

HOUSE No. 3081

The Commonwealth of Massachusetts

PRESENTED BY:

David Paul Linsky

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing extreme risk protective orders.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>
<i>Daniel Cullinane</i>	<i>12th Suffolk</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>

<i>Mike Connolly</i>	<i>26th Middlesex</i>
<i>Paul Tucker</i>	<i>7th Essex</i>
<i>Brian Murray</i>	<i>10th Worcester</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>
<i>Cynthia S. Creem</i>	<i>First Middlesex and Norfolk</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>

HOUSE No. 3081

By Mr. Linsky of Natick, a petition (accompanied by bill, House, No. 3081) of David Paul Linsky and others relative to extreme risk protective orders. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act establishing extreme risk protective orders.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Clause (vii) of paragraph (1) of section 129B of chapter 140 of the General
2 Laws, as appearing in the 2014 Official Edition, is hereby amended by adding the following
3 words:- or a temporary or 1-year extreme risk protective order issued pursuant to chapter 209E
4 or similar order issued by another jurisdiction;.

5 SECTION 2. Clause (vi) of paragraph (d) of section 131 of said chapter 140, as so
6 appearing, is hereby amended by adding the following words:- or a temporary or 1-year extreme
7 risk protective order issued pursuant to chapter 209E or similar order issued by another
8 jurisdiction.

9 SECTION 3. The General Laws are hereby amended by inserting after chapter 209D the
10 following chapter:-

11 CHAPTER 209E

12 EXTREME RISK PROTECTIVE ORDERS

13 Section 1. As used in this chapter, the following terms shall have the following
14 meanings, unless the context clearly requires otherwise:-

15 “Court”, the superior, district, or Boston municipal court departments of the trial court.

16 “Extreme risk protective order”, an order in writing, issued and signed by the court
17 pursuant to section 6, prohibiting and enjoining a named person from having in his or her
18 custody or control, owning, purchasing, possessing, or receiving any firearms or ammunition for
19 a period of 1 year.

20 “Family or household member”, a person who:

21 (a) is or was married to the respondent;

22 (b) is or was residing with the respondent in the same household;

23 (c) is or was related by blood or marriage to the respondent;

24 (d) has or is having a child in common with the respondent, regardless of whether they
25 have ever married or lived together; or

26 (e) is or has been in a substantive dating or engagement relationship with the respondent,
27 which shall be adjudged by district or Boston municipal courts consideration of the following
28 factors: (1) the length of time of the relationship; (2) the type of relationship; (3) the frequency of
29 interaction between the parties; and (4) if the relationship has been terminated by either person,
30 the length of time elapsed since the termination of the relationship.

31 “Health care provider”, a licensed physician, licensed clinical psychologist, licensed
32 social worker or licensed mental health clinician.

33 “Petitioner”, a family or household member, health care provider, or law enforcement
34 officer or district attorney with jurisdiction over the respondent’s residence, who files a petition
35 requesting a temporary or 1-year extreme risk protective order.

36 "Protective order issued by another jurisdiction", any injunction or other order issued by a
37 court of another state, territory or possession of the United States, the Commonwealth of Puerto
38 Rico, or the District of Columbia, or tribal court that is issued for the purpose of prohibiting a
39 person from having in his or her custody or control, owning, purchasing, possessing, or receiving
40 any firearms or ammunition because that person poses a significant danger of causing physical
41 harm to themselves, the petitioner, or anyone else by having in his or her custody or control,
42 owning, purchasing, possessing, or receiving such firearm or ammunition.

43 “Respondent”, the person identified in the petition filed pursuant to this chapter, against
44 whom an order is sought.

45 “Temporary extreme risk protective order”, a written order issued pursuant to section 8,
46 prohibiting and enjoining a named person from having in his or her custody or control, owning,
47 purchasing, possessing, or receiving any firearms or ammunition for a period of 10 days, prior to
48 a hearing for a 1-year extreme risk protective order.

49 Section 2. Proceedings under this chapter shall be filed, heard and determined in the
50 superior court department or respective divisions of the district court departments or the Boston
51 municipal court department having jurisdiction over the respondent’s residence.

52 Section 3. The administrative justices of the superior court, district court and the Boston
53 municipal court departments shall jointly promulgate a form of petition for use under this chapter

54 which shall be in such form and language to permit a person to prepare and file such petition pro
55 se.

