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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Gibson) recommended the following:

Senate Amendment (with title amendment)

Between lines 496 and 497

insert:

Section 18. (1) Section 790.401, Florida Statutes, is designed to temporarily prevent individuals who are at high risk of harming themselves or others from accessing firearms by allowing family, household members, and law enforcement to obtain a court order when there is demonstrated evidence that the person poses a significant danger, including danger as a



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11 result of a dangerous mental health crisis or violent behavior.

12 (2) The purpose and intent of section 790.401, Florida
13 Statutes, is to reduce gun deaths and injuries, while respecting
14 constitutional rights, by providing a court procedure for
15 family, household members, and law enforcement to obtain an
16 order temporarily restricting a person's access to firearms.
17 Court orders are intended to be limited to situations in which
18 the person poses a significant danger of harming himself or
19 herself or others by possessing a firearm, and include standards
20 and safeguards to protect the rights of respondents and due
21 process of law.

22 Section 19. Section 790.401, Florida Statutes, may be cited
23 as "The Risk Protection Order Act."

24 Section 20. Section 790.401, Florida Statutes, is created
25 to read:

26 790.401 Risk protection orders.-

27 (1) DEFINITIONS.-As used in this section, the term:

28 (a) "Family or household member" has the same meaning as
29 provided in s. 741.28. The term includes a person who:

30 1. Has a biological or legal parent-child relationship with
31 the respondent, including stepparents and stepchildren and
32 grandparents and grandchildren.

33 2. Is acting or has acted as the respondent's legal
34 guardian.

35 (b) "Petitioner" means the individual who petitions for an
36 order under this section.

37 (c) "Respondent" means the individual who is identified as
38 the respondent in a petition filed under this section.

39 (d) "Risk protection order" means an ex parte temporary



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40 order or a final order granted under this section.

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

43 (a) A petition for a risk protection order may be filed by
44 a family or household member of the respondent or a law
45 enforcement officer or agency.

46 (b) An action under this section must be filed in the
47 county where the petitioner resides or the county where the
48 respondent resides.

49 (c) A petition must:

50 1. Allege that the respondent poses a significant danger of
51 causing personal injury to self or others by having a firearm in
52 his or her custody or control or by potentially purchasing,
53 possessing, or receiving a firearm, and be accompanied by an
54 affidavit made under oath stating the specific statements,
55 actions, or facts that give rise to a reasonable fear of future
56 dangerous acts by the respondent.

57 2. Identify the numbers, types, and locations of any
58 firearms the petitioner believes to be in the respondent's
59 current ownership, possession, custody, or control.

60 3. Identify whether there is a known existing protection
61 order governing the respondent under s. 741.30, s. 784.046, or
62 s. 784.0485 or under any other applicable statute.

63 4. Identify whether there is a pending lawsuit, complaint,
64 petition, or other action between the parties to the petition
65 under the laws of this state.

66 (d) The clerk of court shall verify the terms of any
67 existing order governing the parties. The court may not delay
68 granting relief because of the existence of a pending action



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69 between the parties or the necessity of verifying the terms of
70 an existing order. A petition for a risk protection order may be
71 granted whether or not there is a pending action between the
72 parties.

73 (e) If the petitioner is a law enforcement officer or
74 agency, the petitioner shall make a good faith effort to provide
75 notice to a family or household member of the respondent and to
76 any known third party who may be at risk of violence. The notice
77 must state that the petitioner intends to petition the court for
78 a risk protection order or has already done so, and include
79 referrals to appropriate resources, including mental health,
80 domestic violence, and counseling resources. The petitioner must
81 attest in the petition to having provided such notice, or attest
82 to the steps that will be taken to provide such notice.

83 (f) If the petition states that disclosure of the
84 petitioner's address would risk harm to the petitioner or any
85 member of the petitioner's family or household, the petitioner's
86 address may be omitted from all documents filed with the court.
87 If the petitioner has not disclosed an address under this
88 subsection, the petitioner must designate an alternative address
89 at which the respondent may serve notice of any motions. If the
90 petitioner is a law enforcement officer or agency, the address
91 of record must be that of the law enforcement agency.

