

By Senator Berman

31-00465A-19

2019764__

1 A bill to be entitled
2 An act relating to home safety; creating s. 790.1741,
3 F.S.; prohibiting a person who owns a firearm from
4 keeping it in a residence if he or she knows or has
5 reason to know that another person also residing in
6 that residence is prohibited from owning, possessing,
7 purchasing, or receiving a firearm; providing
8 exceptions; providing criminal penalties; amending s.
9 790.401, F.S.; defining the term "family or household
10 member"; redefining the term "petitioner" to include
11 family or household members; requiring that on a
12 certain date and annually thereafter each clerk of the
13 court report to the Office of State Courts
14 Administrator specified information; requiring that by
15 a certain date the office compile and publish on its
16 website a report in a specified manner; conforming
17 provisions to changes made by the act; providing
18 effective dates.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Effective October 1, 2019, section 790.1741,
23 Florida Statutes, is created to read:

24 790.1741 Access to firearms in residence.-

25 (1) PROHIBITION.-Unless an exception under subsection (2)
26 applies, a person who is 18 years of age or older, who is a
27 legal occupant of a residence, and who owns a firearm may not
28 keep in that residence a firearm if he or she knows or has
29 reason to know that another person also residing therein is

31-00465A-19

2019764__

30 prohibited by state or federal law from owning, possessing,
 31 purchasing, or receiving a firearm.

32 (2) EXCEPTIONS.—Subsection (1) does not apply if that
 33 person does any of the following:

34 (a) Stores the firearm in a locked container, a locked gun
 35 safe, or a locked trunk.

36 (b) Disables the firearm by means of a firearm safety
 37 device.

38 (c) Secures the firearm with a locking device that renders
 39 the firearm inoperable.

40 (d) Keeps the firearm readily accessible to himself or
 41 herself for immediate use.

42 (3) PENALTY.—A person who violates this section commits a
 43 misdemeanor of the second degree, punishable as provided in s.
 44 775.082 or s. 775.083.

45 Section 2. Present paragraphs (a), (b), and (c) of
 46 subsection (1) of section 790.401, Florida Statutes, are
 47 redesignated as paragraphs (b), (c), and (d), respectively,
 48 present paragraph (a) of that subsection is amended, and a new
 49 paragraph (a) is added to that subsection, paragraphs (a), (b),
 50 (f), and (g) of subsection (2) and subsection (13) of that
 51 section are amended, and subsection (15) is added to that
 52 section, to read:

53 790.401 Risk protection orders.—

54 (1) DEFINITIONS.—As used in this section, the term:

55 (a) "Family or household member" has the same meaning as in
 56 s. 741.28. The term also includes a person who:

57 1. Has a biological or legal parent-child relationship with
 58 the respondent, including a stepparent, stepchild, grandparent,

31-00465A-19

2019764__

59 and grandchild; and

60 2. Is acting or has acted as the respondent's legal
61 guardian.

62 (b)(a) "Petitioner" means a law enforcement officer, or a
63 law enforcement agency, or a family or household member that
64 petitions a court for a risk protection order under this
65 section.

66 (2) PETITION FOR A RISK PROTECTION ORDER.—There is created
67 an action known as a petition for a risk protection order.

68 (a) A petition for a risk protection order may be filed by
69 a law enforcement officer, a ~~or~~ law enforcement agency, or a
70 family or household member.

71 (b) An action under this section must be filed in the
72 county where:

73 1. The petitioner's law enforcement office is located;

74 2. The family or household member lives; or

75 3. the county where The respondent resides.

76 (f) A law enforcement officer or law enforcement agency
77 that files a petition under this section ~~The petitioner~~ must
78 make a good faith effort to provide notice to a family or
79 household member of the respondent and to any known third party
80 who may be at risk of violence. The notice must state that the
81 law enforcement officer or law enforcement agency ~~petitioner~~
82 intends to petition the court for a risk protection order or has
83 already done so and must include referrals to appropriate
84 resources, including mental health, domestic violence, and
85 counseling resources. The law enforcement officer or law
86 enforcement agency ~~petitioner~~ must attest in the petition to
87 having provided such notice or must attest to the steps that

31-00465A-19

2019764__

88 will be taken to provide such notice.

89 (g) The petitioner must list the address of record on the
90 petition as being where the appropriate law enforcement agency
91 is located or where the family or household member lives.

92 (13) LIABILITY.—Except as provided in subsection (8) or
93 subsection (11), this section does not impose criminal or civil
94 liability on any person or entity for acts or omissions related
95 to obtaining a risk protection order or temporary ex parte risk
96 protection order, including, but not limited to, providing
97 notice to a law enforcement officer or law enforcement agency
98 ~~the petitioner~~, a family or household member of the respondent,
99 and any known third party who may be at risk of violence or
100 failure to provide such notice, or reporting, declining to
101 report, investigating, declining to investigate, filing, or
102 declining to file, a petition under this section.

103 (15) (a) Beginning January 31, 2020, and by each January 31
104 thereafter, each clerk of court shall report to the Office of
105 the State Courts Administrator all of the following information
106 for the previous calendar year, the total number of:

107 1. Petitions for a risk protection order sought and the
108 total number of those petitions that requested that the order be
109 entered ex parte.

110 2. Temporary ex parte risk protection orders entered and
111 the total number denied.

112 3. Risk protection orders entered and the total number
113 denied.

114 4. Risk protection orders vacated upon petition by the
115 respondent.

116 5. Risk protection orders extended.

31-00465A-19

2019764__

117 (b) Beginning April 1, 2020, and by each April 1
118 thereafter, the Office of State Courts Administrator shall
119 compile and publish on its website a report that provides the
120 information required by each of subparagraphs (a)1.-5. by
121 category, by county, and by court.

122 Section 3. Except as otherwise expressly provided in this
123 act, this act shall take effect July 1, 2019.