56 Section 4. Upon the filing of a petition pursuant to this chapter, a petitioner shall be
57 informed that the proceedings hereunder are civil in nature and that violations of orders issued
58 hereunder are criminal in nature. No filing fee shall be charged for the filing of the petitioner.
59 Neither the petitioner nor the petitioner's attorney shall be charged for certified copies of any
60 orders entered by the court, or any copies of the file reasonably required for future court action or
61 as a result of the loss or destruction of petitioner's copies.

62 Section 5. (a) A family or household member, health care provider, or a law enforcement
63 officer or district attorney with jurisdiction over the respondent's residence, may seek an extreme
64 risk protective order by filing a verified petition on a form approved pursuant to section 3 in the
65 superior, district, or the Boston municipal court department having jurisdiction over the
66 respondent's residence.

67 A healthcare provider may seek an extreme risk protective order or a temporary extreme
68 risk protective order against a patient pursuant to this chapter when: (i) the patient has
69 communicated to the healthcare provider an explicit threat to kill or inflict serious bodily injury
70 upon a reasonably identified victim or victims, the patient has the apparent intent and ability to
71 carry out the threat, and the health care provider knows or has reason to believe that the patient
72 controls, owns or possesses a firearm, and (ii) the patient has a history of physical violence
73 which is known to the healthcare provider, the healthcare provider has a reasonable basis to
74 believe that there is a clear and present danger that the patient will attempt to kill or inflict
75 serious bodily injury against a reasonably identified victim or victims, and the health care

76 provider knows or has reason to believe that the patient controls, owns or possesses a firearm.
77 Healthcare providers shall otherwise be bound by federal law and regulations relative to the
78 confidentiality of patient health information.

79 (b) The petition shall set forth the grounds for issuance of the order and shall describe the
80 number, types, and locations of any firearms or ammunition presently believed by the petitioner
81 to be owned, possessed or controlled by the respondent. The petition shall also state whether
82 there is an existing abuse prevention order pursuant to chapter 209A in effect governing the
83 respondent, and whether there is any pending lawsuit, complaint, petition, or other action
84 between the parties under the laws of this state. The court administrator shall verify the terms of
85 any existing order governing the parties. The court may not delay granting relief because of the
86 existence of a pending action between the parties or the necessity of verifying the terms of an
87 existing order. An extreme risk protective order may be granted whether or not there is a pending
88 action between the parties.

89 (c) Upon receipt of the petition, the court shall set a date for a hearing within 10 days,
90 regardless of whether the court issues a temporary extreme risk protective order pursuant to
91 section 8. Written notice of the hearing shall be personally served on the respondent by a law
92 enforcement officer, or if personal service by a law enforcement officer is not possible, in
93 accordance with the laws relative to service of process in the commonwealth. If the court does
94 issue a temporary extreme risk protective order pursuant to section 8, notice of the hearing shall
95 be served on the respondent with the temporary order. Written notice of the hearing shall be sent
96 to the petitioner by certified mail.

97 Section 6. (a) A petitioner requesting an extreme risk protective order shall include in the
98 petition detailed allegations based on personal knowledge that the respondent poses a significant
99 danger of causing physical harm to themselves, the petitioner, or others by having in his or her
100 custody or control, owning, purchasing, possessing, or receiving a firearm or ammunition.

101 (b) Before a hearing for an extreme risk protective order, the court shall:

102 (i) ensure that a reasonable search has been conducted of all available records to
103 determine whether the respondent owns any firearms or ammunition, including confirmation
104 from the local licensing authority with jurisdiction over the respondent of the firearms owned or
105 possessed by the respondent; and

106 (i) ensure that a reasonable search has been conducted for criminal history records related
107 to the respondent.

108 (c) In determining whether to issue an extreme risk protective order under this section,
109 the court shall consider all relevant evidence presented by the petitioner, including an
110 examination under oath of the petitioner and any witnesses the petitioner may produce, and may
111 also consider other relevant evidence relative to the respondent, including, but not limited to:

112 (i) unlawful, reckless or negligent use, display, storage, possession or brandishing of a
113 firearm;

114 (ii) acts or threats of violence against oneself or another, whether or not this violence
115 involves a firearm;

116 (iii) violation of a protective order issued pursuant to chapter 209A or a similar law in
117 another state;

118 (iv) abuse of controlled substances or alcohol or any criminal offense that involves
119 controlled substances or alcohol; or

120 (v) the recent acquisition of firearms, ammunition, or other deadly weapons.

121 The court may also consider the time that has elapsed since the events described above.

122 The respondent shall have an opportunity to present evidence and witnesses at the
123 respondent's discretion, to rebut the evidence presented by the petitioner. The court shall
124 consider all relevant evidence presented by the respondent.

125 (d) If the court finds that the petitioner has proven by a preponderance of the evidence
126 that the respondent poses a significant danger of physical harm to themselves, the petitioner, or
127 anyone else by having in his or her custody or control, owning, purchasing, possessing, or
128 receiving a firearm or ammunition, the court shall issue an extreme risk protective order, which
129 shall prohibit the respondent from having in his or her custody or control, owning, possessing,
130 purchasing, or receiving, or attempting to purchase or receive a firearm or ammunition while the
131 order is in effect for a period of 1-year, unless terminated sooner pursuant to section 7.

132 (e) An extreme risk protective order issued pursuant to this section shall include all of the
133 following:

134 (i) a statement that the respondent may not have in his or her custody or control, own,
135 possess, purchase, or receive, or attempt to purchase or receive a firearm or ammunition while
136 the order is in effect, which shall be for a period of 1 year unless otherwise terminated sooner;

137 (ii) a description of the requirements for relinquishment of firearms and ammunition
138 pursuant to section 9;

- 139 (iii) a statement of the grounds supporting the issuance of the order;
- 140 (iv) the date and time the order expires;
- 141 (v) the address of the court that issued the order;
- 142 (vi) a statement that the respondent shall have the right to request 1 hearing to terminate
- 143 the order at any time during its effective period; and
- 144 (vii) a statement that the respondent may seek the advice of an attorney as to any matter
- 145 connected with the order.

146 (f) An extreme risk protective order issued pursuant to this section shall be personally

147 served on the respondent with an order of suspension and surrender pursuant to section 9 by a

148 law enforcement officer, or if personal service by a law enforcement officer is not possible, in

149 accordance with state laws regarding service of process.

150 Section 7. (a) A respondent subject to an extreme risk protective order issued pursuant to

151 section 6 may submit 1 written request at any time during the effective period of the order for a

152 hearing to terminate the order.

153 (i) Upon receipt of the request for termination, the court shall set a date for a hearing.

154 Written notice of the request shall be served on the petitioner, and written notice of the hearing

155 shall be served on the petitioner and the respondent by certified mail. The hearing shall occur no

156 sooner than 14 days from the date of service of the request upon the petitioner.

157 (ii) The respondent seeking termination of the order shall have the burden of proving by a

158 preponderance of the evidence that the respondent does not pose a significant danger of causing

159 physical harm to themselves, the petitioner or others by having in his or her custody or control,
160 owning, purchasing, possessing, or receiving a firearm or ammunition.

161 (iii) If the court finds after the hearing that the respondent has met his or her burden, the
162 court shall terminate the order, and submit notice of such termination to the relevant agencies
163 pursuant to section 11.

164 (b) A petitioner may request a renewal of an extreme risk protective order at any time
165 within the 30 days prior to the expiration of the order. The court shall schedule a hearing on the
166 renewal of the order at least 14 days prior to the expiration of the order, if possible, and shall
167 send written notice by certified mail of such hearing to the petitioner. Written notice of the
168 hearing shall be personally served on the respondent by a law enforcement officer, or if personal
169 service by a law enforcement officer is not possible, in accordance with the laws relative to
170 service of process in the commonwealth.

171 (i) A court may, after notice and a hearing, renew an extreme risk protective order issued
172 pursuant this chapter if the court finds, by a preponderance of the evidence, that the respondent
173 continues to pose a significant danger of causing physical harm to themselves, the petitioner, or
174 others by having in his or her custody or control, owning, purchasing, possessing, or receiving a
175 firearm or ammunition.

176 (ii) In determining whether to renew an extreme risk protective order, the court shall
177 consider all relevant evidence presented by the petitioner, including an examination under oath
178 of the petitioner and any witnesses the petitioner may produce, and may also consider other
179 relevant evidence including, but not limited to evidence of the facts identified in subsection (c) of
180 section 6.

181 (iii) Upon the issuance of a renewed extreme risk protective order, the court shall issue an
182 order for suspension and surrender pursuant to section 9. An extreme risk protective order
183 renewed pursuant to this section shall expire after 1 year, subject to termination by further order
184 of the court at a hearing held pursuant to subsection (a) and further renewal by order of the court
185 pursuant to subsection (b).

186 Section 8. (a) Upon the filing of a petition under this chapter, and upon a request by the
187 petitioner, or a law enforcement officer or district attorney having jurisdiction over the
188 respondent's residence, the court may enter a temporary extreme risk protective order as it deems
189 necessary to prevent the substantial likelihood of immediate and present physical harm to the
190 respondent, petitioner, or another person. A temporary extreme risk protective order issued
191 pursuant to this section shall be issued or denied on the same day that the petition is submitted to
192 the court, unless the complaint is filed too late in the day to permit effective review, in which
193 case the order shall be issued or denied on the next day of judicial business.

194 (b) If the petitioner in the filed petition demonstrates the substantial likelihood of
195 immediate and present danger of physical harm, the court may enter such temporary extreme risk
196 protective orders without notice as it deems necessary to protect the respondent, the petitioner, or
197 another person from the immediate and present danger of physical harm and shall immediately
198 thereafter notify the respondent that the temporary order has been issued.

199 (c) Notice of the order shall be served on the respondent by a law enforcement officer.

200 The order shall include:

201 (i) A statement that the respondent may not have in his or her custody or control, own,
202 purchase, possess, receive, or attempt to purchase or receive a firearm or ammunition while the
203 order is in effect for a period of 10 days;

204 (ii) A description of the requirements for relinquishment of firearms and ammunition
205 under section 9;

206 (iii) A statement of the grounds asserted for the order; and

207 (iv) A notice of hearing to determine whether to continue the temporary order, or whether
208 to issue a 1-year extreme risk protective order if requested by the petitioner, no later than 10
209 court business days after such temporary order is entered.

210 (d) Before issuing a temporary extreme risk protective order the court shall: (i) ensure
211 that a reasonable search has been conducted of all available records to determine whether the
212 respondent owns any firearms or ammunition, (ii) confirm the firearms owned or possessed by
213 the respondent with the local licensing authority with jurisdiction over the respondent, (iii)
214 ensure that a reasonable search has been conducted for criminal history records related to the
215 respondent, and (iv) examine under oath the petitioner and any witnesses the petitioner may
216 produce.

217 Section 9. (a) Upon issuance of an extreme risk protective order or a temporary extreme
218 risk protective order pursuant to section 6 or 8, or a renewal of an existing extreme risk
219 protective order pursuant to section 7, the court shall order the immediate suspension and
220 surrender of any license to carry firearms and or firearms identification card which the
221 respondent may hold and order the respondent to surrender all firearms, rifles, shotguns, machine
222 guns and ammunition which the respondent then controls, owns or possesses, to the licensing

223 authority where the respondent resides. Order of such suspension and surrender of firearms shall
224 be appended to the copy of the extreme risk protective order, renewed extreme risk protective
225 order, or temporary extreme risk protective order served on the respondent pursuant to section 6,
226 7 or 8. Law enforcement officers, upon the service of said orders, shall immediately take
227 possession of all firearms, rifles, shotguns, machine guns, ammunition, any license to carry
228 firearms and any firearms identification cards in the control, ownership, or possession of the
229 respondent, to be brought to the licensing authority where the person resides. If someone other
230 than a law enforcement officer serves said orders upon the respondent, the respondent served
231 with the orders shall surrender all firearms and ammunition, within 8 hours of such service, to
232 the licensing authority where the respondent resides in accordance with section 129D of chapter
233 140. The licensing authority may store, transfer or otherwise dispose of any such weapon in
234 accordance with the provisions of said section 129D of said chapter 140. A suspension and
235 surrender order issued pursuant to this section shall continue so long as extreme risk protective
236 order or temporary extreme risk protective order to which it relates is in effect.

237 (b) Any violation of an order issued pursuant to this section shall be punishable by a fine
238 of not more than \$5,000, or by imprisonment for not more than 2 ½ years in a house of
239 correction, or by both such fine and imprisonment.

240 (c) Upon the filing of an affidavit by the respondent that a firearm, rifle, shotgun,
241 machine gun or ammunition is required in the performance of the respondent's employment, and
242 upon a request for an expedited hearing, the court shall order a hearing within 2 business days of
243 receipt of such affidavit and request, but only on the issue of surrender and suspension pursuant
244 to this section, and shall immediately notify the respondent and petitioner of such hearing in
245 writing.

246 Section 10. (a) Thirty days before a 1-year extreme risk protective order is set to expire, a
247 law enforcement agency holding any firearm or ammunition that has been surrendered pursuant
248 to the order shall notify the petitioner and the respondent that the order is set to expire. The
249 notice shall advise the petitioner of the procedures for seeking a renewal of the order pursuant to
250 section 7.

251 (b) If an extreme risk protective order is terminated or expires and is not renewed, a law
252 enforcement agency holding any firearm or ammunition that has been surrendered pursuant to
253 section 9 shall notify the respondent that he or she may request the return of the firearm or
254 ammunition. A law enforcement agency shall return any surrendered firearm or ammunition
255 requested by a respondent only after confirming, through a background check, that the
256 respondent is currently eligible to own or possess firearms and ammunition.

257 (c) A respondent who has surrendered any firearm or ammunition to a law enforcement
258 agency pursuant to section 9 and who does not wish to have the firearm or ammunition returned
259 or who is no longer eligible to own or possess firearms or ammunition may sell or transfer title of
260 the firearm or ammunition to a licensed firearms dealer. The law enforcement agency shall
261 transfer possession of the firearm or ammunition to a licensed firearms dealer only after the
262 dealer has displayed written proof of transfer of the firearm or ammunition from the respondent
263 to the dealer and the law enforcement has verified the transfer with the respondent.

264 (d) If a person other than the respondent claims title to any firearm or ammunition
265 surrendered pursuant to section 9, and he or she is determined by the law enforcement agency to
266 be the lawful owner of the firearm or ammunition, the firearm or ammunition shall be returned to
267 him or her.

268 (e) If the licensing authority cannot reasonably ascertain a lawful owner of any firearms
269 surrendered pursuant to this chapter within 180 days of expiration of the order to surrender the
270 firearms, the authority may, in its discretion, trade or dispose of surplus, donated, abandoned or
271 junk firearms, rifles, shotguns or machine guns or ammunition to properly licensed distributors
272 or firearms dealers. The proceeds of the sale or transfer shall be remitted or credited to the
273 municipality in which the authority presides to purchase weapons, equipment or supplies or for
274 violence reduction or suicide prevention; provided, however, that no firearm, rifle, shotgun or
275 machine gun or ammunition classified as having been used to carry out a criminal act pursuant to
276 section 131Q of chapter 140 shall be considered surplus, donated, abandoned or junk for the
277 purposes of this section.

278 Section 11. When the court is closed for business or the petitioner is unable to appear in
279 court because of severe hardship due to the petitioner's physical condition, any justice of the
280 superior, district or Boston municipal court departments may grant relief to the petitioner as
281 provided pursuant to sections 8 and 9, if the petitioner demonstrates a substantial likelihood of
282 immediate and present danger of the respondent causing physical harm to themselves, to the
283 petitioner or to anyone else. In the discretion of the justice, such relief may be granted and
284 communicated by telephone to an officer or employee of an appropriate law enforcement agency,
285 who shall record such order on a form of order promulgated for such use pursuant to section 3,
286 and shall deliver a copy of such order on the next court day to the clerk-magistrate of the court
287 having venue and jurisdiction over the matter. If relief has been granted without the filing of a
288 petition pursuant to this chapter, then the petitioner shall appear in court on the next available
289 business day to file the petition. If the petitioner in such a case is unable to appear in court
290 without severe hardship due to the petitioner's physical condition, then a representative may

291 appear in court on the petitioner's behalf and file the requisite petition with an affidavit setting
292 forth the circumstances preventing the petitioner from appearing personally. Any order issued
293 pursuant to this section shall have the same effect as a temporary extreme risk protective order
294 pursuant to section 8.

