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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE--COURTS -- EXTREME RISK
PROTECTION ORDERS -- CRIMINAL OFFENSES--WEAPONS

Introduced By: Representatives Ranglin-Vassell, Williams, Tanzi, McEntee, and Knight

Date Introduced: February 28, 2018

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 8 of the General Laws entitled "COURTS AND CIVIL PROCEDURE
2 - COURTS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 8.3

4 EXTREME RISK PROTECTION ORDERS

5 **8-8.3-1. Definitions.**

6 When used in this chapter, the following words and phrases shall have the following
7 meanings:

8 (1) "Court" means the district court in the division in which the petitioner resides.

9 (2) "Extreme risk protection order" means an ex parte temporary or final order granted
10 under this chapter.

11 (3) "Family or household member" means present and former family members (as
12 defined in § 15-15-1), parents (as defined in § 15-15-1), stepparents, legal guardians, persons who
13 are or have been in a substantive dating or engagement relationship within the past one year (as
14 defined in § 15-15-1), and cohabitants (as defined in § 8-8.1-1).

15 (4) "Firearm" means any gun, pistol, rifle, or other instrument from which steel or metal
16 projectiles are propelled, or which may readily be converted to expel a projectile, except
17 crossbows, recurve, compound, or longbows, and except instruments propelling projectiles which
18 are designed or normally used for a primary purpose other than as a weapon. The frame or

1 receiver of the weapon shall be construed as a firearm.

2 (5) "Petitioner" means the person who petitions for an order under this chapter.

3 (6) "Respondent" means the person who is identified as the respondent in a petition filed
4 under this chapter.

5 **8-8.3-2. Filing of petition.**

6 Proceedings under this chapter shall be filed, heard and determined in the division of the
7 district court of the county in which the petitioner resides. Any proceedings under this chapter
8 shall not preclude any other available civil or criminal remedies. A party filing a petition under
9 this chapter may do so without payment of any filing fee. There shall be no minimum residence
10 requirements for the filing of a petition under this chapter.

11 **8-8.3-3. Petition for order.**

12 (a) A petitioner may file a petition in the district court requesting an extreme risk
13 protection order, which shall enjoin the respondent from having in their possession, custody or
14 control any firearms and shall further enjoin the respondent from purchasing, receiving or
15 attempting to purchase or receive any firearms while the order is in effect.

16 (b) A petition for an extreme risk protection order may be filed by:

17 (1) A law enforcement officer or agency; or

18 (2) A family or household member of the respondent.

19 (c) A petition for an extreme risk protection order must be supported by a written
20 affidavit signed by the petitioner under oath or by an oral statement taken under oath by the
21 petitioner and any other witness the petitioner may produce.

22 (d) A petition must allege that the respondent poses a significant danger of causing
23 personal injury to self or others by having in their custody or control, purchasing, possessing, or
24 receiving a firearm, and must state the specific statements, actions, or facts that give rise to a
25 reasonable fear of future dangerous acts by the respondent.

26 (e) If the petitioner believes there are firearms in the respondent's current ownership,
27 possession, custody, or control, the petition shall identify the number, types, and locations of all
28 such firearms, if known.

29 (f) A petitioner for an extreme risk protection order, at the time of the filing, shall identify
30 all known restraining orders, orders of protection and pending lawsuits, complaints, petitions or
31 actions pending, active or filed within one year prior to the petition involving either the petitioner
32 or respondent, including, but not limited to, any orders entered pursuant to chapter 8.1 of title 8 or
33 chapter 15 of title 15. The court administrator shall verify the terms of any existing order
34 governing the parties. The court may not delay granting relief under this chapter because of the

1 existence of a pending action between the parties or the necessity of verifying the terms of an
2 existing order. A petition for an extreme risk protection order may be granted whether or not
3 there is a pending action between the parties.

4 (g) If the petitioner is a law enforcement officer or agency, the petitioner shall make a
5 good faith effort to provide notice to a family or household member of the respondent and to any
6 known third party who may be at risk of violence. The notice must state that the petitioner intends
7 to petition the court for an extreme risk protection order or has already done so, and include
8 referrals to appropriate resources, including mental health, domestic violence, and counseling
9 resources. The petitioner must attest in the petition to having provided such notice, or attest to the
10 steps that will be taken to provide such notice.

11 (h) If the petition states that disclosure of the petitioner's address would risk harm to the
12 petitioner or any member of the petitioner's family or household, the petitioner's address may be
13 omitted from all documents filed with the court. If the petitioner has not disclosed an address
14 under this subsection, the petitioner must designate an alternative address at which the respondent
15 may serve notice of any motions. If the petitioner is a law enforcement officer or agency, the
16 address of record shall be that of the law enforcement agency.

17 (i) After October 1, 2018, all court clerk's offices shall make available the standardized
18 forms, instructions, and informational brochures required by § 8-8.3-14. Any assistance or
19 information provided by clerks under this section does not constitute the practice of law and
20 clerks are not responsible for incorrect information contained in a petition.

21 **8-8.3-4. Hearings on petition – Grounds for issuance – Contents of order.**

22 (a) Upon receipt of a petition, the court shall order a hearing to be held not later than
23 seven (7) days from the date of the order and issue a notice of hearing to the respondent for the
24 same.

25 (b) The court clerk shall cause a copy of the notice of hearing and petition to be
26 forwarded on or before the next judicial day to the appropriate law enforcement agency for
27 service upon the respondent.

28 (c) Personal service of the notice of hearing and petition shall be made upon the
29 respondent by a member of the division of sheriffs or a certified constable not less than five (5)
30 court days prior to the hearing. Service issued under this section takes precedence over the service
31 of other documents, unless the other documents are of a similar emergency nature. If timely
32 personal service cannot be made, the court shall set a new hearing date and shall require
33 additional attempts at obtaining personal service or permit alternate service by as provided in § 8-
34 8.3-7.

1 (d) If the court issues a temporary extreme risk protection order, as provided in § 8-8.3-5,
2 pending the hearing ordered under this subsection, such temporary order shall be served
3 concurrently with the notice of hearing and petition.

4 (e) Upon hearing the matter, if the court finds by clear and convincing evidence that the
5 respondent poses a significant danger of causing personal injury to self or others by having in
6 their possession custody or control, purchasing, possessing, or receiving a firearm, the court shall
7 issue an extreme risk protection order. An extreme risk protection order issued by the court shall
8 be for a fixed period of one year, at the expiration of which time the court may extend the
9 extreme risk protection order as set forth in § 8-8.3-8.

10 (f) In determining whether grounds for an extreme risk protection order exist, the court
11 shall consider the following:

12 (1) A recent act or threat of violence by the respondent against self or others, regardless
13 of whether such act or threat of violence involves a firearm;

14 (2) A pattern of acts or threats or violence by the respondent within the past twelve (12)
15 months, including, but not limited to, acts or threats of violence against self or others;

16 (3) The respondent's mental health history;

17 (4) Evidence of respondent's abuse of controlled substances or alcohol;

18 (5) Previous violations by the respondent of any court order including, but not limited to,
19 restraining orders, no contact orders issued pursuant to § 12-29-4, and protective orders issued
20 pursuant to chapter 8.1 of title 8 or chapter 15 of title 15;

21 (6) Previous extreme risk protection orders issued against the respondent;

22 (7) The unlawful, threatening, or reckless use or brandishing of a firearm by respondent;

23 (8) Respondent's criminal history, including, but not limited to, arrests and convictions
24 for felony offenses, crimes of violence as defined in § 11-47-2, violent misdemeanor offenses,
25 crimes involving domestic violence as defined in § 12-29-2, and stalking; and

26 (9) Evidence of recent acquisition of firearms by the respondent.

27 (g) In determining whether grounds for an extreme risk protection order exist, the court
28 may also consider any other relevant and credible evidence presented by the petitioner,
29 respondent and any witnesses they may produce.

30 (h) In a hearing under this chapter, the court may examine under oath the petitioner,
31 respondent and any witnesses they may produce. In lieu of examination, the court may consider
32 sworn affidavits of the respondent, and any witnesses they or the petitioner may produce;
33 however, sworn affidavits cannot serve as the sole basis for the court's determination.

34 (i) The court may continue a hearing under this section upon a showing of good cause. If

1 the court continues a hearing under this subsection in a matter in which a temporary extreme risk
2 protection order has been issued under § 8-8.3-5, the temporary extreme risk protection order
3 shall remain in effect until the next hearing date.

4 (j) During the hearing the court shall consider whether a mental health evaluation or
5 substance abuse evaluation is appropriate, and may order such evaluation if appropriate.

6 (k) An extreme risk protection order must include:

7 (1) A statement of the grounds supporting the issuance of the order;

8 (2) The date and time the order was issued;

9 (3) The date and time the order expires;

10 (4) Whether a mental health or substance abuse evaluation of the respondent has been
11 ordered;

12 (5) The address of the court that issued the order and in which any responsive pleading
13 should be filed;

14 (6) A description of the requirement for relinquishment of firearms under § 8-8.3-9; and

15 (7) The following statement: "To the subject of this protection order: This order will last
16 until the date and time noted above. If you have not done so already, you must immediately
17 surrender to the (insert name of local law enforcement agency) all firearms in your custody,
18 control, or possession and surrender to police any concealed pistol license issued to you under §
19 11-47-8 or 11-47-11 immediately. While this order is in effect, it is illegal for you to have any
20 firearm in your possession, custody or control or for you to purchase, receive, or attempt to
21 purchase or receive any firearm. You have the right to request one hearing to terminate this order
22 every twelve (12) month period that this order, or any renewal order, is in effect. You may seek
23 the advice of an attorney as to any matter connected with this order."

24 (l) When a court issues an extreme risk protection order, the court shall inform the
25 respondent that they are entitled to request termination of the order in the manner prescribed by §
26 8-8.3-8. The court shall provide the respondent with a form to request a termination hearing.

27 (m) If the court declines to issue an extreme risk protection order, the court shall state the
28 particular reasons for the court's denial.

29 **8-8.3-5. Temporary orders – Ex parte proceedings.**

30 (a) Upon the filing of a petition under this chapter, the petitioner may request a temporary
31 extreme risk protection order be issued before a hearing for an extreme risk protection order,
32 without notice to the respondent, by including in the petition detailed sworn allegations based on
33 personal knowledge that the respondent poses an imminent danger of causing personal injury to
34 self or others by having in their custody or control, purchasing, possessing, or receiving a firearm.

1 (b) In determining whether to issue a temporary extreme risk protection order, the court
2 shall consider all relevant evidence, including, but not limited to, the evidence described in § 8-
3 8.3-4(f).

4 (c) If a court finds there is probable cause to believe that the respondent poses an
5 imminent danger of causing personal injury to self or others by having in their custody or control,
6 purchasing, possessing, or receiving a firearm, the court shall issue an ex parte extreme risk
7 protection order.

8 (d) The court shall hold an ex parte extreme risk protection order hearing on the day the
9 petition is filed or on the judicial day immediately following the day the petition is filed.

10 (e) In accordance with § 8-8.3-4, the court shall schedule a hearing within seven (7) days
11 of the issuance of a temporary extreme risk protection order to determine if a one-year extreme
12 risk protection order should be issued under this chapter.

13 (f) A temporary extreme risk protection order must include:

14 (1) A statement of the grounds supporting the issuance of the order;

15 (2) The date and time the order was issued;

16 (3) The date and time the order expires;

17 (4) The address of the court that issued the order and in which any responsive pleading
18 should be filed;

19 (5) The date and time of the scheduled hearing;

20 (6) A description of the requirement for relinquishment of firearms under § 8-8.3-9;

21 (7) The following statement: "To the subject of this protection order: This order will last
22 until the date and time noted above. If you have not done so already, you must surrender to the
23 (insert name of local law enforcement agency) all firearms in your custody, control, or possession
24 and surrender to police any concealed pistol license issued to you under § 11-47-8 or 11-47-11
25 immediately. While this order is in effect, it is illegal for you to have any firearm in your
26 possession, custody or control or for you to purchase, receive, or attempt to purchase or receive
27 any firearm. You may seek the advice of an attorney as to any matter connected with this order."

28 (8) Any temporary extreme risk protection order issued pursuant to this section shall
29 expire at the time of the hearing under § 8-8.3-4. If the court continues a hearing under § 8-8.3-
30 4(i), the temporary extreme risk protection order shall remain in effect until the next hearing date.

31 (9) A temporary extreme risk protection order shall be served in the same manner as
32 provided for in § 8-8.3-4(c) for service of the notice of hearing and petition, and shall be served
33 concurrently with the notice of hearing and petition.

34 (10) If the court declines to issue a temporary extreme risk protection order, the court

1 shall state the particular reasons for the denial.

2 **8-8.3-6. Service of orders.**

3 (a) An extreme risk protection order issued under this chapter shall be personally served
4 upon the respondent, except as otherwise provided in § 8-8.3-7.

5 (b) The sheriff's office or a certified constable with jurisdiction in the area in which the
6 respondent resides shall serve the respondent personally.

7 (c) The clerk of the court shall cause a copy of the order issued under this chapter to be
8 forwarded on or before the next judicial day to the sheriff's office or the certified constable
9 specified in the order for service upon the respondent. Service of an order issued under this
10 chapter takes precedence over the service of other documents, unless the other documents are of a
11 similar emergency nature.

12 (d) If the sheriff's office or the certified constable cannot complete service upon the
13 respondent within seven (7) days, the deputy sheriff or constable shall notify the petitioner.

14 (e) If the respondent appeared in person before the court, the order entered by the court
15 shall recite that and the necessity for further service is waived and proof of service of that order is
16 not necessary.

17 (f) The court may permit alternate means of service in accordance with § 8-8.3-7.

18 **8-8.3-7. Return of service – Alternate service.**

19 (a) The petition and any order issued under this chapter shall be personally served upon
20 the respondent by a deputy sheriff or certified constable except as provided in subsections (c), (d),
21 and (f) of this section. Service shall be made without payment of any fee when service is made by
22 a deputy sheriff. At the election of the plaintiff, service pursuant to this subsection may also be
23 made by a certified constable authorized to serve process of the district court pursuant to § 9-5-
24 10.1. The certified constable shall be entitled to receive the fee allowed by law for the service of a
25 district court summons.

26 (b) Return of service shall be forwarded by the deputy sheriff or certified constable to the
27 clerk of the court prior to the date set down for hearing on the petition. If service has not been
28 made, the deputy sheriff or certified constable shall indicate on the summons the reason therefor
29 and the attempts made to serve the respondent.

30 (c) At the time the return of service is sent to the clerk of the court, the deputy sheriff or
31 certified constable shall cause a copy of the return of service to be sent to the petitioner and to the
32 appropriate law enforcement agency.

33 (d) If, at the time of hearing on the petition, the court determines that after diligent effort
34 the deputy sheriff or certified constable has been unable to serve the respondent personally, the

1 judge may order an alternate method of service designed to give reasonable notice of the action to
2 the respondent and taking into consideration the petitioner's ability to afford the means of service
3 ordered. Alternative service shall include, but not be limited to: service by certified and regular
4 mail at respondent's last-known address or place of employment; leaving copies at the
5 respondent's dwelling or usual place of abode with a person of suitable age and discretion
6 residing therein; or by publication in a newspaper for two (2) consecutive weeks. The court shall
7 set a new date for hearing on the petition, no sooner than twenty (20) days later, and shall extend
8 any temporary extreme risk protection order until that date.

9 (e) If the respondent appears in person before the court, the necessity for further service is
10 waived and proof of service of that order is not necessary. If the respondent is served notice
11 regarding the complaint and hearing, but does not appear at the hearing, the hearing shall be held
12 without the respondent present and the clerk of the district court shall mail the respondent a copy
13 of the resulting order.