92 (g) Within 90 days of receipt of the master copy from the
93 Office of the State Courts Administrator, all clerks of court
94 shall make available the standardized forms, instructions, and
95 informational brochures required by subsection (14).

96 (h) Fees for filing or service of process may not be
97 charged by a court or any public agency to petitioners seeking



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98 relief under this section. Petitioners shall be provided the
99 necessary number of certified copies, forms, and instructional
100 brochures free of charge.

101 (i) A person is not required to post a bond to obtain
102 relief in any proceeding under this section.

103 (j) The circuit courts of this state have jurisdiction over
104 proceedings under this section.

105 (3) RISK PROTECTION ORDER HEARINGS AND ISSUANCE.—

106 (a) Upon receipt of the petition, the court shall order a
107 hearing to be held not later than 14 days after the date of the
108 order and issue a notice of hearing to the respondent for the
109 same.

110 1. The court may schedule a hearing by telephone pursuant
111 to local court rule, to reasonably accommodate a disability, or
112 in exceptional circumstances to protect a petitioner from
113 potential harm. The court shall require assurances of the
114 petitioner's identity before conducting a telephonic hearing.

115 2. The court clerk shall cause a copy of the notice of
116 hearing and petition to be forwarded on or before the next
117 business day to the appropriate law enforcement agency for
118 service upon the respondent.

119 3. Personal service of the notice of hearing and petition
120 shall be made upon the respondent by a law enforcement officer
121 not less than 5 business days before the hearing. Service under
122 this section takes precedence over the service of other
123 documents, unless the other documents are of a similar emergency
124 nature. If timely personal service cannot be made, the court
125 shall set a new hearing date and shall either require additional
126 attempts at obtaining personal service or permit service by



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127 publication or mail as provided in subsection (6). The court may
128 not require more than two attempts at obtaining personal service
129 and shall permit service by publication or mail after two
130 attempts at obtaining personal service unless the petitioner
131 requests additional time to attempt personal service. If the
132 court issues an order permitting service by publication or mail,
133 the court shall set the hearing date not later than 24 days
134 after the date the order is issued.

135 4. The court may, as provided in subsection (4), issue an
136 ex parte risk protection order pending the hearing ordered under
137 this subsection. Such ex parte order must be served concurrently
138 with the notice of hearing and petition.

139 (b) Upon hearing the matter, if the court finds by a
140 preponderance of the evidence that the respondent poses a
141 significant danger of causing personal injury to self or others
142 by having in his or her custody or control, purchasing,
143 possessing, or receiving a firearm, the court shall issue a risk
144 protection order for a period that it deems appropriate, up to
145 and including, but not exceeding, 12 months.

146 (c) In determining whether grounds for a risk protection
147 order exist, the court may consider any relevant evidence,
148 including, but not limited to, any of the following:

149 1. A recent act or threat of violence by the respondent
150 against self or others, whether or not such violence or threat
151 of violence involves a firearm.

152 2. An act or threat of violence by the respondent within
153 the past 12 months, including, but not limited to, acts or
154 threats of violence by the respondent against self or others.

155 3. A recurring mental health issue of the respondent.



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156 4. A violation by the respondent of a protection order or a
157 no contact order issued under s. 741.30, s. 784.046, or s.
158 784.0485.

159 5. A previous or existing risk protection order issued
160 against the respondent.

161 6. A violation of a previous or existing risk protection
162 order issued against the respondent.

163 7. A conviction of the respondent for a crime that
164 constitutes domestic violence as defined in s. 741.28.

165 8. The respondent's ownership, access to, or intent to
166 possess firearms.

167 9. The unlawful or reckless use, display, or brandishing of
168 a firearm by the respondent.

169 10. The recurring use of, or threat to use, physical force
170 by the respondent against another person, or the respondent
171 stalking another person.

172 11. An arrest, a plea of guilty or no contest, or a
173 conviction of the respondent for a violent misdemeanor or felony
174 offense.

175 12. Corroborated evidence of the abuse of controlled
176 substances or alcohol by the respondent.

177 13. Evidence of recent acquisition of firearms by the
178 respondent.

179 (d) The court may:

180 1. Examine under oath the petitioner, the respondent, and
181 any witnesses they may produce, or, in lieu of examination,
182 consider sworn affidavits of the petitioner, the respondent, and
183 any witnesses they may produce.

184 2. Ensure that a reasonable search has been conducted for



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185 criminal history records related to the respondent.

186 (e) In a hearing under this section, the rules of evidence
187 apply to the same extent as in a domestic violence injunction
188 proceeding under s. 741.30.

189 (f) During the hearing, the court shall consider whether a
190 mental health evaluation or chemical dependency evaluation is
191 appropriate, and may order such evaluation if appropriate.

192 (g) A risk protection order must include all of the
193 following:

194 1. A statement of the grounds supporting the issuance of
195 the order.

196 2. The date and time the order was issued.

197 3. The date and time the order expires.

198 4. Whether a mental health evaluation or chemical
199 dependency evaluation of the respondent is required.

200 5. The address of the court in which any responsive
201 pleading should be filed.

202 6. Instructions for relinquishment of firearms under
203 subsection (8).

204 7. The following statement:

205
206 "To the subject of this protection order: This order will last
207 until the date and time noted above. If you have not done so
208 already, you must surrender immediately to the (insert name of
209 local law enforcement agency) all firearms in your custody,
210 control, or possession and any license to carry a concealed
211 weapon or firearm issued to you under s. 790.06, Florida
212 Statutes. You may not have in your custody or control, or
213 purchase, possess, receive, or attempt to purchase or receive, a



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214 firearm while this order is in effect. You have the right to
215 request one hearing to terminate this order, starting after the
216 date of the issuance of this order and another hearing after
217 ever renewal of the order, if any. You may seek the advice of an
218 attorney as to any matter connected with this order."

219
220 (h) When the court issues a risk protection order, the
221 court shall inform the respondent that he or she is entitled to
222 request termination of the order in the manner prescribed by
223 subsection (7). The court shall provide the respondent with a
224 form to request a termination hearing.

225 (i) If the court denies the petitioner's request for a risk
226 protection order, the court shall state the particular reasons
227 for the court's denial.

228 (4) EX PARTE RISK PROTECTION ORDERS.—

229 (a) A petitioner may request that an ex parte risk
230 protection order be issued before a hearing for a risk
231 protection order, without notice to the respondent, by including
232 in the petition detailed allegations based on personal knowledge
233 that the respondent poses a significant danger of causing
234 personal injury to self or others in the near future by having
235 in his or her custody or control, purchasing, possessing, or
236 receiving a firearm.

237 (b) In considering whether to issue an ex parte risk
238 protection order under this section, the court shall consider
239 all relevant evidence, including the evidence described in
240 paragraph (3) (c).

241 (c) If a court finds there is reasonable cause to believe
242 that the respondent poses a significant danger of causing



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243 personal injury to self or others in the near future by having
244 in his or her custody or control, purchasing, possessing, or
245 receiving a firearm, the court shall issue an ex parte risk
246 protection order.

247 (d) The court shall hold an ex parte risk protection order
248 hearing in person or by telephone on the day the petition is
249 filed or on the business day immediately following the day the
250 petition is filed.

251 (e) In accordance with paragraph (3) (a), the court shall
252 schedule a hearing within 14 days of the issuance of an ex parte
253 risk protection order to determine if a risk protection order
254 should be issued under this section.

255 (f) An ex parte risk protection order must include all of
256 the following:

257 1. A statement of the grounds asserted for the order.

