

FOR CONSIDERATION By the Committee on Rules

595-03525-18

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1 A bill to be entitled
2 An act relating to firearm safety; amending s.
3 394.463, F.S.; authorizing a law enforcement officer
4 to seize and hold firearms and ammunition if taking
5 custody of a person who poses a potential danger to
6 himself or herself or others and who has made a
7 credible threat against another person; requiring the
8 law enforcement officer's agency to hold seized
9 firearms and ammunition under certain circumstances;
10 requiring law enforcement agencies to develop certain
11 policies and procedures; authorizing a law enforcement
12 officer to petition a court for a risk protection
13 order under certain circumstances; creating s.
14 790.064, F.S.; prohibiting a person who has been
15 adjudicated mentally defective or been committed to a
16 mental institution from owning or possessing a firearm
17 until certain relief is obtained; specifying that the
18 firearm possession and ownership disability runs
19 concurrently with the firearm purchase disability
20 under certain provisions; authorizing a person to
21 petition for relief from the firearm possession and
22 ownership disability; requiring that petitions for
23 relief follow certain procedures; authorizing such
24 person to petition for simultaneous relief; amending
25 s. 790.065, F.S.; prohibiting a person younger than a
26 certain age from purchasing a firearm; prohibiting the
27 sale or transfer, or facilitation of a sale or
28 transfer, of a firearm to a person younger than a
29 certain age by a licensed importer, licensed

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30 manufacturer, or licensed dealer; providing criminal
31 penalties; providing an exception; amending s.
32 790.0655, F.S.; revising the mandatory waiting period
33 to the later of either 3 days, excluding weekends and
34 legal holidays, or upon the completion of certain
35 records checks, whichever occurs first; prohibiting
36 the waiting period from being longer than a certain
37 time; revising and redefining terms; requiring that
38 records of firearm sales be available for inspection
39 by any law enforcement agency during normal business
40 hours; revising applicability of the waiting period;
41 conforming provisions to changes made by the act;
42 creating s. 790.34, F.S.; defining the term "bump-fire
43 stock"; prohibiting the importation, transfer,
44 distribution, transport, sale, or giving of a bump-
45 fire stock in this state; providing criminal
46 penalties; providing legislative intent; providing a
47 short title; creating s. 790.401, F.S.; defining
48 terms; creating an action known as a petition for a
49 risk protection order to prevent persons who are at
50 high risk of harming themselves or others from
51 accessing firearms or ammunition; providing
52 requirements for petitions for such orders; providing
53 duties for courts and clerks of court; prohibiting
54 fees for the filing of or service of process of such
55 petitions; providing for jurisdiction for such
56 petitions; requiring hearings on petitions within a
57 specified period; providing service requirements;
58 providing grounds that may be considered in

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59 determining whether to grant such a petition;
60 providing requirements for proceedings; providing
61 requirements for risk protection orders; requiring the
62 court to inform a respondent of his or her right to
63 request a certain hearing; authorizing temporary ex
64 parte orders under certain circumstances; providing
65 requirements for petitions for such ex parte orders;
66 providing for service of orders; providing for the
67 termination or extension of an order; providing for
68 the surrender and storage of firearms and ammunition
69 after issuance of a risk protection order; requiring
70 law enforcement agencies to develop certain policies
71 and procedures by a certain date; providing for return
72 of firearms and ammunition upon the vacating or end
73 without the extension of an order under certain
74 circumstances; authorizing a respondent to elect to
75 transfer all firearms and ammunition surrendered or
76 seized by a law enforcement agency to another person
77 under certain circumstances; requiring an issuing
78 court to forward specified information concerning a
79 respondent to the department; requiring the department
80 to suspend a license to carry a concealed weapon or
81 firearm which is held by a person subject to such an
82 order; prohibiting a person from knowingly filing a
83 petition for such an order which contains materially
84 false or misleading information; providing criminal
85 penalties; prohibiting violations of such an order;
86 providing criminal penalties; providing construction;
87 providing that the risk protection order provisions do

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88 not create liability for certain acts or omissions;
89 requiring the Office of the State Courts Administrator
90 to development and distribute certain instructional
91 and informational material; reenacting ss. 397.6760(2)
92 and 790.335(3)(e), F.S., relating to the
93 confidentiality of court records and exceptions to the
94 prohibition of registration of firearms, respectively,
95 to incorporate the amendment made to s. 790.065, F.S.,
96 in references thereto; providing an effective date.

97

98 Be It Enacted by the Legislature of the State of Florida:

99

100 Section 1. Paragraphs (c) and (d) of subsection (2) of
101 section 394.463, Florida Statutes, are amended to read:

102 394.463 Involuntary examination.—

103 (2) INVOLUNTARY EXAMINATION.—

104 (c) A law enforcement officer acting in accordance with an
105 ex parte order issued pursuant to this subsection may:

106 1. Serve and execute such order on any day of the week, at
107 any time of the day or night; and

108 2. Use such reasonable physical force as is necessary to
109 gain entry to the premises, and any dwellings, buildings, or
110 other structures located on the premises, and take custody of
111 the person who is the subject of the ex parte order.