14 **8-8.3-8. Termination -- Expiration -- Renewal of orders.**

15 (a) The respondent may submit one written request for a hearing to terminate an extreme
16 risk protection order issued under this chapter every twelve (12) month period that the order, or
17 any renewal order, is in effect.

18 (1) Upon receipt of the request for a hearing to terminate an extreme risk protection
19 order, the court shall set a date for a hearing. Notice of the request shall be served on the original
20 petitioner for order in accordance with the requirements of § 8-8.3-6. The hearing shall occur no
21 sooner than fourteen (14) days and no later than thirty (30) days from the date of service of the
22 request upon the petitioner.

23 (2) The respondent shall have the burden of proving by clear and convincing evidence
24 that the respondent does not pose a significant danger of causing personal injury to self or others
25 by having in their custody or control, purchasing, possessing, or receiving a firearm. The court
26 may consider any relevant evidence, including evidence of the considerations listed in § 8-8.3-
27 4(f).

28 (3) If the court finds after the hearing that the respondent has met their burden, the court
29 shall terminate the order.

30 (b) The court shall notify the petitioner of the impending expiration of an extreme risk
31 protection order. Notice must be received by the petitioner ninety (90) calendar days before the
32 date the order expires.

33 (c) A family or household member of the respondent or a law enforcement officer or
34 agency may by motion request a renewal of an extreme risk protection order at any time within

1 ninety (90) calendar days before the expiration of the order.

2 (1) Upon receipt of the motion to renew, the court shall order that a hearing be held not
3 later than seven (7) days from the date the order issues. The respondent shall be personally served
4 in the same manner prescribed in § 8-8.3-4(c), or as otherwise ordered by the court.

5 (2) In determining whether to renew an extreme risk protection order issued under this
6 section, the court shall consider all relevant evidence presented by the petitioner and follow the
7 same procedure as provided in § 8-8.3-4.

8 (3) If the court finds by clear and convincing evidence that the requirements for issuance
9 of an extreme risk protection order as provided in § 8-8.3-4 continue to be met, the court shall
10 renew the order. However, if, after notice, the motion for renewal is uncontested and the
11 petitioner seeks no modification of the order, the order may be renewed on the basis of the
12 petitioner's motion and affidavit stating that there has been no material change in relevant
13 circumstances since entry of the order which is subject to renewal.

14 (4) The renewal of an extreme risk protection order shall be for a fixed period of one
15 year, subject to termination as provided in subsection (a) of this section or further renewal by
16 order of the court.

17 **8-8.3-9. Surrender of firearms.**

18 (a) Upon issuance of any extreme risk protection order under this chapter, including a
19 temporary extreme risk protection order, the court shall order the respondent to surrender to the
20 local law enforcement agency under terms and conditions as provided in § 11-47-5.4 all firearms
21 in the respondent's custody, control, or possession and any concealed pistol license issued under
22 §§ 11-47-8 or 11-47-11 to a local law enforcement agency.

23 (b) A deputy sheriff serving any extreme risk protection order, including a temporary
24 extreme risk protection order, shall request that the respondent immediately surrender to the
25 deputy all firearms in the respondent's possession, care, custody or control and the deputy sheriff
26 shall conduct any search permitted by law for such firearms. The deputy sheriff shall take
27 possession of all firearms that are surrendered, that are in plain sight, or that are discovered
28 pursuant to a lawful search. As part of the order, the court may also direct a deputy sheriff to
29 search for firearms in a respondent's possession consistent with chapter 5 of title 12.
30 Alternatively, if personal service by a deputy sheriff is not possible, or not required because the
31 respondent was present at the extreme risk protection order hearing, the respondent shall
32 surrender the firearms in a safe manner to the control of the Rhode Island state police, or a local
33 police department within twenty-four (24) hours of being served with the order by alternate
34 service or within twenty-four (24) hours of the hearing at which the respondent was present.