258 2. The date and time the order was issued.

259 3. The date and time the order expires.

260 4. The address of the court in which any responsive
261 pleading should be filed.

262 5. The date and time of the scheduled hearing.

263 6. A description of the requirements for surrender of
264 firearms under subsection (8).

265 7. The following statement:

266
267 "To the subject of this protection order: This order is valid
268 until the date and time noted above. You are required to
269 surrender all firearms in your custody, control, or possession.
270 You may not have in your custody or control, purchase, possess,
271 receive, or attempt to purchase or receive, a firearm while this



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272 order is in effect. You must surrender immediately to the
273 (insert name of local law enforcement agency) all firearms in
274 your custody, control, or possession and any license to carry a
275 concealed weapon or firearm issued to you under s. 790.06,
276 Florida Statutes. A hearing will be held on the date and at the
277 time noted above to determine if a risk protection order should
278 be issued. Failure to appear at that hearing may result in a
279 court ruling on an order against you that is valid for 1 year.
280 You may seek the advice of an attorney as to any matter
281 connected with this order."

282
283 (g) An ex parte risk protection order issued expires upon
284 the hearing on the risk protection order.

285 (h) An ex parte risk protection order shall be served by a
286 law enforcement officer in the same manner as provided for in
287 subsection (3) for service of the notice of hearing and petition
288 and shall be served concurrently with the notice of hearing and
289 petition.

290 (i) If the court denies the petitioner's request for an ex
291 parte risk protection order, the court shall state the
292 particular reasons for the court's denial.

293 (5) SERVICE OF RISK PROTECTION ORDERS.-

294 (a) A risk protection order issued under subsection (3)
295 must be personally served upon the respondent, except as
296 otherwise provided in this section.

297 (b) The law enforcement agency with jurisdiction in the
298 area in which the respondent resides shall serve the respondent
299 personally, unless the petitioner elects to have the respondent
300 served by a private party.



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301 (c) If service by a law enforcement agency is to be used,
302 the clerk of the court shall cause a copy of the order issued
303 under this section to be forwarded on or before the next
304 business day to the law enforcement agency specified in the
305 order for service upon the respondent. Service of an order
306 issued under this section takes precedence over the service of
307 other documents, unless the other documents are of a similar
308 emergency nature.

309 (d) If the law enforcement agency cannot complete service
310 upon the respondent within 10 days, the law enforcement agency
311 shall notify the petitioner. The petitioner shall provide
312 information sufficient to permit such notification.

313 (e) If an order entered by the court recites that the
314 respondent appeared in person before the court, the necessity
315 for further service is waived and proof of service of that order
316 is not necessary.

317 (f) If the court previously entered an order allowing
318 service of the notice of hearing and petition, or an ex parte
319 risk protection order, by publication or mail under subsection
320 (6), or if the court finds there are now grounds to allow such
321 alternate service, the court may permit service by publication
322 or mail of the risk protection order issued under this section
323 as provided in subsection (6). The court order must state
324 whether the court permitted service by publication or service by
325 mail.

326 (g) Returns of service under this section must be made in
327 accordance with the applicable court rules.

328 (6) SERVICE BY PUBLICATION OR MAIL.—

329 (a) The court may order service by publication or service



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330 by mail under the circumstances permitted for such service in s.
331 741.30, s. 784.046, or s. 784.0485, except any summons must be
332 essentially in the following form:

333
334 In the Court of the State of Florida for the
335 County of

336, Petitioner

337 vs. No.

338, Respondent

339 The State of Florida to (respondent):

340 You are hereby summoned to appear on the day of

341 . ., (year), at a.m./p.m., and respond to the

342 petition. If you fail to respond, a risk protection order may be

343 issued against you pursuant to the Risk Protection Order Act, s.

344 790.401, Florida Statutes, for 1 year after the date you are

345 required to appear. (An ex parte risk protection order has been

346 issued against you, restraining you from having in your custody

347 or control, purchasing, possessing, or receiving any firearms.