112 (d) A law enforcement officer taking custody of a person
113 under this subsection may seize and hold a firearm or any
114 ammunition the person possesses at the time of taking him or her
115 into custody if the person poses a potential danger to himself
116 or herself or others and has made a credible threat of violence

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117 against another person.

118 1. If a law enforcement officer seizes a firearm or any
119 ammunition, the law enforcement officer's agency must hold the
120 seized firearm or ammunition for at least a 72-hour period or
121 until the person goes to the law enforcement agency to retrieve
122 the seized firearm or ammunition. Law enforcement agencies must
123 develop policies and procedures relating to the seizure,
124 storage, and return of such seized firearms or ammunition.

125 2. If the person has a firearm or any ammunition that was
126 not seized when he or she was taken into custody, a law
127 enforcement officer may petition the appropriate court for a
128 risk protection order against the person pursuant to s. 790.401.
129 ~~A law enforcement officer acting in accordance with an ex parte~~
130 ~~order issued pursuant to this subsection may use such reasonable~~
131 ~~physical force as is necessary to gain entry to the premises,~~
132 ~~and any dwellings, buildings, or other structures located on the~~
133 ~~premises, and to take custody of the person who is the subject~~
134 ~~of the ex parte order.~~

135 Section 2. Section 790.064, Florida Statutes, is created to
136 read:

137 790.064 Firearm possession and firearm ownership
138 disability.-

139 (1) A person who has been adjudicated mentally defective or
140 who has been committed to a mental institution as those terms
141 are defined in s. 790.065(2) may not own a firearm or possess a
142 firearm until relief from the firearm possession and firearm
143 ownership disability is obtained.

144 (2) The firearm possession and firearm ownership disability
145 runs concurrently with the firearm purchase disability provided

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146 in s. 790.065(2).

147 (3) A person may petition the court that made the
148 adjudication or commitment, or that ordered the record be
149 submitted to the Department of Law Enforcement pursuant to s.
150 790.065(2), for relief from the firearm possession and firearm
151 ownership disability.

152 (4) The person seeking relief must follow the procedures
153 set forth in s. 790.065(2) for obtaining relief from the firearm
154 purchase disability in seeking relief from the firearm
155 possession and firearm ownership disability.

156 (5) The person may seek relief from the firearm possession
157 and firearm ownership disability simultaneously with the relief
158 being sought from the firearm purchase disability, if such
159 relief is sought, pursuant to the procedure set forth in s.
160 790.065(2).

161 Section 3. Present subsection (13) of section 790.065,
162 Florida Statutes, is redesignated as subsection (14), and a new
163 subsection (13) is added to that section, to read:

164 790.065 Sale and delivery of firearms.—

165 (13) A person younger than 21 years of age may not purchase
166 a firearm. The sale or transfer of a firearm to a person younger
167 than 21 years of age may not be made or facilitated by a
168 licensed importer, licensed manufacturer, or licensed dealer. A
169 person who violates this subsection commits a felony of the
170 third degree, punishable as provided in s. 775.082, s. 775.083,
171 or s. 775.084. The prohibition on the purchase of a firearm by a
172 person younger than 21 years of age or the sale or transfer by a
173 licensed importer, licensed manufacturer, or licensed dealer to
174 a person younger than 21 years of age does not apply to a member

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175 of the military or naval forces of this state or of the United
176 States or to a law enforcement officer or a correctional
177 officer, as those terms are defined in s. 943.10.

178 Section 4. Section 790.0655, Florida Statutes, is amended
179 to read:

180 790.0655 Purchase and delivery of firearms ~~handguns~~;
181 mandatory waiting period; exceptions; penalties.-

182 (1) (a) ~~There shall be~~ A mandatory ~~3-day~~ waiting period is
183 imposed between the purchase and delivery of a firearm. The
184 mandatory waiting period is, which shall be 3 days, excluding
185 weekends and legal holidays, or upon the completion of the
186 records checks required under s. 790.065, whichever occurs later
187 ~~between the purchase and the delivery at retail of any handgun.~~
188 "Purchase" means the transfer of money or other valuable
189 consideration to the retailer. "Handgun" ~~means a firearm capable~~
190 ~~of being carried and used by one hand, such as a pistol or~~
191 ~~revolver.~~ "Retailer" means and includes a licensed importer,
192 licensed manufacturer, or licensed dealer ~~every person~~ engaged
193 in the business of making firearm sales at retail or for
194 distribution, or use, or consumption, or storage to be used or
195 consumed in this state, as defined in s. 212.02(13).

196 (b) Records of firearm ~~handgun~~ sales must be available for
197 inspection by any law enforcement agency, as defined in s.
198 934.02, during normal business hours.

199 (2) The ~~3-day~~ waiting period does ~~shall~~ not apply in the
200 following circumstances:

201 (a) When a firearm ~~handgun~~ is being purchased by a holder
202 of a concealed weapons permit as defined in s. 790.06.

203 (b) To a trade-in of another firearm ~~handgun~~.

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204 (c) To a person who completes a 16-hour hunter education or
205 hunter safety course approved by the Fish and Wildlife
206 Conservation Commission or similar agency of another state.

207 (3) It is a felony of the third degree, punishable as
208 provided in s. 775.082, s. 775.083, or s. 775.084:

209 (a) For any retailer, or any employee or agent of a
210 retailer, to deliver a firearm ~~handgun~~ before the expiration of
211 the ~~3-day~~ waiting period, subject to the exceptions provided in
212 subsection (2).

213 (b) For a purchaser to obtain delivery of a firearm ~~handgun~~
214 by fraud, false pretense, or false representation.

215 Section 5. Section 790.34, Florida Statutes, is created to
216 read:

217 790.34 Prohibited device for firearm.-

218 (1) DEFINITION.-As used in this section, the term "bump-
219 fire stock" means a gun conversion kit, a tool, an accessory, or
220 a device used to alter the rate of fire of a firearm to mimic
221 automatic weapon fire or which is used to increase the rate of
222 fire of a semiautomatic firearm to a faster rate than is
223 possible for a person to fire such semiautomatic firearm
224 unassisted by a kit, a tool, an accessory, or a device.

225 (2) SALE OR TRANSFER.-A person may not import into this
226 state or, within this state, transfer, distribute, transport,
227 sell, keep for sale, offer or expose for sale, or give a bump-
228 fire stock to another person. A person who violates this
229 subsection commits a felony of the third degree, punishable as
230 provided in s. 775.082, s. 775.083, or s. 775.084.

231 Section 6. (1) Section 790.401, Florida Statutes, is
232 intended to temporarily prevent individuals who are at high risk

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233 of harming themselves or others from accessing firearms or
234 ammunition by allowing law enforcement officers to obtain a
235 court order when there is demonstrated evidence that a person
236 poses a significant danger to himself or herself or others,
237 including significant danger as a result of a mental health
238 crisis or violent behavior.

239 (2) The purpose and intent of s. 790.401, Florida Statutes,
240 is to reduce deaths and injuries as a result of certain
241 individuals' use of firearms while respecting constitutional
242 rights by providing a judicial procedure for law enforcement
243 officers to obtain a court order temporarily restricting a
244 person's access to firearms and ammunition. The process
245 established by s. 790.401, Florida Statutes, is intended to
246 apply only to situations in which the person poses a significant
247 danger of harming himself or herself or others by possessing a
248 firearm or ammunition and to include standards and safeguards to
249 protect the rights of respondents and due process of law.

250 Section 7. Section 790.401, Florida Statutes, may be cited
251 as "The Risk Protection Order Act."

252 Section 8. Section 790.401, Florida Statutes, is created to
253 read:

254 790.401 Risk protection orders.—

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

256 (a) "Petitioner" means a law enforcement officer or a law
257 enforcement agency who petitions a court for a risk protection
258 order under this section.

259 (b) "Respondent" means the individual who is identified as
260 the respondent in a petition filed under this section.

261 (c) "Risk protection order" means a temporary ex parte

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262 order or a final order granted under this section.

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

265 (a) A petition for a risk protection order may be filed by
266 a law enforcement officer or law enforcement agency.

267 (b) An action under this section must be filed in the
268 county where the petitioner's law enforcement office is located
269 or the county where the respondent resides.

270 (c) Such petition for a risk protection order does not
271 require either party to be represented by an attorney.

272 (d) Notwithstanding any other law, attorney fees may not be
273 awarded in any proceeding under this section.

274 (e) A petition must:

275 1. Allege that the respondent poses a significant danger of
276 causing personal injury to himself or herself or others by
277 having a firearm or any ammunition in his or her custody or
278 control or by potentially purchasing, possessing, or receiving a
279 firearm or any ammunition, and must be accompanied by an
280 affidavit made under oath stating the specific statements,
281 actions, or facts that give rise to a reasonable fear of
282 significant dangerous acts by the respondent;

283 2. Identify the quantities, types, and locations of all
284 firearms and ammunition the petitioner believes to be in the
285 respondent's current ownership, possession, custody, or control;
286 and

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

290 (f) The petitioner must make a good faith effort to provide

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291 notice to a family or household member of the respondent and to
292 any known third party who may be at risk of violence. The notice
293 must state that the petitioner intends to petition the court for
294 a risk protection order or has already done so, and must include
295 referrals to appropriate resources, including mental health,
296 domestic violence, and counseling resources. The petitioner must
297 attest in the petition to having provided such notice or must
298 attest to the steps that will be taken to provide such notice.

299 (g) A petitioner must list the address of record on the
300 petition as being where the appropriate law enforcement agency
301 is located.

302 (h) A court or a public agency may not charge fees for
303 filing or for service of process to a petitioner seeking relief
304 under this section and must provide the necessary number of
305 certified copies, forms, and instructional brochures free of
306 charge.

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

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

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

312 (a) Upon receipt of a petition, the court must order a
313 hearing to be held no later than 14 days after the date of the
314 order and must issue a notice of hearing to the respondent for
315 the same.

