

AMENDMENTS TO HOUSE BILL NO. 2227

Sponsor: REPRESENTATIVE STEPHENS

Printer's No. 3344

1 Amend Bill, page 1, lines 1 through 7, by striking out all of
2 said lines and inserting

3 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
4 Judicial Procedure) of the Pennsylvania Consolidated
5 Statutes, in firearms and other dangerous articles, further
6 providing for persons not to possess, use, manufacture,
7 control, sell or transfer firearms; in community and
8 municipal courts, further providing for masters; and adding
9 provisions relating to extreme risk protection orders.

10 Amend Bill, page 1, lines 10 through 19; pages 2 through 19,
11 lines 1 through 30; page 20, lines 1 through 14; by striking out
12 all of said lines on said pages and inserting

13 Section 1. Section 6105(a)(2), (a.1) and (f)(4)(i) of Title
14 18 of the Pennsylvania Consolidated Statutes are amended and
15 subsection (c) is amended by adding paragraphs to read:

16 § 6105. Persons not to possess, use, manufacture, control, sell
17 or transfer firearms.

18 (a) Offense defined.--

19 * * *

20 (2) (i) A person who is prohibited from possessing,
21 using, controlling, selling, transferring or
22 manufacturing a firearm under paragraph (1) or subsection
23 (b) or (c) shall have a reasonable period of time, not to
24 exceed 60 days from the date of the imposition of the
25 disability under this subsection, in which to sell or
26 transfer that person's firearms to another eligible
27 person who is not a member of the prohibited person's
28 household.

29 (ii) This paragraph shall not apply to any person
30 whose disability is imposed pursuant to subsection (c)(6)
31 or (10).

32 (a.1) Penalty.--

33 (1) Except as provided under paragraph (1.1), a person
34 convicted of a felony enumerated under subsection (b) or a
35 felony under the act of April 14, 1972 (P.L.233, No.64),

1 known as The Controlled Substance, Drug, Device and Cosmetic
2 Act, or any equivalent Federal statute or equivalent statute
3 of any other state, who violates subsection (a) commits a
4 felony of the second degree.

5 (1.1) The following shall apply:

6 (i) A person convicted of a felony enumerated under
7 subsection (b) or a felony under The Controlled
8 Substance, Drug, Device and Cosmetic Act, or any
9 equivalent Federal statute or equivalent statute of any
10 other state, who violates subsection (a) commits a felony
11 of the first degree if:

12 (A) at the time of the commission of a violation
13 of subsection (a), the person has previously been
14 convicted of an offense under subsection (a); or

15 (B) at the time of the commission of a violation
16 of subsection (a), the person was in physical
17 possession or control of a firearm, whether visible,
18 concealed about the person or within the person's
19 reach.

20 (ii) The Pennsylvania Commission on Sentencing,
21 under 42 Pa.C.S. § 2154 (relating to adoption of
22 guidelines for sentencing), shall provide for a
23 sentencing enhancement for a sentence imposed pursuant to
24 this paragraph.

25 (2) A person who is the subject of an active protection
26 from abuse order issued pursuant to 23 Pa.C.S. § 6108
27 (relating to relief), which order provided for the
28 relinquishment of firearms, other weapons or ammunition
29 during the period of time the order is in effect, commits a
30 misdemeanor of the [first] second degree if he intentionally
31 or knowingly fails to relinquish a firearm, other weapon or
32 ammunition to the sheriff as required by the order unless, in
33 lieu of relinquishment, he provides an affidavit which lists
34 the firearms, other weapons or ammunition to the sheriff in
35 accordance with either 23 Pa.C.S. § 6108(a)(7)(i)(B), 6108.2
36 (relating to relinquishment for consignment sale, lawful
37 transfer or safekeeping) or 6108.3 (relating to
38 relinquishment to third party for safekeeping).

39 (2.1) A person who is the subject of an extreme risk
40 protection order issued pursuant to 42 Pa.C.S. Ch. 64A
41 (relating to extreme risk protection orders) commits a
42 misdemeanor of the second degree if he intentionally or
43 knowingly fails to relinquish a firearm or firearms license
44 as required by the order.

45 (3) (i) A person commits a misdemeanor of the third
46 degree if he intentionally or knowingly accepts
47 possession of a firearm, other weapon or ammunition from
48 a person he knows is the subject of an active protection
49 from abuse order issued pursuant to 23 Pa.C.S. § 6108,
50 which order provided for the relinquishment of the
51 firearm, other weapon or ammunition during the period of

1 time the order is in effect[.], or intentionally or
2 knowingly accepts possession of a firearm or firearms
3 license from a person he knows is the subject of an
4 extreme risk protection order issued pursuant to 42
5 Pa.C.S. Ch. 64A.

6 (ii) This paragraph shall not apply to:

7 (A) a third party who accepts possession of a
8 firearm, other weapon or ammunition relinquished
9 pursuant to 23 Pa.C.S. § 6108.3; or

10 (B) a dealer licensed pursuant to section 6113
11 (relating to licensing of dealers) or subsequent
12 purchaser from a dealer licensed pursuant to section
13 6113, who accepts possession of a firearm, other
14 weapon or ammunition relinquished pursuant to 23
15 Pa.C.S. § 6108.2 or 42 Pa.C.S. Ch. 64A.

16 (4) It shall be an affirmative defense to any
17 prosecution under paragraph (3) that the person accepting
18 possession of a firearm, other weapon or ammunition in
19 violation of paragraph (3):

20 (i) notified the sheriff as soon as practicable that
21 he has taken possession; and

22 (ii) relinquished possession of any firearm, other
23 weapon or ammunition possessed in violation of paragraph
24 (3) as directed by the sheriff.

25 (5) A person who has accepted possession of a firearm,
26 other weapon or ammunition pursuant to 23 Pa.C.S. § 6108.3 or
27 a firearm or firearms license pursuant to 42 Pa.C.S. Ch. 64A
28 commits a misdemeanor of the [first] second degree if he
29 intentionally or knowingly returns a firearm, other weapon or
30 ammunition to a defendant or respondent or intentionally or
31 knowingly allows a defendant or respondent to have access to
32 the firearm, other weapon or ammunition prior to [either] any
33 of the following:

34 (i) The sheriff accepts return of the safekeeping
35 permit issued to the party pursuant to 23 Pa.C.S. §
36 6108.3(d) (1) (i).

37 (ii) The issuance of a court order pursuant to
38 subsection (f) (2) or 23 Pa.C.S. § 6108.1(b) (relating to
39 return of relinquished firearms, other weapons and
40 ammunition and additional relief) which modifies a valid
41 protection from abuse order issued pursuant to 23 Pa.C.S.
42 § 6108, which order provided for the relinquishment of
43 the firearm, other weapon or ammunition by allowing the
44 defendant to take possession of the firearm, other weapon
45 or ammunition that had previously been ordered
46 relinquished.

47 (iii) The expiration of an extreme risk protection
48 order or the issuance of a court order that vacates or
49 terminates an extreme risk protection order under 42
50 Pa.C.S. Ch. 64A.

51 * * *

1 (c) Other persons.--In addition to any person who has been
2 convicted of any offense listed under subsection (b), the
3 following persons shall be subject to the prohibition of
4 subsection (a):

5 * * *

6 (10) A person who is the subject of an active extreme
7 risk protection order issued pursuant to 42 Pa.C.S. Ch. 64A.
8 This prohibition shall terminate upon the vacation,
9 expiration or termination of an active extreme risk
10 protection order.

11 (11) A person who has been convicted of an offense under
12 subsection (a.1)(2.1) or (5). This prohibition shall
13 terminate five years after the date of conviction, final
14 release from confinement or final release from supervision,
15 whichever is later.

16 * * *

17 (f) Other exemptions and proceedings.--

18 * * *

19 (4) (i) The owner of any seized or confiscated firearms
20 or of any firearms ordered relinquished under 23 Pa.C.S.
21 § 6108 or 42 Pa.C.S. Ch. 64A shall be provided with a
22 signed and dated written receipt by the appropriate law
23 enforcement agency. This receipt shall include, but not
24 limited to, a detailed identifying description indicating
25 the serial number and condition of the firearm. In
26 addition, the appropriate law enforcement agency shall be
27 liable to the lawful owner of said confiscated, seized or
28 relinquished firearm for any loss, damage or substantial
29 decrease in value of said firearm that is a direct result
30 of a lack of reasonable care by the appropriate law
31 enforcement agency.

32 * * *

33 Section 2. Section 1126 of Title 42 is amended to read:
34 § 1126. Masters.

35 The President Judge of the Philadelphia Municipal Court may
36 appoint attorneys who are members of the Pennsylvania Bar to
37 serve as masters in proceedings under 23 Pa.C.S. Ch. 61
38 (relating to protection from abuse) or 42 Pa.C.S. Ch. 64A
39 (relating to extreme risk protection orders).

40 Section 3. Title 42 is amended by adding a chapter to read:

41 CHAPTER 64A

42 EXTREME RISK PROTECTION ORDERS

43 Sec.

44 64A01. Scope of chapter.

45 64A02. Definitions.

46 64A03. Preliminary matters.

47 64A04. Petition for extreme risk protection order.

48 64A05. Interim extreme risk protection order.

49 64A06. Hearing on petition.

50 64A07. Notice to law enforcement.

51 64A08. Service.

1 64A09. Order after hearing.
2 64A10. Termination hearing.
3 64A11. Renewal of order.
4 64A12. Relinquishment of firearms.
5 64A13. Return of firearms.
6 64A14. Abuse of process.
7 64A15. Mental health and chemical dependency services.
8 § 64A01. Scope of chapter.
9 This chapter relates to extreme risk protection orders.
10 § 64A02. Definitions.
11 The following words and phrases when used in this chapter
12 shall have the meanings given to them in this section unless the
13 context clearly indicates otherwise:
14 "Court." A Court of Common Pleas in this Commonwealth.
15 "Extreme risk protection order." A court order prohibiting a
16 person from having in the person's possession or control,
17 purchasing or receiving or attempting to purchase or receive, a
18 firearm, based upon a finding that the person presents a risk of
19 suicide or of causing the death of, or serious bodily injury to,
20 another person.
21 "Family or household member." Spouses or persons who have
22 been spouses, persons living as spouses or who lived as spouses,
23 parents and children, other persons related by consanguinity or
24 affinity, current or former sexual or intimate partners or
25 persons who share biological parenthood.
26 "Firearm." A weapon designed to or that may readily be
27 converted to expel a projectile by the action of an explosive or
28 the frame or receiver of such weapon.
29 "Firearms dealer" or "dealer." A person licensed to sell
30 firearms under 18 Pa.C.S. § 6113 (relating to licensing of
31 dealers).
32 "Firearms license" or "license." A concealed carry license
33 issued under 18 Pa.C.S. § 6109 (relating to licenses),
34 safekeeping license issued under 23 Pa.C.S. § 6108.3 (relating
35 to relinquishment to third party for safekeeping), hunting
36 license required under 34 Pa.C.S. § 2701 (relating to license
37 requirements) or any similar license issued pursuant to the laws
38 of another state.
39 "Hearing officer." A magisterial district judge, judge of
40 the Philadelphia Municipal Court, arraignment court magistrate
41 appointed under section 1123 (relating to jurisdiction and
42 venue), master appointed under section 1126 (relating to
43 masters) and master for emergency relief.
44 "Law enforcement officer." An officer of the United States,
45 of another state or political subdivision thereof or of the
46 Commonwealth or political subdivision thereof, who is empowered
47 by law to conduct investigations of or to make an arrest for an
48 offense enumerated in this chapter or an equivalent crime in
49 another jurisdiction and an attorney authorized by law to
50 prosecute or participate in the prosecution of such offense.
51 "Serious bodily injury." Bodily injury that creates a

1 substantial risk of death or causes serious, permanent
2 disfigurement or protracted loss or impairment of the function
3 of a bodily member or organ.

4 § 64A03. Preliminary matters.

5 (a) Standing.--A law enforcement officer or a family or
6 household member of a person believed to present a risk of
7 suicide or of causing the death of, or extreme bodily injury to,
8 another person may file a petition requesting that the court
9 issue an extreme risk protection order or renew an existing
10 extreme risk protection order.

11 (b) Filing fee.--No filing fee may be charged for a petition
12 under this chapter.

