was issued after a hearing of which
2 the person received actual notice, and at which
3 the person had an opportunity to participate; or

4 “(ii) in the case of an *ex parte* order, rel-
5 ative to which notice and opportunity to be
6 heard are provided—

7 “(I) within the time required by Fed-
8 eral, State, Tribal, or territorial law; and

9 “(II) in any event within a reasonable
10 time after the order is issued, sufficient to
11 protect the due process rights of the person;

12 “(B) prevents such a person from possessing
13 or receiving firearms; and

14 “(C) includes a finding that such person
15 poses a danger of harm to self or others.”.

16 **SEC. 4. SEVERABILITY.**

17 *If any provision of this Act, or an amendment made*
18 *by this Act, or the application of such provision to any per-*
19 *son or circumstance, is held to be invalid, the remainder*
20 *of this Act, or an amendment made by this Act, or the ap-*
21 *plication of such provision to other persons or cir-*
22 *cumstances, shall not be affected.*

1 **SEC. 5. EFFECTIVE DATE.**

2 *This Act and the amendments made by this Act shall*
3 *take effect on the date that is 180 days after the date of*
4 *enactment of this Act.*

5 **SEC. 6. PREEMPTION.**

6 *Nothing in this Act or an amendment made by this*
7 *Act shall be construed to preempt any State law or policy.*

Union Calendar No. 256

117TH CONGRESS
2^D SESSION

H. R. 2377

[Report No. 117-342]

A BILL

To authorize the issuance of extreme risk
protection orders.

JUNE 3, 2022

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed