

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Berman offered the following:

Amendment to Amendment (565819)

Remove lines 5-72 and insert:

ammunition by allowing law enforcement officers, licensed mental health professional, a family or household member to obtain a court order when there is demonstrated evidence that a person poses a significant danger to himself or herself or others, including significant danger as a result of a mental health crisis or violent behavior.

(2) The purpose and intent of s. 790.401, Florida Statutes, is to reduce deaths and injuries as a result of certain individuals' use of firearms while respecting

916353

Approved For Filing: 3/5/2018 10:53:22 PM

Amendment No.

14 constitutional rights by providing a judicial procedure for law
15 enforcement officers to obtain a court order temporarily
16 restricting a person's access to firearms and ammunition. The
17 process established by s. 790.401, Florida Statutes, is intended
18 to apply only to situations in which the person poses a
19 significant danger of harming himself or herself or others by
20 possessing a firearm or ammunition and to include standards and
21 safeguards to protect the rights of respondents and due process
22 of law.

23 Section 14. Section 790.401, Florida Statutes, may be
24 cited as "The Risk Protection Order Act."

25 Section 15. Section 790.401, Florida Statutes, is created
26 to read:

27 790.401 Risk protection orders.-

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

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

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

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

36 (b) "Petitioner" means a law enforcement officer, a law
37 enforcement agency, or licensed mental health professional that

916353

Approved For Filing: 3/5/2018 10:53:22 PM

Amendment No.

38 petitions a court for a risk protection order under this
39 section.

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

42 (d) "Risk protection order" means a temporary ex parte
43 order or a final order granted under this section.

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

46 (a) A petition for a risk protection order may be filed by
47 a law enforcement officer, law enforcement agency, or licensed
48 mental health professional or a family or household member.

49 (b) An action under this section must be filed in the
50 county where the petitioner's law enforcement office is located,
51 the county where the respondent resides, the county where the
52 licensed mental health professional practices, or the county
53 where the family or household member resides.

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

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

58 (e) A petition must:

59 1. Allege that the respondent poses a significant danger
60 of causing personal injury to himself or herself or others by
61 having a firearm or any ammunition in his or her custody or
62 control or by purchasing, possessing, or receiving a firearm or

916353

Approved For Filing: 3/5/2018 10:53:22 PM

Amendment No.

63 any ammunition, and must be accompanied by an affidavit made
64 under oath stating the specific statements, actions, or facts
65 that give rise to a reasonable fear of significant dangerous
66 acts by the respondent;

67 2. Identify the quantities, types, and locations of all
68 firearms and ammunition the petitioner believes to be in the
69 respondent's current ownership, possession, custody, or control;
70 and

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

74 (f) If the petition is filed by a law enforcement
75 officer, law enforcement agency, or licensed mental health
76 professional, the petitioner must make a

916353

Approved For Filing: 3/5/2018 10:53:22 PM