1 (c) At the time of surrender, a deputy sheriff taking possession of a firearm and/or
2 concealed pistol license shall issue a receipt identifying all firearms that have been surrendered
3 and provide a copy of the receipt to the respondent. Within seventy-two (72) hours after service
4 of the order, the deputy sheriff serving the order shall file the original receipt with the court and
5 shall ensure that their law enforcement agency retains a copy of the receipt.

6 (d) Upon the sworn statement or testimony of any person or law enforcement officer
7 alleging that the respondent has failed to comply with the surrender of firearms as required by an
8 order issued under this chapter, the court shall determine whether probable cause exists to believe
9 that the respondent has failed to surrender all firearms in their possession, custody, or control. If
10 probable cause exists, the court shall issue a warrant describing the firearms and authorizing a
11 search of the locations where the firearms are reasonably believed to be and the seizure of any
12 firearms discovered pursuant to such search.

13 (e) If a person other than the respondent claims title to any firearms surrendered pursuant
14 to this section, and they are determined by the court to be the lawful owner of the firearm then the
15 firearm shall be ordered returned to them, provided that:

16 (1) The lawful owner attests to the court that the firearms will be removed from the
17 respondent's custody, control, or possession and that the lawful owner will store the firearm in a
18 manner such that the respondent does not have access to or control of the firearm; and

19 (2) The sheriff or law enforcement agency conducts a background check and determines
20 that the owner is not prohibited from possessing the firearm under state or federal law.

21 (f) A respondent ordered to surrender possession of any firearms pursuant to this section
22 shall, within seventy-two (72) hours after being served with the order, either:

23 (1) File with the court a receipt showing the firearms were physically surrendered to the
24 state police or local police department; or

25 (2) File with the court, an attestation that, at the time of the order, the respondent had no
26 firearms in their possession or control, or subject to their possession or control, and that the
27 person, at the time of the attestation, has no firearms in their possession or control or subject to
28 their possession or control.

29 (g) If a respondent fails to timely comply with the requirements of subsection (f) of this
30 section, the court shall hold a hearing to determine if the respondent is in contempt of court.

31 (h) The state police are authorized to develop rules and procedures pertaining to the
32 storage and return of firearms surrendered to the state police, or local police departments pursuant
33 to this chapter. The state police may consult with the Rhode Island Police Chiefs' Association in
34 developing rules and procedures.

1 **8-8.3-10. Firearms return -- Disposal.**

2 (a) Any firearm surrendered in accordance with this chapter shall be returned to the
3 respondent upon their request when:

4 (1) The respondent produces documentation issued by the court indicating that the
5 extreme risk protective order issued pursuant to this chapter has expired and has not been
6 renewed or extended; and

7 (2) The law enforcement agency in possession of the firearms conducts a background
8 check and determines that the respondent is not otherwise prohibited from possessing a firearm
9 under state or federal law.

10 (b) A law enforcement agency shall, if requested, provide prior notice of the return of a
11 firearm to a respondent and/or to family or household members of the respondent in the manner
12 provided in § 8-8.3-6.

13 **8-8.3-11. Reporting of orders.**

14 (a) The clerk of the court shall enter any extreme risk protection order or temporary
15 extreme risk protection order issued under this chapter into a statewide judicial information
16 system on the same day such order is issued.

17 (b) The clerk of the court shall forward a copy of an order issued under this chapter the
18 same day such order is issued to the appropriate law enforcement agency specified in the order.
19 Upon receipt of the copy of the order, the law enforcement agency shall enter the order into the
20 national instant criminal background check system, also known as the NICS database, any other
21 federal or state computer-based systems used by law enforcement or others to identify prohibited
22 purchasers of firearms, and any computer-based criminal intelligence information system
23 available in this state used by law enforcement agencies to list outstanding warrants. The order
24 must remain in each system for the period stated in the order, and the law enforcement agency
25 shall only expunge orders from the systems that have expired or terminated. Entry into the
26 computer-based criminal intelligence information system constitutes notice to all law
27 enforcement agencies of the existence of the order. The order is fully enforceable in any county in
28 the state.

