

**HOUSE . . . . . No. 3610**

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

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**The Commonwealth of Massachusetts**

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**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;

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 3 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

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

393 (b) The petitioner's residential address, residential telephone number and workplace  
394 name, address and telephone number, contained within the court records of cases arising out of  
395 an action brought by a petitioner under the provisions of sections 131R through 131BB, shall be  
396 confidential and withheld from public inspection, except by order of the court, except that the  
397 petitioner's residential address and workplace address shall appear on the court order and  
398 accessible to the respondent and the respondent's attorney unless the petitioner specifically  
399 requests that this information be withheld from the order pursuant to subsection (f) of section  
400 131T. All confidential portions of the records shall be accessible at all reasonable times to the  
401 petitioner and petitioner's attorney, to others specifically authorized by the petitioner to obtain  
402 such information, and to prosecutors and law enforcement officers, if such access is necessary in  
403 the performance of their duties. Such confidential portions of the court records shall not be  
404 deemed to be public records under the provisions of clause twenty-sixth of section 7 of chapter 4.

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

409 (b) Any person who has in his or her custody or control, owns, purchases, possesses, or  
410 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.