295 Any order issued pursuant to this section and any documentation in support thereof shall
296 be certified on the next court day by the clerk-magistrate or register of the court issuing such
297 order to the court having venue and jurisdiction over the matter. Such certification to the court
298 shall have the effect of commencing proceedings under this chapter and invoking the other
299 provisions of this chapter but shall not be deemed necessary for an emergency order issued under
300 this section to take effect. After such certification, the order shall be served upon the respondent
301 in accordance with this chapter , and the court shall set a hearing date for no later than 10 days
302 after the service of the order, as provided in this chapter, on the question of whether to issue a 1-
303 year extreme risk protective order pursuant to section 6.

304 Section 12. When considering a petition filed pursuant to this chapter, a judge shall cause
305 a search to be made of the records contained within the statewide domestic violence record
306 keeping system maintained by the office of the commissioner of probation and shall review the
307 resulting data to determine whether the named respondent has a civil or criminal record
308 involving domestic or other violence. Upon receipt of information that an outstanding warrant
309 exists against the named respondent, a judge shall order that the appropriate law enforcement
310 officials be notified and shall order that any information regarding the respondent's most recent
311 whereabouts shall be forwarded to such officials. In all instances where an outstanding warrant
312 exists, a judge shall make a finding, based upon all of the circumstances, as to whether an
313 imminent threat of physical harm exists to the respondent, the petitioner, or any other person. In

314 all instances where such an imminent threat of physical harm is found to exist, the judge shall
315 notify the appropriate law enforcement officials of such finding and such officials shall take all
316 necessary actions to execute any such outstanding warrant as soon as is practicable.

317 Upon an order for suspension or surrender issued pursuant to section 9, the court shall
318 transmit a report containing the respondent's name and identifying information and a statement
319 describing the respondent's alleged conduct and relationship to the petitioner to the department of
320 criminal justice information services. Upon the expiration, cancellation or revocation of the
321 order, the court shall transmit a report containing the respondent's name and identifying
322 information, a statement describing the respondent's alleged conduct and relationship to the
323 petitioner and an explanation that the order is no longer current or valid to the department of
324 criminal justice information services who shall transmit the report, pursuant to paragraph (h) of
325 section 167A of chapter 6, to the attorney general of the United States to be included in the
326 National Instant Criminal Background Check System.

327 Section 13. (a) The court shall notify the department of public safety, hereinafter in this
328 section referred to as the department, no later than 1 court day after issuing, renewing,
329 dissolving, or terminating a temporary or 1-year extreme risk protective order pursuant to this
330 chapter.

331 (b) The information required to be submitted to department pursuant to this section shall
332 include identifying information about the respondent and the date the order was issued, renewed,
333 dissolved or terminated. In the case of a 1-year order, the court shall include the date the order is
334 set to expire. The court shall also indicate whether the respondent to the 1-year extreme risk

335 protective order was present in court to be advised of the contents of the order or if the
336 respondent failed to appear.

337 (c) Within 1 business day of service of an extreme risk protective order or a temporary
338 extreme risk protective order on the respondent, a law enforcement officer who serves said order
339 or the clerk of the court shall submit the proof of service directly into the department's database,
340 including his or her name and law enforcement agency.

341 (d) The information to be submitted to the department under this section shall be
342 submitted in an electronic format, in a manner prescribed by the department. The department
343 shall maintain a searchable database of this information available to law enforcement agencies
344 upon request. This information shall not be accessible to the public.

345 (e) The department shall immediately make information about a temporary or 1-year
346 extreme risk protective order issued, renewed, or terminated pursuant to this chapter available to
347 the National Instant Criminal Background Check System for the purposes of firearm purchaser
348 background checks.

349 (f) The department shall promulgate regulations as necessary to carry out this section.

350 Section 14. (a) Any protective order issued by another jurisdiction, as defined in section
351 1, shall be given full faith and credit throughout the commonwealth and enforced as if it were
352 issued in the commonwealth for as long as the order is in effect in the issuing jurisdiction.