29 (c) The issuing court shall, within three (3) judicial days after issuance of an extreme risk
30 protection order or temporary extreme risk protection order, forward a copy of the respondent's
31 driver's license, or comparable information, along with the date of order issuance, to the
32 appropriate licensing authorities. Upon receipt of the information, the licensing authorities shall
33 determine if the respondent has a concealed pistol license. If the respondent does have a
34 concealed pistol license, the licensing authority shall immediately revoke the license.

1 (d) If an extreme risk protection order is terminated before its expiration date, the clerk of
2 the court shall forward the same day a copy of the termination order to the licensing authority and
3 the appropriate law enforcement agency specified in the termination order. Upon receipt of the
4 order, the law enforcement agency shall promptly remove the order from any computer-based
5 system in which it was entered pursuant to subsection (b) of this section.

6 **8-8.3-12. Penalties.**

7 (a) Any violation of any extreme risk protection order shall subject the violator to being
8 found in contempt of court. The contempt order shall not be exclusive and shall not preclude any
9 other available civil or criminal remedies.

10 (b) Any violation of an extreme risk protection order issued under this chapter of which
11 the respondent has actual notice shall be a felony and, upon conviction, shall be punished by
12 imprisonment for not less than two (2) years nor more than ten (10) years, or a fine of not more
13 than ten thousand dollars (\$10,000), or both.

14 (c) "Actual notice" means that the defendant has received a copy of the order by service
15 thereof or by being personally served with a copy of the order by a deputy sheriff's or certified
16 constable or by receipt of alternate service ordered by the court pursuant to § 8-8.3-6.

17 (d) Filing a petition under this chapter knowing the information in such petition to be
18 materially false, or with intent to harass the respondent, shall be a misdemeanor that shall be
19 punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not
20 more than one year, or both.

21 **8-8.3-13. Liability.**

22 Except as provided in § 8-8.3-12, this chapter does not impose criminal or civil liability
23 on any person or entity for acts or omissions related to obtaining an extreme risk protection order
24 or temporary extreme risk protection order including, but not limited to, reporting, declining to
25 report, investigating, declining to investigate, filing, or declining to file a petition under this
26 chapter.

27 **8-8.3-14. Court forms and informational material.**

28 (a) The administrative office of the courts shall develop and prepare instructions and
29 informational brochures, standard petitions and extreme risk protection order forms, and a court
30 staff handbook on the extreme risk protection order process. The standard petition and order
31 forms shall be used after October 1, 2018, for all petitions filed and orders issued under this
32 chapter. The instructions, brochures, forms, and handbook shall be prepared in consultation with
33 interested persons, including representatives of gun violence prevention groups, judges, and law
34 enforcement personnel. Materials shall be based on best practices and available electronically

1 online to the public.

2 (b) The instructions shall be designed to assist petitioners in completing the petition, and
3 must include a sample of a standard petition and order for protection forms.

4 (c) The instructions and standard petition shall include a means for the petitioner to
5 identify, with only lay knowledge, the firearms the respondent may own, possesses, receive, or
6 have in their custody or control. The instructions shall provide pictures of types of firearms that
7 the petitioner may choose from to identify the relevant firearms, or an equivalent means to allow
8 petitioners to identify firearms without requiring specific or technical knowledge regarding the
9 firearms.

10 (d) The informational brochure shall describe the use of and the process for obtaining,
11 modifying, and terminating an extreme risk protection order under this chapter, and provide
12 relevant forms.

13 (e) The extreme risk protection order form shall include, in a conspicuous location, notice
14 of penalties resulting from violation of the order, and the following statement: "You have the sole
15 responsibility to avoid or refrain from violating this order's provisions. Only the court can change
16 the order and only upon written application."

17 (f) The court staff handbook shall allow for the addition of a community resource list by
18 the court clerk.

19 (g) All court clerks may create a community resource list of crisis intervention, mental
20 health, substance abuse, interpreter, counseling, and other relevant resources serving the county in
21 which the court is located. The court may make the community resource list available as part of
22 or in addition to the informational brochures described in subsection (a) of this section.