13 (c) Effect of service.--An extreme risk protection order is
14 effective at the time of service.

15 (d) Right to counsel.--A respondent under this chapter shall
16 have the right to be represented by counsel. If the respondent
17 cannot afford an attorney and meets the income guidelines
18 applicable to representation by a public defender in a criminal
19 case, the court shall appoint counsel upon the request of the
20 respondent.

21 § 64A04. Petition for extreme risk protection order.

22 (a) Petition.--A petition for an extreme risk protection
23 order shall set forth facts that demonstrate the risk presented
24 by the respondent's ability to purchase firearms or have
25 possession or control of firearms, and shall describe the
26 number, types and locations of any firearms known or believed to
27 be owned by the respondent or known or believed to be in the
28 respondent's possession or control. If the court is closed or is
29 unavailable during the business day, a petition may be filed
30 with a hearing officer.

31 (b) Evidence of risk.--The court or hearing officer may
32 consider all relevant evidence, but in no case shall an order be
33 issued under this chapter absent a demonstration of risk due to
34 behaviors or events occurring in the preceding 24 months.

35 (c) Factors.--In determining whether grounds exist to issue
36 an extreme risk protection order, the court or hearing officer
37 shall consider evidence of the following and the recency of any
38 behaviors or events:

39 (1) Suicide threats or attempts.

40 (2) Threats or acts of violence or attempted acts of
41 violence.

42 (3) Domestic abuse, including any violation of a
43 protection from abuse order, under 23 Pa.C.S. Ch. 61
44 (relating to protection from abuse) or a similar law in
45 another state.

46 (4) Cruelty to animals under 18 Pa.C.S. Ch. 55 Subch. B
47 (relating to cruelty to animals) or a similar law in another
48 state.

49 (5) Abuse of controlled substances or alcohol, or any
50 criminal offense that involves controlled substances or
51 alcohol.

1 (6) Unlawful or reckless use, display or brandishing of
2 a firearm.

3 (7) Recent acquisition or attempted acquisition of a
4 firearm.

5 (8) The possession, use or control of a firearm as a
6 part of the respondent's employment.

7 (9) Any additional information the court finds to be
8 reliable, including a statement by the respondent.

9 § 64A05. Interim extreme risk protection order.

10 (a) Rule.--The court or hearing officer reviewing a petition
11 shall issue an interim extreme risk protection order if it
12 finds, by a preponderance of the evidence, that:

13 (1) the respondent presents a risk of suicide or of
14 causing the death of, or serious bodily injury to, another
15 person; and

16 (2) the risk is imminent and other circumstances that
17 would make it safe to proceed by ordering a hearing under
18 section 64A06 (relating to hearing on petition) without
19 issuing an interim extreme risk protection order do not
20 exist.

21 (b) Contents of order.--An interim extreme risk protection
22 order shall include:

23 (1) The date and time the order was issued.

24 (2) Instructions for relinquishment of any firearm or
25 firearms license that the respondent owns or that is in the
26 respondent's possession or control.

27 (3) Notification of the penalties for violating the
28 order.

29 (4) If the order was issued by a court and a hearing is
30 scheduled under subsection (d), the order shall include:

31 (i) notice of the time, date and location of the
32 hearing;

33 (ii) notice of the right to request a continuance,
34 and instructions on requesting a continuance or waiving
35 the hearing;

36 (iii) notice of the fact that, at the hearing, or if
37 the hearing is waived, the court may extend the order for
38 up to one year; and

39 (iv) notice of the right to an attorney under
40 section 64A03 (relating to preliminary matters).

41 (5) If the order was issued by a hearing officer, the
42 order shall include notice of the date upon which the order
43 will expire.

44 (c) Duration.--An interim extreme risk protection order
45 issued by a hearing officer shall expire at the end of the next
46 business day the court deems itself available. An interim
47 extreme risk protection order issued by a court shall be in
48 effect until following a hearing it is either vacated or
49 terminated.

50 (d) Hearing following interim order.--If the court orders an
51 interim extreme risk protection order under subsection (a), the

1 court shall schedule a hearing on the petition to be held no
2 more than 10 days from the date of the order.

3 (e) Request for continuance.--The respondent may request a
4 continuance on a hearing scheduled to take place after the
5 issuance of an interim order, which the court shall grant. No
6 hearing shall be continued except with the consent of the
7 respondent.

