

[2 DIS]

Sánchez-H. 3610, changed otp w/
amend H. 4517

REPORT — HOUSE

UGHT TO PASS

Of the *Committee on*

WAYS AND MEANS

change

proposed

The Commonwealth of Massachusetts

House of Representatives, May 21, 2018

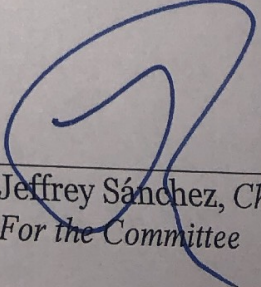
The committee on **WAYS AND MEANS**, to whom was referred the

Bill temporarily preventing firearm access for extremely dangerous or suicidal individuals (House, No. 3610)

changed

REPORT, recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 4517). ~~Dissenting~~ Boldyga of Southwick, Campanale of Leicester].

Representatives


Jeffrey Sánchez, Chairman
For the Committee

HOUSE No. 4517

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 21, 2018.

The committee on Ways and Means, to whom was referred the Bill providing for immediate capital improvement needs of the Commonwealth (House, No. 3610, changed), reports, recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 4517) [Representatives Boldyga of Southwick and Campanale of Leicester dissent].

For the committee,

JEFFREY SÁNCHEZ.

HWM

Naughton-H. 3610, changed

REPORT — HOUSE

BILL OR RESOLVE

Of the **Committee on**

Public Safety and Homeland

Security

The Commonwealth of Massachusetts

House of Representatives, April 17, 2018

Public Safety and Homeland Security

The ~~Public Safety~~ committee on ~~Public Safety and Homeland Security~~

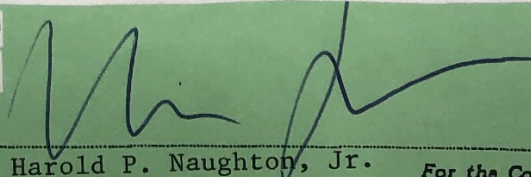
to whom was referred the petition (accompanied by bill , House, No. 3610)

of Marjorie C. Decker and others further regulating conditions to carry firearms by certain at risk persons,

REPORT recommending that the bill/resolve accompanying said petition

ought to pass changed, in section 3, in line 128, by striking out the figures "14" and inserting in place thereof the figures "10" in line 150, by striking out the following ^{words} "any dangerous mental health issues of the respondent" and inserting in place thereof the words "whether the respondent suffers from a dangerous mental or physical illness"; in line 320, ^{408 and 413} by striking out the figure "3" and inserting in place thereof the following ^{in each instance} "2 1/2"; in lines 370, ^{three} 371, by striking out the following ^{and} "or credited to the municipality in which the authority presides to purchase weapons, equipment or supplies or", ^{words} in line 408, by

striking out the figure "3" and inserting in place thereof the following "2 1/2"; in line 413, by striking out the figure "3" and inserting in place thereof the following "2 1/2".



Harold P. Naughton, Jr. For the Committee.



The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES
STATE HOUSE, BOSTON 02133-1054

3/7/18
2:27pm

DAVID PAUL LINSKY
REPRESENTATIVE
5TH MIDDLESEX DISTRICT
NATICK - SHERBORN - MILLIS

STATE HOUSE, ROOM 146
TEL (617) 722-2575
FAX (617) 722-2238
David.Linsky@MAhouse.gov

March 7, 2018

Committees on:
Chairman, House Committee on
Post Audit & Oversight

Steven T. James, Clerk
Massachusetts House of Representatives
State House, Room 145
Boston, Massachusetts 02133

RE: H. 3610; *An Act temporarily preventing firearm access for extremely dangerous or suicidal individuals*

PS. H.L.S.

Dear Mr. Clerk,

I respectfully request for my support of H.3610, *An Act temporarily preventing firearm access for extremely dangerous or suicidal individuals*, to be recorded.

Studies have shown that individuals who are in the throes of a crisis, and are engaged in dangerous behaviors, are significantly more likely to commit an act of violence towards themselves or others within the near future. Tragically, the current legal framework rarely provides a mechanism for witnesses to this behavior to take preventative action. This bill temporarily suspends an individual's access to firearms if they are deemed a danger to themselves or others. Although this law is unlikely to prevent all suicides, but would provide families an opportunity to reduce the risk of suicide for a family member who is in crisis and provide safer circumstances in which to seek treatment or engage other resources to address the underlying causes of the dangerous behaviors.

I appreciate your time and attention to my request. Please do not hesitate to contact me should you have any questions regarding my support for this legislation.

Sincerely,

David P. Linsky
State Representative
Fifth Middlesex District

CC: Representative Marjorie C. Decker

House, No. 3610, changed

**BILL TEMPORARILY PREVENTING
FIREARM ACCESS FOR
EXTREMELY DANGEROUS OR
SUICIDAL INDIVIDUALS.**

APR 17 2018

H.R.,
Read, and referred, under Rule 33, to
the committee on Ways and Means.

Steven T. James, Clerk

May 21, 2018

H.R.,
Referred, under Rule 7A, to the committee on
Steering, Policy and Scheduling,
with HMM amend (H.4517) pending.

Steven T. James, Clerk

Reported, and
placed in O.D. for a second reading.

[Signature]
For the committee.

Rule 7A suspended, read 2nd.,
amended (as recom. by W&M) by
substitution of House, No.
4517.

HOUSE No. 3610

By Ms. Decker of Cambridge, a petition (accompanied by bill, House, No. 3610) of Marjorie C. Decker and others further regulating conditions to carry firearms by certain at risk persons. Public Safety and Homeland Security.

HD1002

The Commonwealth of Massachusetts

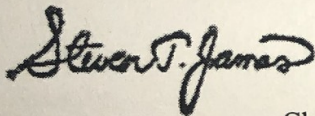
**HOUSE OF
REPRESENTATIVES,**

January 23, 2017.

*Referred to the committee
on*

**PUBLIC SAFETY AND
HOMELAND
SECURITY.**

Sent to the Senate for
concurrence.

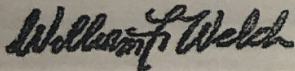


Clerk.

SENATE,

January 23, 2017.

The Senate concurs



HOUSE No. 3610

The Commonwealth of Massachusetts

PRESENTED BY:

Marjorie C. Decker

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 temporarily preventing firearm access for extremely dangerous or suicidal individuals.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Marjorie C. Decker	25th Middlesex
Mike Connolly	26th Middlesex
Sal N. DiDomenico	Middlesex and Suffolk
Dylan Fernandes	Barnstable, Dukes and Nantucket
Carlos Gonzalez	10th Hampden
Kevin G. Honan	17th Suffolk
Kay Khan	11th Middlesex
Rady Mom	18th Middlesex
Chris Walsh	6th Middlesex

HOUSE No. 3610

By Ms. Decker of Cambridge, a petition (accompanied by bill, House, No. 3610) of Marjorie C. Decker and others further regulating conditions to carry firearms by certain at risk persons. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

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

An Act temporarily preventing firearm access for extremely dangerous or suicidal individuals.

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 an ex parte or 1-year extreme risk protection order issued pursuant to sections 131R
4 through 13BB;.

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 an ex parte or 1-year extreme
7 risk protection order issued pursuant to sections 131R through 13BB .

8 SECTION 3. Said chapter 140 of the General Laws is hereby amended by inserting after
9 section 131Q the following 11 sections:-

10 Section 131R. For purposes of sections 131S to 131BB, the following words shall have
11 the following meaning, unless the context clearly requires otherwise:-

12 "Court", the superior, district, or Boston municipal court departments of the trial court.

13 "Ex parte extreme risk protection order", a written order issued pursuant to section
14 131W, prohibiting and enjoining a named person from having in his or her custody or control,
15 owning, purchasing, possessing, or receiving any firearms or ammunition until a hearing for a 1-
16 year extreme risk protection order is held.

17 "Extreme risk protection order", an order in writing, issued and signed by the court
18 pursuant to section 131U, prohibiting and enjoining a named person from having in his or her
19 custody or control, owning, purchasing, possessing, or receiving any firearms or ammunition for
20 a period of 1 year.

21 "Family or household member", a person who:

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

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

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

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

27 (e) is or has been in a substantive dating or engagement relationship with the respondent,

28 which shall be adjudged by district or Boston municipal courts consideration of the following

29 factors: (1) the length of time of the relationship; (2) the type of relationship; (3) the frequency of

30 interaction between the parties; and (4) if the relationship has been terminated by either person,

31 the length of time elapsed since the termination of the relationship.

32 "Petitioner", a family or household member, or law enforcement officer or agency with
33 jurisdiction over the respondent's residence, who files a petition requesting an ex parte or 1-year
34 extreme risk protection order pursuant to section 131T.

35 "Respondent", the person who is identified as the respondent in a petition filed pursuant
36 to section 131T, against whom an order is sought.

37 Section 131S. (a) An action for an extreme risk protection order or an ex parte extreme
38 *risk protection order pursuant to sections 131R through 131BB shall be filed, heard and*
39 *determined in the superior court department or respective divisions of the district court*
40 *departments or the Boston municipal court department having jurisdiction over the respondent's*
41 *residence*

42 (b) The administrative justices of the superior court, district court and the Boston
43 municipal court departments shall jointly promulgate a form of petition for use under sections
44 131R through 131BB which shall be in such form and language to permit a person to prepare and
45 file such petition pro se.

46 (c) The administrative office of the courts shall develop and prepare instructions and
47 informational brochures, standard petitions pursuant to subsection (b,) ex parte and extreme risk
48 protection order forms, suspension and surrender order forms, and a court staff handbook on the
49 extreme risk protection order process. The standard petition and order forms shall be used for all
50 petitions filed pursuant to section 131T, extreme risk protection orders issued pursuant to section
51 131U, ex parte extreme risk protection orders issued pursuant to section 131W, and suspension
52 and surrender orders issued pursuant to section 131Y . The instructions, brochures, forms, and
53 handbook shall be prepared in consultation with interested persons, including representatives of

54 gun violence prevention groups, judges, and law enforcement personnel. Materials must be based
55 on best practices and accessible online to the public.

56 (i) The instructions shall be designed to assist petitioners in completing the petition, and
57 shall include a sample of a standard petition and order for protection forms.

58 (ii) The instructions and standard petition shall include a means for the petitioner to
59 identify, with only lay knowledge, the firearms the respondent may own, possesses, receive, or
60 *have in his or her custody or control. The instructions shall provide pictures of types of firearms*
61 *that the petitioner may choose from to identify the relevant firearms, or an equivalent means to*
62 *allow petitioners to identify firearms without requiring specific or technical knowledge regarding*
63 *the firearms.*

64 (iii) The informational brochure shall describe the use of and the process for obtaining,
65 modifying, and terminating an extreme risk protection order, and provide relevant forms.

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

70 (v) The court staff handbook shall allow for the addition of a community resource list by
71 the court clerk.

72 (d) All court clerks may create a community resource list of crisis intervention, mental
73 health, substance abuse, interpreter, counseling, and other relevant resources serving the county

74 in which the court is located. The court may make the community resource list available as part
75 of or in addition to the informational brochures described in this section.

76 (e) The administrative office of the courts shall distribute a master copy of the petition
77 and order forms, instructions, and informational brochures to all court clerks and shall distribute
78 a master copy of the petition and order forms to all superior, district, and municipal courts.
79 Distribution of all documents shall, at a minimum, be in an electronic format or formats
80 accessible to all courts and court clerks in the state.

81 (f) The administrative office of the courts shall determine the significant non-English
82 speaking or limited English speaking populations in the state. The administrator shall then
83 arrange for translation of the instructions and informational brochures required by this section,
84 which shall contain a sample of the standard petition and order for protection forms, into the
85 languages spoken by those significant non-English speaking populations and shall distribute a
86 master copy of the translated instructions and informational brochures to all court clerks.

87 (g) The administrative office of the courts shall update the instructions, brochures,
88 standard petition and order forms, and court staff handbook as necessary, including when
89 changes in the law make an update necessary.

90 Section 131T. (a) A petition for an extreme risk protection order may be filed by a
91 family or household member of the respondent or a law enforcement officer or agency having
92 jurisdiction over the respondent's residence, on a form approved pursuant to section 131S, in the
93 superior, district or the Boston municipal court department having jurisdiction over the
94 respondent's residence.

95 (b) A petition filed pursuant to this section shall:

96 (i) allege that the respondent poses a significant danger of causing personal injury to self
97 or others by having in his or her custody or control, purchasing, possessing, or receiving a
98 firearm, and be accompanied by an affidavit made under oath stating the specific statements,
99 actions, or facts that give rise to a reasonable fear of future dangerous acts by the respondent;

100 (ii) identify the number, types, and locations of any firearms the petitioner believes to be
101 in the respondent's current ownership, possession, custody, or control;

102 (iii) identify whether there is a known existing abuse prevention order pursuant to chapter
103 209A or a harassment prevention order pursuant to chapter 258E governing the respondent; and

104 (iv) identify whether there is a pending lawsuit, complaint, petition, or other action
105 between the parties to the petition under the laws of the commonwealth.

106 (c) The court administrator shall verify the terms of any existing order governing the
107 parties. The court may not delay granting relief because of the existence of a pending action
108 between the parties or the necessity of verifying the terms of an existing order. A petition for an
109 extreme risk protection order may be granted whether or not there is a pending action between
110 the parties.

111 (d) No fees for filing or service of process may be charged by a court or any public
112 agency to petitioners seeking relief under sections 131R to 131BB. Petitioners shall be provided
113 the necessary number of certified copies, forms, and instructional brochures free of charge.

114 (e) If the petitioner is a law enforcement officer or agency, the petitioner shall make a
115 good faith effort to provide notice to a family or household member of the respondent and to any
116 known third party who may be at risk of violence. The notice must state that the petitioner

117 intends to petition the court for an extreme risk protection order or has already done so, and
118 include referrals to appropriate resources, including mental health, domestic violence, and
119 counseling resources. The petitioner must attest in the petition to having provided such notice, or
120 attest to the steps that will be taken to provide such notice.

121 (f) If the petition states that disclosure of the petitioner's address would risk harm to the
122 petitioner or any member of the petitioner's family or household, the petitioner's address may be
123 omitted from all documents filed with the court. If the petitioner has not disclosed an address
124 under this subsection, the petitioner must designate an alternative address at which the
125 respondent may serve notice of any motions. If the petitioner is a law enforcement officer or
126 agency, the address of record must be that of the law enforcement agency.

127 Section 131U. (a) Upon receipt of a petition for an extreme risk protection order, the
128 court shall set a date for a hearing within 14 days, regardless of whether the court issues an ex
129 parte extreme risk protection order pursuant to section 131W. Written notice of the petition and
130 hearing shall be personally served on the respondent by a law enforcement officer, or if personal
131 service by a law enforcement officer is not possible, in accordance with the laws relative to
132 service of process in the commonwealth, not less than 7 days prior to the hearing. If the court
133 does issue an ex parte extreme risk protection order pursuant to section 131W, notice of the
134 petition and hearing shall be served on the respondent with the ex parte order. Written notice of
135 the hearing shall be sent to the petitioner by certified mail.

136 (b) The court may, as provided in section 131W, issue an ex parte extreme risk protection
137 order pending the hearing ordered pursuant to this section. Such ex parte order shall be served
138 upon the respondent concurrently with the notice of hearing and petition.

139 (c) Upon a hearing on an extreme risk protection order, if the court finds by a
140 preponderance of the evidence that the respondent poses a significant danger of causing personal
141 injury to self or others by having in his or her custody or control, purchasing, possessing, or
142 receiving a firearm, the court shall issue an extreme risk protection order to be effective for a
143 period of 1 year.

144 (d) In determining whether grounds for an extreme risk protection order exist, the court
145 may consider any relevant evidence including, but not limited to, any of the following:

146 (i) a recent act or threat of violence by the respondent against self or others, whether or
147 not such violence or threat of violence involves a firearm;

148 (ii) a pattern of acts or threats of violence by the respondent within the past year
149 including, but not limited to, acts or threats of violence by the respondent against self or others;

150 (iii) ~~any dangerous mental health issues of the respondent;~~

151 (iv) a violation by the respondent of an abuse prevention order pursuant to chapter 209A,
152 or a harassment prevention order pursuant to chapter 258E, whether or not the order involved the
153 petitioner;

154 (v) a previous or existing extreme risk protection order issued against the respondent;

155 (vi) a violation of a previous or existing extreme risk protection order issued against the
156 respondent;

157 (vii) a conviction of the respondent for a crime that constitutes domestic violence;

158 (viii) the respondent's ownership, access to, or intent to possess firearms;

whether the respondent
suffers from a dangerous
mental or physical illness

159 (ix) the unlawful or reckless use, display, or brandishing of a firearm by the respondent;

160 (x) the history of use, attempted use, or threatened use of physical force by the
161 respondent against another person, or the respondent's history of stalking another person;

162 (xi) any prior arrest of the respondent for a felony offense or violent crime;

163 (xii) corroborated evidence of the abuse of controlled substances or alcohol by the
164 respondent; and

165 (xiii) evidence of recent acquisition of firearms by the respondent.

166 (e) The court may:

167 (i) examine under oath the petitioner, the respondent, and any witnesses they may
168 produce, or, in lieu of examination, consider sworn affidavits of the petitioner, the respondent,
169 and any witnesses they may produce; and

170 (ii) ensure that a reasonable search has been conducted for criminal history records
171 related to the respondent.

172 (f) During a hearing pursuant to this section, the court shall consider whether a mental
173 health evaluation or substance use evaluation is appropriate, and may order such evaluation if
174 appropriate.

175 (g) An extreme risk protection order issued pursuant to this section shall be personally
176 served on the respondent with an order of suspension and surrender pursuant to section 131Y by
177 a law enforcement officer, or if personal service by a law enforcement officer is not possible, in
178 accordance with state laws regarding service of process.

179 (h) If the court issues an extreme risk protection order, the court shall inform the
180 respondent that he or she is entitled to request termination of the order in the manner prescribed
181 by section 131X. The court shall provide the respondent with a form to request a termination
182 hearing.

183 (i) If the court declines to issue an extreme risk protection order, the court shall state the
184 particular reasons for the court's denial.

185 Section 131V. (a) An extreme risk protection order issued by a court pursuant to section
186 131U shall include:

187 (i) a statement of the grounds supporting the issuance of the order;

188 (ii) the date and time the order was issued;

189 (iii) the date and time the order expires;

190 (iv) whether a mental health evaluation or substance use evaluation of the respondent is
191 required;

192 (v) the address of the court in which any responsive pleading shall be filed;

193 (vi) a description of the requirements for surrender of firearms under section 131Y; and

194 (vii) the following statement: "To the subject of this protection order: This order will last
195 until the date and time noted above. If you have not done so already, you must surrender to the
196 (insert name of local law enforcement agency) all firearms in your custody, control, or
197 possession immediately. You may not have in your custody or control, purchase, possess,
198 receive, or attempt to purchase or receive, a firearm while this order is in effect. You have the

199 right to request 1 hearing to terminate this order during every 1--year period that this order is in
200 effect, starting from the date of this order and continuing through any renewals of the order. You
201 may seek the advice of an attorney as to any matter connected with this order."

202 (b) An extreme risk protection order issued by a court pursuant to section 131U shall be
203 served on the respondent with an order for suspension and surrender of firearms pursuant to
204 section 131Y.

205 *Section 131W. (a) A petitioner may request that an ex parte extreme risk protection order*
206 *be issued before a hearing for an extreme risk protection order, without notice to the respondent,*
207 *by including in the petition detailed allegations based on personal knowledge that the respondent*
208 *poses a significant danger of causing imminent personal injury to self or others by having in his*
209 *or her custody or control, purchasing, possessing, or receiving a firearm, and requesting an ex*
210 *parte extreme risk protection order in such petition.*

211 (b) In considering whether to issue an ex parte extreme risk protection order pursuant to
212 this section, the court shall consider all relevant evidence, including the evidence described in
213 subsection (d) of section 131U.

214 (c) An ex parte extreme risk protection order issued pursuant to this section shall be
215 issued or denied on the same day that the petition is submitted to the court, unless the complaint
216 is filed too late in the day to permit effective review, in which case the order shall be issued or
217 denied on the next day of judicial business.

218 (d) If a court finds there is reasonable cause to believe that the respondent poses a
219 significant danger of causing imminent personal injury to self or others by having in his or her

220 custody or control, purchasing, possessing, or receiving a firearm, the court shall issue an ex
221 parte extreme risk protection order.

222 (e) The court shall schedule a hearing within 14 days of the issuance of an ex parte
223 extreme risk protection order to determine if a 1-year extreme risk protection order should be
224 issued pursuant to section 131U.

225 (f) An ex parte extreme risk protection order shall include:

226 (i) a statement of the grounds asserted for the order;

227 (ii) the date and time the order was issued;

228 (iii) the date and time the order expires, which shall be the date of the scheduled hearing
229 for a 1-year extreme risk protection order;

230 (iv) the address of the court in which any responsive pleading should be filed;

231 (v) the date and time of the scheduled hearing for a 1-year extreme risk protection order,
232 which shall be within 14 days of the issuance of the ex parte protection order;

233 (vi) a description of the requirements for surrender of firearms under section 131Y; and

234 (vii) the following statement: "To the subject of this protection order: This order is valid
235 until the date and time noted above. You are required to surrender all firearms in your custody,
236 control, or possession. You may not have in your custody or control, purchase, possess, receive,
237 or attempt to purchase or receive, a firearm while this order is in effect. You must surrender to
238 the (insert name of local law enforcement agency) all firearms in your custody, control, or
239 possession immediately. A hearing will be held on the date and at the time noted above to

240 determine if an extreme risk protection order should be issued. Failure to appear at that hearing
241 may result in a court making an order against you that is valid for 1 year. You may seek the
242 advice of an attorney as to any matter connected with this order."