348 You must surrender to the (insert name of local law enforcement

349 agency) all firearms in your custody, control, or possession and

350 any license to carry a concealed weapon or firearm issued to you

351 under s. 790.06, Florida Statutes, within 48 hours. A copy of

352 the notice of hearing, petition, and ex parte risk protection

353 order has been filed with the clerk of this court.) (A copy of

354 the notice of hearing and petition has been filed with the clerk

355 of this court.)

356

357 Petitioner

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359 (b) If the court orders service by publication or mail for
360 notice of a risk protection order hearing, it shall also reissue
361 the ex parte risk protection order, if issued, to expire on the
362 date of the risk protection order hearing.

363 (c) Following completion of service by publication or by
364 mail for notice of a risk protection order hearing, if the
365 respondent fails to appear at the hearing, the court may issue a
366 risk protection order as provided in subsection (3).

367 (7) TERMINATION AND RENEWAL OF ORDERS.—

368 (a) The respondent may submit one written request for a
369 hearing to terminate a risk protection order issued under this
370 section, starting after the date of the issuance of the order
371 and another hearing after ever renewal of the order, if any.

372 1. Upon receipt of the request for a hearing to terminate a
373 risk protection order, the court shall set a date for a hearing.
374 Notice of the request must be served on the petitioner in
375 accordance with chapter 48. The hearing shall occur no sooner
376 than 14 days and no later than 30 days after the date of service
377 of the request upon the petitioner.

378 2. The respondent shall have the burden of proving by a
379 preponderance of the evidence that the respondent does not pose
380 a significant danger of causing personal injury to self or
381 others by having in his or her custody or control, purchasing,
382 possessing, or receiving a firearm. The court may consider any
383 relevant evidence, including evidence of the considerations
384 listed in paragraph (3) (c).

385 3. If the court finds after the hearing that the respondent
386 has met his or her burden, the court shall terminate the order.

387 (b) The court must notify the petitioner of the impending



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388 expiration of a risk protection order. Notice must be received
389 by the petitioner 105 calendar days before the date the order
390 expires.

391 (c) A family or household member of a respondent or a law
392 enforcement officer or agency may by motion request a renewal of
393 a risk protection order at any time within 105 calendar days
394 before the expiration of the order.

395 1. Upon receipt of the motion to renew, the court shall
396 order that a hearing be held not later than 14 days after the
397 date the order is issued.

398 a. The court may schedule a hearing by telephone in the
399 manner prescribed by subparagraph (3) (a)1.

400 b. The respondent shall be personally served in the same
401 manner prescribed by subparagraphs (3) (a)2. and 3.

402 2. In determining whether to renew a risk protection order
403 issued under this section, the court shall consider all relevant
404 evidence presented by the petitioner and follow the same
405 procedure as provided in subsection (3).

406 3. If the court finds by a preponderance of the evidence
407 that the requirements for issuance of a risk protection order as
408 provided in subsection (3) continue to be met, the court shall
409 renew the order. However, if, after notice, the motion for
410 renewal is uncontested and the petitioner seeks no modification
411 of the order, the order may be renewed on the basis of the
412 petitioner's motion or affidavit stating that there has been no
413 material change in relevant circumstances since entry of the
414 order and stating the reason for the requested renewal.

415 4. The renewal of a risk protection order has a duration of
416 1 year, subject to termination as provided in paragraph (a) or



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417 further renewal by order of the court.

418 (8) SURRENDER OF FIREARMS.—

419 (a) Upon issuance of any risk protection order under this
420 section, including an ex parte risk protection order, the court
421 shall order the respondent to surrender to the local law
422 enforcement agency all firearms in the respondent's custody,
423 control, or possession and any license to carry a concealed
424 weapon or firearm issued under s. 790.06.