23 (h) The administrative office of the courts shall distribute a master copy of the petition
24 and order forms, instructions, and informational brochures to all court clerks and shall distribute a
25 master copy of the petition and order forms to all state courts. Distribution of all documents shall,
26 at a minimum, be in an electronic format or formats accessible to all courts and court clerks in the
27 state.

28 (i) The administrative office of the courts shall determine the significant non-English
29 speaking or limited English speaking populations in the state. The administrator shall then
30 arrange for translation of the instructions and informational brochures required by this section,
31 which shall contain a sample of the standard petition and order for protection forms, into the
32 languages spoken by those significant non-English speaking populations and shall distribute a
33 master copy of the translated instructions and informational brochures to all court clerks by
34 October 1, 2018.

1 SECTION 2. Section 11-47-5 of the General Laws in Chapter 11-47 entitled "Weapons"
2 is hereby amended to read as follows:

3 **11-47-5. Possession of firearms by certain persons prohibited.**

4 (a) No person shall purchase, own, carry, transport, or have in his or her possession any
5 firearm if that person:

6 (1) Has been convicted in this state or elsewhere of a crime of violence;

7 (2) Is a fugitive from justice;

8 (3) Has, in this state or elsewhere, entered a plea of nolo contendere to or been convicted
9 of an offense punishable as a felony under § 12-29-5; or

10 (4) Has, in this state or elsewhere, entered a plea of nolo contendere to or been convicted
11 of any of the following offenses punishable as a misdemeanor under § 12-29-5:

12 (i) Simple assault (§ 11-5-3);

13 (ii) Cyberstalking and cyberharassment (§ 11-52-4.2);

14 (iii) Violation of a protective order (as set forth in § 12-29-2(a)(10); or

15 (iv) Disorderly conduct (§ 11-45-1).

16 (A) A disorderly conduct conviction shall result in prohibition under this section if and
17 only if the offense involves the use or attempted use of force or the threatened use of a dangerous
18 weapon.

19 (5) The provisions of this subsection shall apply to all persons who enter a plea of nolo
20 contendere to or have been convicted of any of the offenses specified in subsections (a)(3) and
21 (a)(4) of this section, unless and until that person's matter has been expunged, or upon the
22 completion of the sentence of a one-year filing, or the end of a one-year probationary period that
23 no longer constitutes a conviction pursuant to § 12-18-3.

24 (b) No person shall purchase, carry, transport, or have in his or her possession any
25 firearm if that person is subject to an order issued pursuant to chapter 15 of title 15, chapter 8.1 of
26 title 8, or an equivalent order in this state or elsewhere, which order was issued after the person
27 restrained has received notice of the proceedings and had an opportunity to be heard.

28 (c) No person shall purchase, carry, transport, or have in their possession any firearm if
29 that person is subject to any extreme risk protection order, including a temporary extreme risk
30 protection order issued pursuant to chapter 8.3 of title 8.

31 ~~(e)~~(d) No person who is in community confinement pursuant to the provisions of § 42-56-
32 20.2, or who is otherwise subject to electronic surveillance or monitoring devices as a condition
33 of parole, shall purchase, carry, transport, or have in his or her possession any firearm. This
34 subsection shall not apply to any person who has not been convicted of (or pleaded guilty or nolo

1 contendere to) a crime of violence in a court of competent jurisdiction.

2 ~~(d)~~(e) Every person violating the provisions of this section shall, upon conviction, be
3 punished by imprisonment for not less than two (2) nor more than ten (10) years; and for
4 penalties provided in this section he or she shall not be afforded the benefit of suspension or
5 deferment of sentence nor of probation.

6 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE--COURTS -- EXTREME RISK
PROTECTION ORDERS -- CRIMINAL OFFENSES--WEAPONS

1 This act would provide the district courts with authority to issue "extreme risk protection
2 orders" when the court finds the subject of the order is an imminent danger to cause personal
3 injury to self or others by having access to a firearm. The act would also provide that a person
4 subject to an extreme risk protection order surrender all firearms and carry permit while subject to
5 such an order.

6 This act would take effect upon passage.

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