8 § 64A06. Hearing on petition.

9 (a) Rule.--Upon reviewing a petition filed under section
10 64A04 (relating to petition for extreme risk protection order),
11 the court may issue an order for a hearing on the petition,
12 which shall be scheduled to be held no more than 10 days from
13 the date of the petition.

14 (b) Request for continuance.--If the hearing is scheduled to
15 take place fewer than three business days after service of the
16 order, the court shall grant a continuance until at least three
17 business days after service, if requested by the respondent. The
18 court shall notify the respondent of the respondent's right to a
19 continuance under this subsection.

20 (c) Failure to appear.--If the respondent waives the right
21 to be present at a hearing or fails to appear for a hearing on a
22 petition scheduled under this section, the court may proceed
23 with the hearing and may issue an extreme risk protection order
24 in the respondent's absence.

25 § 64A07. Notice to law enforcement.

26 (a) Notice.--The court or hearing officer issuing an extreme
27 risk protection order, an order for a hearing, or an order
28 renewing, vacating or terminating an extreme risk protection
29 order shall cause a copy of the order to be delivered to the
30 sheriff, the local law enforcement agency and the Pennsylvania
31 State Police.

32 (b) Entry into database.--Upon receipt of an extreme risk
33 protection order or an order renewing, vacating or terminating
34 an extreme risk protection order, the Pennsylvania State Police
35 shall cause the order to be entered into the appropriate
36 database so that notice of the order is provided through the
37 Pennsylvania Instant Check System and the Federal Bureau of
38 Investigation National Instant Criminal Background Check System.

39 § 64A08. Service.

40 (a) Service.--Service of an extreme risk protection order or
41 an order for a hearing shall be made in person by the sheriff or
42 a law enforcement officer, as directed by the court or hearing
43 officer issuing the order. At the time of service, the sheriff
44 or law enforcement officer shall provide the respondent with a
45 copy of the petition.

46 (b) Return.--Immediately upon completion of service of an
47 extreme risk protection order, the sheriff or law enforcement
48 officer completing service shall make a return of service to the
49 court and shall provide a copy of the return of service to the
50 petitioner.

51 § 64A09. Order after hearing.

1 (a) Hearing and order.--The court shall issue an extreme
2 risk protection order after conducting a hearing ordered under
3 section 64A05 (relating to interim extreme risk protection
4 order) or 64A06 (relating to hearing on petition), or after the
5 respondent waives the right to a hearing under section 64A05, if
6 the court finds by clear and convincing evidence that the
7 respondent presents a risk of suicide or of causing the death
8 of, or serious bodily injury to, another person.

9 (b) Duration.--An extreme risk protection order issued after
10 a hearing shall be made effective for no less than three months
11 nor more than one year.

12 (c) Contents of order.--The order shall include:

13 (1) The date and time the order was issued.

14 (2) The time frame and manner in which the respondent
15 may request a termination hearing.

16 (3) Instructions for relinquishment of any firearm that
17 the respondent owns or that is in the respondent's possession
18 or control, and any firearms license that is issued to the
19 respondent.

20 (4) Notification of the penalties for violating the
21 order.

22 § 64A10. Termination hearing.

23 (a) General rule.--A respondent subject to an extreme risk
24 protection order may submit one written request at any time
25 during the effective period of the order for a hearing to
26 determine whether the order should be terminated.

27 (b) Notice.--Upon receipt of a request for a termination
28 hearing, the court shall set a date for the hearing and shall
29 provide notice of the hearing to the petitioner, the local law
30 enforcement agency and the Pennsylvania State Police.

31 (c) Burden of proof.--At a termination hearing, the
32 respondent seeking termination of the order shall have the
33 burden of proving, by clear and convincing evidence, that the
34 respondent does not present a risk of suicide or of causing the
35 death of, or serious bodily injury to, another person.

36 § 64A11. Renewal of order.

37 (a) Petition.--A petition to renew an extreme risk
38 protection order shall set forth facts that support a renewal of
39 the order. The court may deny the petition based on the
40 information set forth in the petition or may schedule a hearing.
41 The court shall provide notice of the hearing to the petitioner,
42 the respondent, the local law enforcement agency and the
43 Pennsylvania State Police.

44 (b) Renewal of order.--If the court finds by clear and
45 convincing evidence, based on factors set forth under section
46 64A04 (relating to petition for extreme risk protection order),
47 that the respondent continues to present a risk of suicide or of
48 causing the death of, or serious bodily injury to, another
49 person, the court may renew the extreme risk protection order
50 for a duration of no fewer than three months and no more than
51 one year from the date of the order.

1 (c) Limitations.--The following shall apply:

2 (1) A petition under this section must be filed at least
3 60 days prior to the expiration of the order.

4 (2) A renewal hearing shall take place no later than 30
5 days prior to the expiration date set in an existing order.

6 (3) No extreme risk protection order may be renewed more
7 than twice under this section.

8 § 64A12. Relinquishment of firearms.

9 (a) Rule.--An extreme risk protection order issued under
10 section 64A05 (relating to interim extreme risk protection
11 order) or section 64A09 (relating to order after hearing) shall
12 require the relinquishment of all firearms owned by the
13 respondent or in the respondent's possession or control within
14 24 hours following service of the order, except for cause shown,
15 in which case the court or hearing officer issuing the order
16 shall specify the time for relinquishment of any or all of the
17 respondent's firearms.

18 (b) Relinquishment upon service.--A law enforcement officer
19 or sheriff serving an extreme risk protection order shall
20 request that all firearms and any firearms license in the
21 respondent's possession or control be immediately relinquished
22 into the custody of the law enforcement officer or sheriff. A
23 law enforcement officer taking custody of a firearm or firearms
24 license under this subsection shall transfer the firearm or
25 firearms license to the sheriff or to a firearms dealer for
26 safekeeping.

27 (c) Subsequent relinquishment.--A respondent shall, within
28 the time frame specified in the order, relinquish to the sheriff
29 or a firearms dealer any firearm or license remaining in the
30 respondent's possession or control after the time of service. A
31 respondent relinquishing a firearm directly to a dealer shall,
32 within the time frame specified in the order, provide to the law
33 enforcement agency or sheriff a copy of the affidavit described
34 in subsection (f) in lieu of the firearm listed in the
35 affidavit. A sheriff accepting an affidavit in lieu of a firearm
36 shall file a copy with the court.

37 (d) Receipt.--A sheriff or law enforcement officer taking
38 custody of a firearm or license from a respondent shall provide
39 the respondent with a copy of a signed and dated receipt. The
40 receipt shall include a detailed description of each firearm and
41 its condition and notification that firearms will be deemed
42 abandoned when the conditions under 18 Pa.C.S. § 6128(a)
43 (relating to abandonment of firearm, weapon or ammunition) are
44 satisfied, and may then be disposed of in accordance with 18
45 Pa.C.S. § 6128. The sheriff or law enforcement officer issuing
46 the receipt shall file the original with the court.

47 (e) Transfer to firearms dealer.--A respondent whose firearm
48 is in the custody of a sheriff may request that the firearm be
49 transferred to a firearms dealer for consignment sale, lawful
50 transfer or safekeeping. Upon receiving the request, the sheriff
51 shall transport the firearm to a dealer at no cost to the

1 respondent or the dealer.

2 (f) Affidavit.--A firearms dealer accepting custody of a
3 firearm under this chapter shall provide the respondent, sheriff
4 or law enforcement officer from which the dealer accepts custody
5 with an affidavit on a form prescribed by the Pennsylvania State
6 Police. A sheriff or law enforcement officer delivering custody
7 of a firearm to a dealer shall file a copy of the affidavit with
8 the court.

9 (g) Contents of affidavit.--The affidavit shall include the
10 following:

11 (1) The caption of the case in which the extreme risk
12 protection order was issued.

13 (2) The name, address, date of birth and Social Security
14 number of the respondent.

15 (3) A list of all firearms relinquished to the dealer
16 and a detailed description of each firearm, including its
17 condition and, if applicable, the manufacturer, model and
18 serial number.

19 (4) The name and license number of the dealer and the
20 address of the licensed premises.

21 (5) An acknowledgment that the dealer will not return a
22 firearm to the respondent while the respondent is subject to
23 an extreme risk protection order.