243 (g) Any ex parte extreme risk protection order issued by the court expires on the date of
244 the hearing on the extreme risk protection order.

245 (h) An ex parte extreme risk protection order shall be served by a law enforcement officer
246 in the same manner as provided for in section 131U for service of the notice of hearing and
247 petition, and shall be served concurrently with the notice of hearing and petition.

248 (i) An ex parte extreme risk protection order issued by a court pursuant to this section
249 shall be served on the respondent with an order for suspension and surrender of firearms
250 pursuant to section 131Y.

251 (j) If the court declines to issue an ex parte extreme risk protection order, the court shall
252 state the particular reasons for the court's denial.

253 Section 131X. (1) (a) The respondent may submit 1 written request for a hearing to
254 terminate an extreme risk protection order issued pursuant to section 131U during each 1-year
255 period that the order is in effect, starting from the date of the order and continuing through any
256 renewals of the order.

257 (b) Upon receipt of the request for a hearing to terminate an extreme risk protection
258 order, the court shall set a date for a hearing. Written notice of the request shall be served on the
259 petitioner, and written notice of the hearing shall be served on the petitioner and the respondent,

260 by certified mail. The hearing shall occur no sooner than 14 days and no later than 30 days from
261 the date of service of the request upon the petitioner.

262 (c) The respondent shall have the burden of proving by a preponderance of the evidence
263 that the respondent does not pose a significant danger of causing personal injury to self or others
264 by having in his or her custody or control, purchasing, possessing, or receiving a firearm. The
265 court may consider any relevant evidence, including evidence of the considerations listed in
266 subsection (d) of section 131U.

267 (d) If the court finds after the hearing that the respondent has met his or her burden, the
268 court shall terminate the order.

269 (2) (a) The court shall send written notification by certified mail to the petitioner of the
270 impending expiration of an extreme risk protection order, including the petitioner's right to file a
271 motion to renew the order. Notice must be received by the petitioner at least 105 calendar days
272 before the date the order expires.

273 (b) A petitioner may request a renewal of an extreme risk protection order at any time
274 within 105 calendar days before the expiration of the order. The court shall schedule a hearing on
275 the renewal of the order not later than 14 days from the date such request from the petitioner was
276 received, if possible, and shall send written notice by certified mail of such hearing to the
277 petitioner. Written notice of the hearing shall be personally served on the respondent by a law
278 enforcement officer, or if personal service by a law enforcement officer is not possible, in
279 accordance with the laws relative to service of process in the commonwealth.

280 (c) In determining whether to renew an extreme risk protection order issued under this
281 section, the court shall consider all relevant evidence presented by the petitioner and the
282 respondent, including the evidence described in subsection (d) of section 131U.

283 (d) If the court finds by a preponderance of the evidence that the requirements for
284 issuance of an extreme risk protection order as provided in section 131U of this act continue to
285 be met, the court shall renew the order. However, if, after written notice, the motion for renewal
286 is uncontested and the petitioner seeks no modification of the order, the order may be renewed
287 on the basis of the petitioner's motion or affidavit stating that there has been no material change
288 in relevant circumstances since entry of the order and stating the reason for the requested
289 renewal.

290 (e) Upon the issuance of a renewed extreme risk protection order, the court shall issue an
291 order for suspension and surrender of firearms pursuant to section 131Y. An extreme risk
292 protection order renewed pursuant to this section shall expire after 1 year, subject to termination
293 or renewal by further order of the court pursuant to this section.

294 Section 131Y. (1) (a) Upon issuance of an extreme risk protection order pursuant to
295 section 131U, including an ex parte extreme risk protection order pursuant to section 131W, or a
296 renewal of an existing extreme risk protection order pursuant to section 131X, the court shall
297 order the immediate suspension and surrender of any license to carry firearms and or firearms
298 identification card which the respondent may hold and order the respondent to surrender all
299 firearms, rifles, shotguns, machine guns and ammunition which the respondent then controls,
300 owns or possesses, to the licensing authority where the respondent resides. Order of such
301 suspension and surrender of firearms shall be appended to the copy of the extreme risk protection