425 (b) The law enforcement officer serving any risk protection
426 order under this section, including an ex parte risk protection
427 order, shall request that the respondent immediately surrender
428 all firearms in his or her custody, control, or possession and
429 any license to carry a concealed weapon or firearm issued under
430 s. 790.06, and conduct any search permitted by law for such
431 firearms. The law enforcement officer shall take possession of
432 all firearms belonging to the respondent that are surrendered,
433 in plain sight, or discovered pursuant to a lawful search.

434 Alternatively, if personal service by a law enforcement officer
435 is not possible, or not required because the respondent was
436 present at the risk protection order hearing, the respondent
437 shall surrender the firearms in a safe manner to the control of
438 the local law enforcement agency within 48 hours of being served
439 with the order by alternate service or within 48 hours of the
440 hearing at which the respondent was present.

441 (c) At the time of surrender, a law enforcement officer
442 taking possession of a firearm or license to carry a concealed
443 weapon or firearm shall issue a receipt identifying all firearms
444 that have been surrendered and provide a copy of the receipt to
445 the respondent. Within 72 hours after service of the order, the



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446 law enforcement officer serving the order shall file the
447 original receipt with the court and shall ensure that his or her
448 law enforcement agency retains a copy of the receipt.

449 (d) Upon the sworn statement or testimony of the petitioner
450 or of any law enforcement officer alleging that the respondent
451 has failed to comply with the surrender of firearms as required
452 by an order issued under this section, the court shall determine
453 whether probable cause exists to believe that the respondent has
454 failed to surrender all firearms in his or her possession,
455 custody, or control. If probable cause exists, the court shall
456 issue a warrant describing the firearms and authorizing a search
457 of the locations where the firearms are reasonably believed to
458 be and the seizure of any firearms discovered pursuant to such
459 search.

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

465 1. The firearm is removed from the respondent's custody,
466 control, or possession and the lawful owner agrees to store the
467 firearm in a manner such that the respondent does not have
468 access to or control of the firearm.

469 2. The firearm is not otherwise unlawfully possessed by the
470 owner.

471 (f) Upon the issuance of a risk protection order, the court
472 shall order a new hearing date and require the respondent to
473 appear not later than 3 business days from the issuance of the
474 order. The court shall require a showing that the person subject



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475 to the order has surrendered any firearms in his or her custody,
476 control, or possession. The court may dismiss the hearing upon a
477 satisfactory showing that the respondent is in compliance with
478 the order.

479 (g) All law enforcement agencies must develop policies and
480 procedures by June 1, 2019, regarding the acceptance, storage,
481 and return of firearms required to be surrendered under this
482 section.

483 (9) RETURN AND DISPOSAL OF FIREARMS.—

484 (a) If a risk protection order is terminated or expires
485 without renewal, a law enforcement agency holding any firearm
486 that has been surrendered pursuant to this section shall return
487 any surrendered firearm requested by a respondent only after
488 confirming, through a background check, that the respondent is
489 currently eligible to own or possess firearms under federal and
490 state law and after confirming with the court that the risk
491 protection order has terminated or has expired without renewal.

492 (b) A law enforcement agency must, if requested, provide
493 prior notice of the return of a firearm to a respondent to
494 family or household members of the respondent.

495 (c) Any firearm surrendered by a respondent pursuant to
496 subsection (8) that remains unclaimed by the lawful owner shall
497 be disposed of in accordance with the law enforcement agency's
498 policies and procedures for the disposal of firearms in police
499 custody.

500 (10) REPORTING OF ORDERS.—

501 (a) The clerk of the court shall enter any risk protection
502 order or ex parte risk protection order issued under this
503 section into the uniform case reporting system on the same day



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504 such order is issued.