24 (6) An acknowledgment that the firearm, if sold or
25 transferred, will be sold or transferred in compliance with
26 18 Pa.C.S. Ch. 61 (relating to firearms and other dangerous
27 articles), and that no firearm will be returned to a
28 respondent or any third party until the dealer has
29 independently confirmed that the person requesting return of
30 the firearm is legally eligible to possess firearms under
31 Federal and State law.

32 § 64A13. Return of firearms.

33 (a) Return to respondent.--Subject to subsection (c), if,
34 following a hearing, a court vacates an interim extreme risk
35 protection order, the court shall order the immediate return of
36 all relinquished firearms and licenses to the respondent. Upon
37 termination or expiration of an extreme risk protection order,
38 the respondent may request that the sheriff or firearms dealer
39 in possession of a relinquished firearm or license return the
40 firearm or license. Subject to subsection (c), the sheriff or
41 dealer shall return the firearm or license to the respondent as
42 soon as possible but not later than the end of the next business
43 day after the day on which the respondent makes the request.

44 (b) Third party claims.--A third party may request the
45 return of a relinquished firearm at any time by providing proof
46 of ownership and a sworn affidavit. Proof of ownership may
47 consist of a statement in the affidavit. The affidavit shall
48 affirm the following:

49 (1) The third party will not intentionally or knowingly
50 return a firearm to a person subject to an extreme risk
51 protection order nor intentionally or knowingly allow a

1 person subject to an extreme risk protection order to have
2 access to a firearm.

3 (2) The third party understands that intentionally or
4 knowingly allowing a person subject to an extreme risk
5 protection order to have access to a firearm constitutes a
6 misdemeanor of the second degree under 18 Pa.C.S. § 6105(a.1)
7 (relating to persons not to possess, use, manufacture,
8 control, sell or transfer firearms), punishable by up to two
9 years' imprisonment and up to a \$5,000 fine and resulting in
10 a five-year prohibition on firearm acquisition or possession.

11 (3) If the third party is a member of the household of a
12 person who is subject to an extreme risk protection order,
13 that any firearm returned to the third party will be stored
14 either in a gun safe to which the person does not have and
15 will not be permitted to access, or in a location outside the
16 home to which the person does not have access.

17 (c) Background check.--Prior to returning a firearm to any
18 person, the sheriff or firearms dealer in possession of the
19 firearm shall independently confirm that the person requesting
20 return of the firearm is legally eligible to possess firearms
21 under Federal and State law. The sheriff or dealer receiving a
22 request under subsection (a) shall conduct the required
23 background check as soon as possible, but not later than the end
24 of the next business day after the day on which the respondent
25 makes the request.

26 § 64A14. Abuse of process.

27 (a) False reporting.--A person who gives information to a
28 law enforcement officer knowing the information to be materially
29 false, or with the intent to harass another, commits an offense
30 under 18 Pa.C.S. § 4906 (relating to false reports to law
31 enforcement authorities).

32 (b) False swearing.--A person who files a petition for an
33 extreme risk protection order knowing the information in the
34 petition to be materially false, or with the intent to harass
35 another, commits an offense under 18 Pa.C.S. § 4903 (relating to
36 false swearing).

37 (c) Penalty.--A person convicted of false reporting or false
38 swearing under this section or determined by the court to have
39 acted in bad faith for the purpose of harassing the respondent
40 shall be ordered to pay full restitution to the respondent. For
41 purposes of this section, restitution shall include, but not be
42 limited to, reasonable attorney fees, costs of storage and other
43 expenses incurred by the respondent as a result of the false
44 reporting or false swearing.

45 (d) Grading.--An offense under this section shall be graded
46 as a misdemeanor of the second degree.

47 § 64A15. Mental health and chemical dependency services.

48 During any proceeding under this chapter, the court shall
49 consider whether a mental health or chemical dependency
50 evaluation or any proceeding under the act of July 9, 1976
51 (P.L.817, No.143), known as the Mental Health Procedures Act, is

1 necessary, and may order an evaluation or proceeding as it deems
2 necessary.

3 Section 4. This act shall take effect on September 1, 2018,
4 or immediately, whichever is later.