302 order, ex parte extreme risk protection order, or renewed extreme risk protection order served on
303 the respondent.. Law enforcement officers, upon the service of said orders, shall immediately
304 take possession of all firearms, rifles, shotguns, machine guns, ammunition, any license to carry
305 firearms and any firearms identification cards in the control, ownership, or possession of the
306 respondent, to be brought to the licensing authority where the person resides. If someone other
307 than a law enforcement officer serves said order upon the respondent, the respondent served with
308 the order shall surrender all firearms and ammunition, within 8 hours of such service, to the
309 *licensing authority where the respondent resides in accordance with section 129D. The licensing*
310 *authority may store, transfer or otherwise dispose of any such weapon in accordance with the*
311 *provisions of said section 129D. A suspension and surrender order issued pursuant to this section*
312 *shall continue so long as extreme risk protection order or ex parte extreme risk protection order*
313 *to which it relates is in effect.*

314 (b) At the time of surrender, a law enforcement officer taking possession of a license to
315 carry firearms or a firearm identification card, and firearms, shall issue a receipt identifying all
316 firearms that have been surrendered and provide a copy of the receipt to the respondent. *Within*
317 *48 hours after service of the order, the officer serving the order shall file the original receipt with*
318 *the court and shall ensure that his or her law enforcement agency retains a copy of the receipt.*

319 (c) Any violation of an order issued pursuant to this section shall be punishable by a fine
320 of not more than \$5,000, or by imprisonment for not more than [✓] 5 years in a house of correction,
321 or by both such fine and imprisonment.

322 (d) Upon the filing of an affidavit by the respondent that a firearm, rifle, shotgun,
323 machine gun or ammunition is required in the performance of the respondent's employment, and

324 upon a request for an expedited hearing, the court shall order a hearing within 2 business days of
325 receipt of such affidavit and request, but only on the issue of surrender and suspension pursuant
326 to this section, and shall immediately notify the respondent and petitioner of such hearing in
327 writing.

328 (e) Upon the sworn statement or testimony of the petitioner or of any law enforcement
329 officer alleging that the respondent has failed to comply with the surrender of firearms as
330 required by an order issued pursuant to section 131Y, the court shall determine whether probable
331 cause exists to believe that the respondent has failed to surrender all firearms in his or her
332 possession, custody, or control. If probable cause exists, the court shall issue a warrant
333 describing the firearms and authorizing a search of the locations where the firearms are
334 reasonably believed to be and the seizure of any firearms discovered pursuant to such search.

335 (f) If a person other than the respondent claims title to any firearms surrendered pursuant
336 to this section, and he or she is determined by the law enforcement agency to be the lawful
337 owner of the firearm, the firearm shall be returned to him or her, provided that:

338 (i) the firearm is removed from the respondent's custody, control, or possession and the
339 lawful owner agrees to store the firearm in a manner such that the respondent does not have
340 access to or control of the firearm; and

341 (ii) the firearm is not otherwise unlawfully possessed by the owner.

342 (g) Upon the issuance of a 1-year extreme risk protection order, the court shall order a
343 new hearing date and require the respondent to appear not later than 3 judicial days from the
344 issuance of the order. The court shall require a showing that the respondent has surrendered any

345 firearms in his or her custody, control, or possession. The court may dismiss the hearing upon a
346 satisfactory showing that the respondent is in compliance with the order.

347 (2) (a) If an extreme risk protection order is terminated or expires without renewal, a law
348 enforcement agency holding any firearm that has been surrendered pursuant to this section shall
349 return any surrendered firearm requested by a respondent only after confirming, through a
350 background check, that the respondent is currently eligible to own or possess firearms under
351 federal and state law and after confirming with the court that the extreme risk protection order
352 has terminated or has expired without renewal.

353 (b) A law enforcement agency shall provide prior notice of the return of a firearm to a
354 respondent to family or household members of the respondent named in the petition.

355 (c) A respondent who has surrendered any firearm or ammunition to a law enforcement
356 agency pursuant to subdivision (1) and who does not wish to have the firearm or ammunition
357 returned or who is no longer eligible to own or possess firearms or ammunition may sell or
358 transfer title of the firearm or ammunition to a licensed firearms dealer. The law enforcement
359 agency shall transfer possession of the firearm or ammunition to a licensed firearms dealer only
360 after the dealer has displayed written proof of transfer of the firearm or ammunition from the
361 respondent to the dealer and the law enforcement has verified the transfer with the respondent.

362 (d) If a person other than the respondent claims title to any firearm or ammunition
363 surrendered pursuant to subdivision (1), and he or she is determined by the law enforcement
364 agency to be the lawful owner of the firearm or ammunition, the firearm or ammunition shall be
365 returned to him or her.