505 (b) The clerk of the court shall forward a copy of an order
506 issued under this section the same day such order is issued to
507 the appropriate law enforcement agency specified in the order.
508 Upon receipt of the copy of the order, the law enforcement
509 agency shall enter the order into the National Instant Criminal
510 Background Check System, any other federal or state computer-
511 based systems used by law enforcement or others to identify
512 prohibited purchasers of firearms, and any computer-based
513 criminal intelligence information system available in this state
514 used by law enforcement agencies to list outstanding warrants.
515 The order must remain in each system for the period stated in
516 the order, and the law enforcement agency shall only expunge
517 orders from the systems that have expired or terminated. Entry
518 into the computer-based criminal intelligence information system
519 constitutes notice to all law enforcement agencies of the
520 existence of the order. The order is fully enforceable in any
521 county in the state.

522 (c) The issuing court shall, within 3 business days after
523 issuance of a risk protection order or ex parte risk protection
524 order, forward a copy of the respondent's driver license or
525 identification card, or comparable information, along with the
526 date of order issuance, to the Department of Agriculture and
527 Consumer Services. Upon receipt of the information, the
528 department shall determine if the respondent has a license to
529 carry a concealed weapon or firearm. If the respondent does have
530 a license to carry a concealed weapon or firearm, the department
531 shall immediately revoke the license.

532 (d) If a risk protection order is terminated before its



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533 expiration date, the clerk of the court shall forward the same
534 day a copy of the termination order to the Department of
535 Agriculture and Consumer Services and the appropriate law
536 enforcement agency specified in the termination order. Upon
537 receipt of the order, the law enforcement agency shall promptly
538 remove the order from any computer-based system in which it was
539 entered pursuant to paragraph (b).

540 (11) PENALTIES.—

541 (a) Any person who files a petition under this section
542 knowing the information in such petition to be materially false,
543 or with the intent to harass the respondent commits a
544 misdemeanor of the first degree, punishable as provided in s.
545 775.082 or s. 775.083.

546 (b)1.a Except as provided in sub-subparagraph b., a person
547 who has in his or her custody or control a firearm or purchases,
548 possesses, or receives a firearm with knowledge that he or she
549 is prohibited from doing so by an order issued under this
550 section commits a misdemeanor of the first degree, punishable as
551 provided in s. 775.082 or s. 775.083.

552 b. If a person has two or more previous convictions for
553 violating an order issued under this section, the person commits
554 a felony of the third degree punishable as provided in s.
555 775.082, s. 775.083, or s. 775.084.

556 2. A person who is convicted of an offense under this
557 paragraph is prohibited from having a firearm in his or her
558 custody or control or purchasing, possessing, or receiving, or
559 attempting to purchase or receive a firearm for a period of 5
560 years after the date the existing order under this section
561 expires.



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562 (12) LAW ENFORCEMENT RETAINS OTHER AUTHORITY.—This section
563 does not affect the ability of a law enforcement officer to
564 remove a firearm or license to carry a concealed weapon or
565 firearm from any person or conduct any search and seizure for
566 firearms pursuant to other lawful authority.

567 (13) LIABILITY.—Except as provided in subsection (11), this
568 section does not impose criminal or civil liability on any
569 person or entity for acts or omissions related to obtaining a
570 risk protection order or ex parte risk protection order,
571 including, but not limited to, reporting, declining to report,
572 investigating, declining to investigate, filing, or declining to
573 file a petition under this section.

574 (14) INSTRUCTIONAL AND INFORMATIONAL MATERIAL.—

575 (a) The Office of the State Courts Administrator shall
576 develop and prepare instructions and informational brochures,
577 standard petitions and risk protection order forms, and a court
578 staff handbook on the risk protection order process. The
579 standard petition and order forms must be used after June 1,
580 2019, for all petitions filed and orders issued under this
581 section. The instructions, brochures, forms, and handbook shall
582 be prepared in consultation with interested persons, including
583 representatives of gun violence prevention groups, judges, and
584 law enforcement personnel. Materials must be based on best
585 practices and available electronically online to the public.

586 1. The instructions must be designed to assist petitioners
587 in completing the petition, and must include a sample of a
588 standard petition and order for protection forms.