353 (b) A person who filed the petition requesting a protective order issued by another
354 jurisdiction may file such order in the superior court department or the Boston municipal court
355 department or any division of the district court departments by filing with the court a certified

356 copy of such order which shall be entered into the database of extreme risk protective orders
357 maintained by the department of public safety pursuant to section 13. Such person shall swear
358 under oath in an affidavit, to the best of such person's knowledge that such order is presently in
359 effect as written. Upon request by a law enforcement agency, the register or clerk of such court
360 shall provide a certified copy of the protective order issued by the other jurisdiction.

361 (c) A law enforcement officer may presume the validity of, and enforce in accordance
362 with section 15 a copy of a protective order issued by another jurisdiction which has been
363 provided to the law enforcement officer by any source; provided, however, that the officer is also
364 provided with a statement by the person who filed the petition requesting the order that such
365 order remains in effect. Law enforcement officers may rely on such statement by the person who
366 filed the petition requesting the order.

367 Section 15. Law enforcement officers shall use every reasonable means to enforce
368 extreme risk protective orders and temporary extreme risk protective orders issued pursuant to
369 this chapter. Law enforcement agencies shall establish procedures adequate to ensure that an
370 officer on the scene of an alleged violation of such order may be informed of the existence and
371 terms of such order, and the possession of any firearms in violation of the order. The court shall
372 notify the appropriate law enforcement agency in writing whenever any such order is vacated
373 and shall direct the agency to destroy all record of such vacated order and such agency shall
374 comply with that directive.

375 Each extreme risk protective order issued shall contain the following statement:
376 VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.

377 Any violation of such order or a substantially similar order issued by another jurisdiction
378 shall be punishable by a fine of not more than \$5,000, or by imprisonment for not more than 2 ½
379 years in a house of correction, or by both such fine and imprisonment.

380 Any such violation may be enforced in the superior, the district or Boston municipal
381 court departments. Criminal remedies provided herein are not exclusive and do not preclude any
382 other available civil or criminal remedies. The superior, district and Boston municipal court
383 departments may each enforce by civil contempt procedure a violation of its own court order.

384 Section 16. The records of cases arising out of an action brought under the provisions of
385 this chapter where the petitioner or respondent is a minor shall be withheld from public
386 inspection except by order of the court; provided, that such records shall be open, at all
387 reasonable times, to the inspection of the minor, said minor's parent, guardian, attorney, and to
388 the petitioner and the petitioner's attorney, or any of them.

389 The petitioner's residential address, residential telephone number and workplace name,
390 address and telephone number, contained within the court records of cases arising out of an
391 action brought by a petitioner under the provisions of this chapter, shall be confidential and
392 withheld from public inspection, except by order of the court, except that the petitioner's
393 residential address and workplace address shall appear on the court order and accessible to the
394 respondent and the respondent's attorney unless the petitioner specifically requests that this
395 information be withheld from the order. All confidential portions of the records shall be
396 accessible at all reasonable times to the petitioner and petitioner's attorney, to others specifically
397 authorized by the petitioner to obtain such information, and to prosecutors and law enforcement
398 officers, if such access is necessary in the performance of their duties. The provisions of this

399 paragraph shall apply to any protective order issued by another jurisdiction, as defined in section
400 1, that is filed with a court of the commonwealth pursuant to section 14. Such confidential
401 portions of the court records shall not be deemed to be public records under the provisions of
402 clause twenty-sixth of section 7 of chapter 4.

403 Section 17. (a) Any person who files a petition for an extreme risk protective order,
404 knowing the information in the petition to be materially false or with intent to harass the
405 respondent, shall be punished by a fine of no more than \$1,000 or by imprisonment for no more
406 than 2 ½ years in the house of corrections.

407 (b) Any person who has in his or her custody or control, owns, purchases, possesses, or
408 receives a firearm or ammunition with knowledge that he or she is prohibited from doing so by
409 an extreme risk protective order or a temporary extreme risk protective order shall be punished
410 by a fine of no more than \$1,000 or by imprisonment for no more than 2 ½ years in the house of
411 corrections, and shall be prohibited from having in his or her custody or control, owning,
412 purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or
413 ammunition for a period of 5 years from the date of conviction.

414 Section 18. This chapter shall not affect the ability of a law enforcement officer to
415 remove firearms or ammunition from any person pursuant to other lawful authority.

416 Section 19. This chapter shall not be construed to impose criminal or civil liability on any
417 person who chooses not to seek an extreme risk protective order pursuant to this chapter.