366 (e) If the licensing authority cannot reasonably ascertain a lawful owner of any firearms
367 surrendered pursuant to this section within 180 days of expiration of the order to surrender the
368 firearms, the authority may, in its discretion, trade or dispose of surplus, donated, abandoned or
369 junk firearms, rifles, shotguns or machine guns or ammunition to properly licensed distributors
370 or firearms dealers. The proceeds of the sale or transfer shall be remitted ~~or credited to the~~ ✓
371 ~~municipality in which the authority presides to purchase weapons, equipment or supplies or~~ for
372 violence reduction or suicide prevention; provided, however, that no firearm, rifle, shotgun or
373 *machine gun or ammunition classified as having been used to carry out a criminal act pursuant to*
374 *section 131Q shall be considered surplus, donated, abandoned or junk for the purposes of this*
375 *section.*

376 Section 131Z. (a) The clerk of the court shall forward a copy of an extreme risk
377 protection order, ex parte extreme risk protection order, or renewed extreme risk protection order
378 issued under sections 131U, 131W or 131X the same day such order is issued to the appropriate
379 law enforcement agency specified in the order; the licensing authority; the department of
380 criminal justice information services who shall transmit the report, pursuant to paragraph (h) of
381 section 167A of chapter 6, to the attorney general of the United States to be included in the
382 National Instant Criminal Background Check System; and any other federal or state computer-
383 based systems used by law enforcement or others to identify prohibited purchasers of firearms.
384 Upon the expiration, cancellation, revocation or other termination of the order, the court shall
385 transmit a report containing the respondent's name and identifying information, a statement
386 describing the respondent's alleged conduct and relationship to the petitioner and an explanation
387 that the order is no longer current or valid to the appropriate law enforcement agency specified in
388 the order; the licensing authority; the department of criminal justice information services who

shall transmit the report, pursuant to paragraph (h) of section 167A of chapter 6, to the attorney
general of the United States to be included in the National Instant Criminal Background Check
System; and any other federal or state computer-based systems used by law enforcement or
others to identify prohibited purchasers of firearms.

(b) The petitioner's residential address, residential telephone number and workplace
name, address and telephone number, contained within the court records of cases arising out of
an action brought by a petitioner under the provisions of sections 131R through 131BB, shall be
confidential and withheld from public inspection, except by order of the court, except that the
petitioner's residential address and workplace address shall appear on the court order and
accessible to the respondent and the respondent's attorney unless the petitioner specifically
requests that this information be withheld from the order pursuant to subsection (f) of section
131T. All confidential portions of the records shall be accessible at all reasonable times to the
petitioner and petitioner's attorney, to others specifically authorized by the petitioner to obtain
such information, and to prosecutors and law enforcement officers, if such access is necessary in
the performance of their duties. Such confidential portions of the court records shall not be
deemed to be public records under the provisions of clause twenty-sixth of section 7 of chapter 4.

Section 131AA. (a) Any person who files a petition for an extreme risk protection order,
knowing the information in the petition to be materially false or with intent to harass the
respondent, shall be punished by a fine of no more than \$5,000 or by imprisonment for no more
than 3 years in the house of corrections.

(b) Any person who has in his or her custody or control, owns, purchases, possesses, or
receives a firearm or ammunition with knowledge that he or she is prohibited from doing so by

411 an extreme risk protection order pursuant to 131U or 131X or an ex parte extreme risk protection
412 order pursuant to 131W and an accompanying suspension and surrender order pursuant to 131Y
413 shall be punished by a fine of no more than \$5,000 or by imprisonment for no more than ~~3~~ years
414 in the house of corrections, and shall be prohibited from having in his or her custody or control,
415 owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or
416 ammunition for a period of 5 years from the date of conviction.

417 Section 131BB. (a) Sections 131R through 131AA shall not affect the ability of a law
418 enforcement officer to remove firearms or ammunition from any person or conduct any search
419 and seizure for firearms pursuant to other lawful authority.

420 (b) Said sections 131R through 131AA shall not be construed to impose criminal or civil
421 liability on any person who chooses not to seek an extreme risk protection order pursuant to said
422 sections.

423 SECTION 4. The administrative office of the courts shall develop and prepare
424 instructions, brochures, petitions, forms and other material required pursuant to this act within 30
425 days of the effective date of this act.

426 SECTION 5. If any provision of this act or its application to any person or circumstance
427 is held invalid, the remainder of the act or the application of the provision to other persons or
428 circumstances shall not be affected.