316 1. The clerk of the court shall cause a copy of the notice
317 of hearing and petition to be forwarded on or before the next
318 business day to the appropriate law enforcement agency for
319 service upon the respondent as provided in subsection (5).

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320 2. The court may, as provided in subsection (4), issue a
321 temporary ex parte risk protection order pending the hearing
322 ordered under this subsection. Such temporary ex parte order
323 must be served concurrently with the notice of hearing and
324 petition as provided in subsection (5).

325 3. The court may conduct a hearing by telephone pursuant to
326 a local court rule to reasonably accommodate a disability or
327 exceptional circumstances. The court must receive assurances of
328 the petitioner's identity before conducting a telephonic
329 hearing.

330 (b) Upon notice and a hearing on the matter, if the court
331 finds by clear and convincing evidence that the respondent poses
332 a significant danger of causing personal injury to himself or
333 herself or others by having in his or her custody or control, or
334 by purchasing, possessing, or receiving, a firearm or any
335 ammunition, the court must issue a risk protection order for a
336 period that it deems appropriate, up to and including but not
337 exceeding 12 months.

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

341 1. A recent act or threat of violence by the respondent
342 against himself or herself or others, whether or not such
343 violence or threat of violence involves a firearm.

344 2. An act or threat of violence by the respondent within
345 the past 12 months, including, but not limited to, acts or
346 threats of violence by the respondent against himself or herself
347 or others.

348 3. Evidence of the respondent being seriously mentally ill

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349 or having recurring mental health issues.

350 4. A violation by the respondent of a protection order or a
351 no contact order issued under s. 741.30, s. 784.046, or s.
352 784.0485.

353 5. A previous or existing risk protection order issued
354 against the respondent.

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

357 7. Whether the respondent, in this state or any other
358 state, has been convicted of, had adjudication withheld on, or
359 pled nolo contendere to a crime that constitutes domestic
360 violence as defined in s. 741.28.

361 8. The respondent's ownership of, access to, or intent to
362 possess firearms or ammunition.

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

365 10. The recurring use of, or threat to use, physical force
366 by the respondent against another person, or the respondent
367 stalking another person.

368 11. Whether the respondent, in this state or any other
369 state, has been arrested, convicted of, had adjudication
370 withheld on, or pled nolo contendere to a crime involving
371 violence or a threat of violence.

372 12. Corroborated evidence of the abuse of controlled
373 substances or alcohol by the respondent.

374 13. Evidence of recent acquisition of firearms or
375 ammunition by the respondent.

376 14. Any relevant information from family and household
377 members concerning the respondent.

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378 (d) A person, including an officer of the court, who offers
379 evidence or recommendations relating to the cause of action must
380 either present the evidence or recommendations in writing to the
381 court with copies to each party and their attorney, if one is
382 retained, or must present the evidence under oath at a hearing
383 at which all parties are present.

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

387 (f) During the hearing, the court must consider whether a
388 mental health evaluation or chemical dependency evaluation is
389 appropriate and, if such determination is made, may order such
390 evaluations, if appropriate.

391 (g) A risk protection order must include all of the
392 following:

393 1. A statement of the grounds supporting the issuance of
394 the order;

395 2. The date the order was issued;

396 3. The date the order ends;

397 4. Whether a mental health evaluation or chemical
398 dependency evaluation of the respondent is required;

399 5. The address of the court in which any responsive
400 pleading should be filed;

401 6. A description of the requirements for the surrender of
402 firearms and ammunition under subsection (7); and

403 7. The following statement:

404

405 "To the subject of this protection order: This order will last
406 until the date noted above. If you have not done so already, you

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407 must surrender immediately to the (insert name of local law
408 enforcement agency) all firearms and ammunition in your custody,
409 control, or possession and any license to carry a concealed
410 weapon or firearm issued to you under s. 790.06, Florida
411 Statutes. You may not have in your custody or control, or
412 purchase, possess, receive, or attempt to purchase or receive, a
413 firearm or ammunition while this order is in effect. You have
414 the right to request one hearing to vacate this order, starting
415 after the date of the issuance of this order, and to request
416 another hearing after every extension of the order, if any. You
417 may seek the advice of an attorney as to any matter connected
418 with this order.”

419
420 (h) If the court issues a risk protection order, the court
421 must inform the respondent that he or she is entitled to request
422 a hearing to vacate the order in the manner provided by
423 subsection (6). The court shall provide the respondent with a
424 form to request a hearing to vacate.

425 (i) If the court denies the petitioner’s request for a risk
426 protection order, the court must state the particular reasons
427 for the denial.

428 (4) TEMPORARY EX PARTE RISK PROTECTION ORDERS.—

429 (a) A petitioner may request that a temporary ex parte risk
430 protection order be issued before a hearing for a risk
431 protection order, without notice to the respondent, by including
432 in the petition detailed allegations based on personal knowledge
433 that the respondent poses a significant danger of causing
434 personal injury to himself or herself or others in the near
435 future by having in his or her custody or control, or by

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436 purchasing, possessing, or receiving a firearm or ammunition.

437 (b) In considering whether to issue a temporary ex parte
438 risk protection order under this section, the court shall
439 consider all relevant evidence, including the evidence described
440 in paragraph (3) (c).

441 (c) If a court finds there is reasonable cause to believe
442 that the respondent poses a significant danger of causing
443 personal injury to himself or herself or others in the near
444 future by having in his or her custody or control, or by
445 purchasing, possessing, or receiving a firearm or ammunition,
446 the court must issue a temporary ex parte risk protection order.

447 (d) The court must hold a temporary ex parte risk
448 protection order hearing in person or by telephone on the day
449 the petition is filed or on the business day immediately
450 following the day the petition is filed.

451 (e) A temporary ex parte risk protection order must include
452 all of the following:

- 453 1. A statement of the grounds asserted for the order;
- 454 2. The date the order was issued;
- 455 3. The address of the court in which any responsive
456 pleading may be filed;
- 457 4. The date and time of the scheduled hearing;
- 458 5. A description of the requirements for surrender of
459 firearms and ammunition under subsection (7); and
- 460 6. The following statement:

461
462 "To the subject of this protection order: This order is valid
463 until the date noted above. You are required to surrender all
464 firearms and ammunition in your custody, control, or possession.

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465 You may not have in your custody or control, or purchase,
466 possess, receive, or attempt to purchase or receive, a firearm
467 or ammunition while this order is in effect. You must surrender
468 immediately to the (insert name of local law enforcement agency)
469 all firearms and ammunition in your custody, control, or
470 possession and any license to carry a concealed weapon or
471 firearm issued to you under s. 790.06, Florida Statutes. A
472 hearing will be held on the date and at the time noted above to
473 determine if a risk protection order should be issued. Failure
474 to appear at that hearing may result in a court ruling on an
475 order against you which is valid for 1 year. You may seek the
476 advice of an attorney as to any matter connected with this
477 order."

478
479 (f) A temporary ex parte risk protection order ends upon
480 the hearing on the risk protection order.

481 (g) A temporary ex parte risk protection order must be
482 served by a law enforcement officer in the same manner as
483 provided for in subsection (5) for service of the notice of
484 hearing and petition and must be served concurrently with the
485 notice of hearing and petition.

486 (h) If the court denies the petitioner's request for a
487 temporary ex parte risk protection order, the court must state
488 the particular reasons for the denial.

489 (5) SERVICE.—

490 (a) The clerk of the court shall furnish a copy of the
491 notice of hearing, petition, and temporary ex parte risk
492 protection order or risk protection order, as applicable, to the
493 sheriff of the county where the respondent resides or can be

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494 found, who shall serve it upon the respondent as soon thereafter
495 as possible on any day of the week and at any time of the day or
496 night. When requested by the sheriff, the clerk of the court may
497 transmit a facsimile copy of a temporary ex parte risk
498 protection order or a risk protection order that has been
499 certified by the clerk of the court, and this facsimile copy may
500 be served in the same manner as a certified copy. Upon receiving
501 a facsimile copy, the sheriff must verify receipt with the
502 sender before attempting to serve it upon the respondent. The
503 clerk of the court shall be responsible for furnishing to the
504 sheriff information on the respondent's physical description and
505 location. Notwithstanding any other provision of law to the
506 contrary, the chief judge of each circuit, in consultation with
507 the appropriate sheriff, may authorize a law enforcement agency
508 within the jurisdiction to effect service. A law enforcement
509 agency effecting service pursuant to this section shall use
510 service and verification procedures consistent with those of the
511 sheriff. Service under this section takes precedence over the
512 service of other documents, unless the other documents are of a
513 similar emergency nature.

514 (b) All orders issued, changed, continued, extended, or
515 vacated after the original service of documents specified in
516 paragraph (a) must be certified by the clerk of the court and
517 delivered to the parties at the time of the entry of the order.
518 The parties may acknowledge receipt of such order in writing on
519 the face of the original order. In the event a party fails or
520 refuses to acknowledge the receipt of a certified copy of an
521 order, the clerk shall note on the original order that service
522 was effected. If delivery at the hearing is not possible, the

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523 clerk shall mail certified copies of the order to the parties at
524 the last known address of each party. Service by mail is
525 complete upon mailing. When an order is served pursuant to this
526 subsection, the clerk shall prepare a written certification to
527 be placed in the court file specifying the time, date, and
528 method of service and shall notify the sheriff.

529 (6) TERMINATION AND EXTENSION OF ORDERS.—

530 (a) The respondent may submit one written request for a
531 hearing to vacate a risk protection order issued under this
532 section, starting after the date of the issuance of the order,
533 and may request another hearing after every extension of the
534 order, if any.

535 1. Upon receipt of the request for a hearing to vacate a
536 risk protection order, the court shall set a date for a hearing.
537 Notice of the request must be served on the petitioner in
538 accordance with subsection (5). The hearing must occur no sooner
539 than 14 days and no later than 30 days after the date of service
540 of the request upon the petitioner.

541 2. The respondent shall have the burden of proving by clear
542 and convincing evidence that the respondent does not pose a
543 significant danger of causing personal injury to himself or
544 herself or others by having in his or her custody or control,
545 purchasing, possessing, or receiving a firearm or ammunition.
546 The court may consider any relevant evidence, including evidence
547 of the considerations listed in paragraph (3) (c).

548 3. If the court finds after the hearing that the respondent
549 has met his or her burden of proof, the court must vacate the
550 order.

551 4. The law enforcement agency holding any firearm or

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552 ammunition that has been surrendered pursuant to this section
553 shall be notified of the court order to vacate the risk
554 protection order.

555 (b) The court must notify the petitioner of the impending
556 end of a risk protection order. Notice must be received by the
557 petitioner 30 calendar days before the date the order ends.

558 (c) The petitioner may, by motion, request an extension of
559 a risk protection order at any time within 30 calendar days
560 before the end of the order.

561 1. Upon receipt of the motion to extend, the court shall
562 order that a hearing be held no later than 14 days after the
563 date the order is issued and shall schedule such hearing.

564 a. The court may schedule a hearing by telephone in the
565 manner provided by subparagraph (3) (a) 3.

566 b. The respondent must be personally served in the same
567 manner provided by subsection (5).

568 2. In determining whether to extend a risk protection order
569 issued under this section, the court may consider all relevant
570 evidence, including evidence of the considerations listed in
571 paragraph (3) (c).

572 3. If the court finds by clear and convincing evidence that
573 the requirements for issuance of a risk protection order as
574 provided in subsection (3) continue to be met, the court must
575 extend the order. However, if, after notice, the motion for
576 extension is uncontested and no modification of the order is
577 sought, the order may be extended on the basis of a motion or
578 affidavit stating that there has been no material change in
579 relevant circumstances since entry of the order and stating the
580 reason for the requested extension.

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581 4. The court may extend a risk protection order for a
582 period that it deems appropriate, up to and including but not
583 exceeding 12 months, subject to an order to vacate as provided
584 in paragraph (a) or to another extension order by the court.

585 (7) SURRENDER OF FIREARMS AND AMMUNITION.—

586 (a) Upon issuance of a risk protection order under this
587 section, including a temporary ex parte risk protection order,
588 the court shall order the respondent to surrender to the local
589 law enforcement agency all firearms and ammunition in the
590 respondent's custody, control, or possession except as provided
591 in subsection (9), and any license to carry a concealed weapon
592 or firearm issued under s. 790.06.

593 (b) The law enforcement officer serving a risk protection
594 order under this section, including a temporary ex parte risk
595 protection order, shall request that the respondent immediately
596 surrender all firearms and ammunition in his or her custody,
597 control, or possession and any license to carry a concealed
598 weapon or firearm issued under s. 790.06, and shall conduct a
599 search authorized by law for such firearms and ammunition. The
600 law enforcement officer shall take possession of all firearms
601 and ammunition belonging to the respondent which are
602 surrendered, in plain sight, or discovered pursuant to a lawful
603 search. Alternatively, if personal service by a law enforcement
604 officer is not possible or is not required because the
605 respondent was present at the risk protection order hearing, the
606 respondent shall surrender the firearms and ammunition in a safe
607 manner to the control of the local law enforcement agency
608 immediately after being served with the order by service or
609 immediately after the hearing at which the respondent was

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610 present.

611 (c) At the time of surrender, a law enforcement officer
612 taking possession of a firearm, any ammunition, or a license to
613 carry a concealed weapon or firearm shall issue a receipt
614 identifying all firearms and the quantity and type of ammunition
615 that have been surrendered and shall provide a copy of the
616 receipt to the respondent. Within 72 hours after service of the
617 order, the law enforcement officer serving the order shall file
618 the original receipt with the court and shall ensure that his or
619 her law enforcement agency retains a copy of the receipt.

620 (d) Notwithstanding ss. 933.02 and 933.18, upon the sworn
621 statement or testimony of any person alleging that the
622 respondent has failed to comply with the surrender of firearms
623 or ammunition as required by an order issued under this section,
624 the court shall determine whether probable cause exists to
625 believe that the respondent has failed to surrender all firearms
626 or ammunition in his or her custody, control, or possession. If
627 the court finds that probable cause exists, the court must issue
628 a warrant describing the firearms or ammunition and authorizing
629 a search of the locations where the firearms or ammunition are
630 reasonably believed to be found and the seizure of any firearms
631 or ammunition discovered pursuant to such search.

632 (e) If a person other than the respondent claims title to
633 any firearms or ammunition surrendered pursuant to this section,
634 and he or she is determined by the law enforcement agency to be
635 the lawful owner of the firearm or ammunition, the firearm or
636 ammunition shall be returned to him or her, provided that:

637 1. The lawful owner agrees to store the firearm or
638 ammunition in a manner such that the respondent does not have

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639 access to or control of the firearm or ammunition.

640 2. The firearm or ammunition is not otherwise unlawfully
641 possessed by the owner.

642 (f) Upon the issuance of a risk protection order, the court
643 shall order a new hearing date and require the respondent to
644 appear no later than 3 business days after the issuance of the
645 order. The court shall require proof that the respondent has
646 surrendered any firearms or ammunition in his or her custody,
647 control, or possession. The court may cancel the hearing upon a
648 satisfactory showing that the respondent is in compliance with
649 the order.

650 (g) All law enforcement agencies must develop policies and
651 procedures by January 1, 2019, regarding the acceptance,
652 storage, and return of firearms or ammunition required to be
653 surrendered under this section.

654 (8) RETURN AND DISPOSAL OF FIREARMS AND AMMUNITION.—

655 (a) If a risk protection order is vacated or ends without
656 extension, a law enforcement agency holding a firearm or any
657 ammunition that has been surrendered or seized pursuant to this
658 section must return such surrendered firearm or ammunition
659 requested by a respondent only after confirming through a
660 background check that the respondent is currently eligible to
661 own or possess firearms and ammunition under federal and state
662 law and after confirming with the court that the risk protection
663 order has been vacated or has ended without extension.

664 (b) If a risk protection order is vacated or ends without
665 extension, the Department of Agriculture and Consumer Services,
666 if it has suspended a license to carry a concealed weapon or
667 firearm pursuant to this section, must reinstate such license

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668 only after confirming that the respondent is currently eligible
669 to have a license to carry a concealed weapon or firearm
670 pursuant to s. 790.06.

671 (c) A law enforcement agency must provide notice to any
672 family or household members of the respondent before the return
673 of any surrendered firearm and ammunition.

674 (d) Any firearm and ammunition surrendered by a respondent
675 pursuant to subsection (7) which remains unclaimed by the lawful
676 owner after an order to vacate the risk protection order shall
677 be disposed of in accordance with the law enforcement agency's
678 policies and procedures for the disposal of firearms in police
679 custody.

680 (9) TRANSFER OF FIREARMS AND AMMUNITION.—A respondent may
681 elect to transfer all firearms and ammunition that have been
682 surrendered to or seized by a local law enforcement agency
683 pursuant to subsection (7) to another person who is willing to
684 receive the respondent's firearms and ammunition. The law
685 enforcement agency may allow such a transfer only if it is
686 determined that the chosen recipient:

687 (a) Currently is eligible to own or possess a firearm and
688 ammunition under federal and state law after confirmation
689 through a background check;

690 (b) Attests to storing the firearms and ammunition in a
691 manner such that the respondent does not have access to or
692 control of the firearms and ammunition until the risk protection
693 order against the respondent is vacated or ends without
694 extension; and

695 (c) Attests not to transfer the firearms or ammunition back
696 to the respondent until the risk protection order against the

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697 respondent is vacated or ends without extension.

698 (10) REPORTING OF ORDERS.—

699 (a) Within 24 hours after issuance, the clerk of the court
700 shall enter any risk protection order or temporary ex parte risk
701 protection order issued under this section into the uniform case
702 reporting system.

703 (b) Within 24 hours after issuance, the clerk of the court
704 shall forward a copy of an order issued under this section to
705 the appropriate law enforcement agency specified in the order.
706 Upon receipt of the copy of the order, the law enforcement
707 agency shall enter the order into the National Instant Criminal
708 Background Check System, any other federal or state computer-
709 based systems used by law enforcement agencies or others to
710 identify prohibited purchasers of firearms or ammunition, and
711 into any computer-based criminal intelligence information system
712 available in this state used by law enforcement agencies to list
713 outstanding warrants. The order must remain in each system for
714 the period stated in the order, and the law enforcement agency
715 shall only remove orders from the systems that have ended or
716 been vacated. Entry into the Florida Crime Information Center
717 and National Crime Information Center constitutes notice to all
718 law enforcement agencies of the existence of the order. The
719 order is fully enforceable in any county in this state.

720 (c) The issuing court shall, within 3 business days after
721 issuance of a risk protection order or temporary ex parte risk
722 protection order, forward all available identifying information
723 concerning the respondent, along with the date of order
724 issuance, to the Department of Agriculture and Consumer
725 Services. Upon receipt of the information, the department shall

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726 determine if the respondent has a license to carry a concealed
727 weapon or firearm. If the respondent does have a license to
728 carry a concealed weapon or firearm, the department must
729 immediately suspend the license.

730 (d) If a risk protection order is vacated before its end
731 date, the clerk of the court shall, on the day of the order to
732 vacate, forward a copy of the order to the Department of
733 Agriculture and Consumer Services and the appropriate law
734 enforcement agency specified in the order to vacate. Upon
735 receipt of the order, the law enforcement agency shall promptly
736 remove the order from any computer-based system in which it was
737 entered pursuant to paragraph (b).

738 (11) PENALTIES.—

739 (a) A person who files a petition under this section
740 knowing the information in such petition is materially false, or
741 files with the intent to harass the respondent, commits a
742 misdemeanor of the first degree, punishable as provided in s.
743 775.082 or s. 775.083.

744 (b) A person who has in his or her custody or control a
745 firearm or any ammunition or who purchases, possesses, or
746 receives a firearm or any ammunition with knowledge that he or
747 she is prohibited from doing so by an order issued under this
748 section commits a felony of the third degree, punishable as
749 provided in s. 775.082, s. 775.083, or s. 775.084.

750 (12) LAW ENFORCEMENT RETAINS OTHER AUTHORITY.—This section
751 does not affect the ability of a law enforcement officer to
752 remove a firearm or ammunition or license to carry a concealed
753 weapon or concealed firearm from any person or to conduct any
754 search and seizure for firearms or ammunition pursuant to other

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755 lawful authority.

756 (13) LIABILITY.—Except as provided in subsection (10), this
757 section does not impose criminal or civil liability on any
758 person or entity for acts or omissions related to obtaining a
759 risk protection order or temporary ex parte risk protection
760 order, including, but not limited to, providing notice to the
761 petitioner, a family or household member of the respondent, and
762 any known third party who may be at risk of violence or failure
763 to provide such notice, or reporting, declining to report,
764 investigating, declining to investigate, filing, or declining to
765 file, a petition under this section.

766 (14) INSTRUCTIONAL AND INFORMATIONAL MATERIAL.—

767 (a) The Office of the State Courts Administrator shall
768 develop and prepare instructions and informational brochures,
769 standard petitions and risk protection order forms, and a court
770 staff handbook on the risk protection order process. The
771 standard petition and order forms must be used after January 1,
772 2019, for all petitions filed and orders issued pursuant to this
773 section. The office shall determine the significant non-English-
774 speaking or limited English-speaking populations in the state
775 and prepare the instructions and informational brochures,
776 standard petitions and risk protection order forms in these
777 languages. The instructions, brochures, forms, and handbook must
778 be prepared in consultation with interested persons, including
779 representatives of gun violence prevention groups, judges, and
780 law enforcement personnel. Materials must be based on best
781 practices and must be available online to the public.

782 1. The instructions must be designed to assist petitioners
783 in completing the petition and must include a sample of a

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784 standard petition and order for protection forms.

785 2. The instructions and standard petition must include a
786 means for the petitioner to identify, with only layman's
787 knowledge, the firearms or ammunition the respondent may own,
788 possess, receive, or have in his or her custody or control. The
789 instructions must provide pictures of types of firearms and
790 ammunition that the petitioner may choose from to identify the
791 relevant firearms or ammunition, or must provide an equivalent
792 means to allow petitioners to identify firearms or ammunition
793 without requiring specific or technical knowledge regarding the
794 firearms or ammunition.

795 3. The informational brochure must describe the use of and
796 the process for obtaining, extending, and vacating a risk
797 protection order under this section, and must provide relevant
798 forms.

799 4. The risk protection order form must include, in a
800 conspicuous location, notice of criminal penalties resulting
801 from violation of the order, and the following statement: "You
802 have the sole responsibility to avoid or refrain from violating
803 this order's provisions. Only the court can change the order and
804 only upon written request."

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

807 (b) Any clerk of court may create a community resource list
808 of crisis intervention, mental health, substance abuse,
809 interpreter, counseling, and other relevant resources serving
810 the county in which the court is located. The court may make the
811 community resource list available as part of or in addition to
812 the informational brochures described in paragraph (a).

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813 (c) The Office of the State Courts Administrator shall
814 distribute a master copy of the petition and order forms,
815 instructions, and informational brochures to the clerks of
816 court. Distribution of all documents shall, at a minimum, be in
817 an electronic format or formats accessible to all courts and
818 clerks of court in the state.

819 (d) Within 90 days of receipt of the master copy from the
820 Office of the State Courts Administrator, the clerk of the court
821 shall make available the standardized forms, instructions, and
822 informational brochures required by this subsection.

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

827 Section 9. For the purpose of incorporating the amendment
828 made by this act to section 790.065, Florida Statutes, in a
829 reference thereto, subsection (2) of section 397.6760, Florida
830 Statutes, is reenacted to read:

831 397.6760 Court records; confidentiality.—

832 (2) This section does not preclude the clerk of the court
833 from submitting the information required by s. 790.065 to the
834 Department of Law Enforcement.

835 Section 10. For the purpose of incorporating the amendment
836 made by this act to section 790.065, Florida Statutes, in a
837 reference thereto, paragraph (e) of subsection (3) of section
838 790.335, Florida Statutes, is reenacted to read:

839 790.335 Prohibition of registration of firearms; electronic
840 records.—

841 (3) EXCEPTIONS.—The provisions of this section shall not

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842 apply to:

843 (e)1. Records kept pursuant to the recordkeeping provisions
844 of s. 790.065; however, nothing in this section shall be
845 construed to authorize the public release or inspection of
846 records that are made confidential and exempt from the
847 provisions of s. 119.07(1) by s. 790.065(4) (a).

848 2. Nothing in this paragraph shall be construed to allow
849 the maintaining of records containing the names of purchasers or
850 transferees who receive unique approval numbers or the
851 maintaining of records of firearm transactions.

852 Section 11. This act shall take effect October 1, 2018.