589 2. The instructions and standard petition must include a
590 means for the petitioner to identify, with only layman's



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591 knowledge, the firearms the respondent may own, possesses,
592 receive, or have in his or her custody or control. The
593 instructions must provide pictures of types of firearms that the
594 petitioner may choose from to identify the relevant firearms, or
595 an equivalent means to allow petitioners to identify firearms
596 without requiring specific or technical knowledge regarding the
597 firearms.

598 3. The informational brochure must describe the use of and
599 the process for obtaining, modifying, and terminating a risk
600 protection order under this section, and provide relevant forms.

601 4. The risk protection order form must include, in a
602 conspicuous location, notice of criminal penalties resulting
603 from violation of the order, and the following statement: "You
604 have the sole responsibility to avoid or refrain from violating
605 this order's provisions. Only the court can change the order and
606 only upon written application."

607 5. The court staff handbook must allow for the addition of
608 a community resource list by the court clerk.

609 (b) All court clerks may create a community resource list
610 of crisis intervention, mental health, substance abuse,
611 interpreter, counseling, and other relevant resources serving
612 the county in which the court is located. The court may make the
613 community resource list available as part of or in addition to
614 the informational brochures described in paragraph (a).

615 (c) The Office of the State Courts Administrator shall
616 distribute a master copy of the petition and order forms,
617 instructions, and informational brochures to all court clerks.
618 Distribution of all documents shall, at a minimum, be in an
619 electronic format or formats accessible to all courts and court



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620 clerks in the state.

621 (d) The Office of the State Courts Administrator shall
622 determine the significant non-English-speaking or limited
623 English-speaking populations in the state. The office shall then
624 arrange for translation of the instructions and informational
625 brochures required by this section, which shall contain a sample
626 of the standard petition and order for protection forms, into
627 the languages spoken by those significant non-English-speaking
628 populations or limited English-speaking populations and shall
629 distribute a master copy of the translated instructions and
630 informational brochures to all court clerks by December 1, 2018.

631 (e) The Office of the State Courts Administrator shall
632 update the instructions, brochures, standard petition and risk
633 protection order forms, and court staff handbook as necessary,
634 including when changes in the law make an update necessary.

635
636 ===== T I T L E A M E N D M E N T =====

637 And the title is amended as follows:

638 Delete line 2

639 and insert:

640 An act relating to veteran identification and gun
641 safety; providing intent; providing a short title;
642 creating s. 790.401, F.S.; defining terms; creating an
643 action known as a petition for a risk protection order
644 to prevent persons who are at high risk of harming
645 themselves or others from accessing firearms;
646 providing requirements for petitions for such orders;
647 providing duties for courts and clerks of court;
648 prohibiting fees for filing of such petitions;



649 providing for jurisdiction for such petitions;
650 requiring hearings on petitions within a specified
651 period; providing for service; providing grounds that
652 may be considered in determining whether to grant such
653 a petition; providing requirements for proceedings;
654 providing requirements for such orders; providing for
655 ex parte orders in certain circumstances; providing
656 for service of orders; providing for termination or
657 renewal of an order; providing for the surrender and
658 storage of firearms after issuance of such an order;
659 requiring law enforcement agencies to develop certain
660 policies and procedures by a certain date; providing
661 for return of firearms upon termination of an order;
662 requiring the reporting of such an order to specified
663 agencies; requiring the termination of a license to
664 carry a concealed weapon or firearm that is held by a
665 person subject to such an order; prohibiting a person
666 from knowingly filing a petition for such an order
667 which contains materially false or misleading
668 statements; providing criminal penalties; prohibiting
669 violations of such an order; providing criminal
670 penalties; prohibiting persons convicted of violating
671 such an order from possessing a firearm for a
672 specified period; providing construction; providing
673 that provisions do not create liability for certain
674 acts or omissions; requiring development and
675 distribution of certain instructional and
676 informational material; creating s.