

AMENDMENTS TO LB58

Introduced by Judiciary.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Sections 1 to 17 of this act shall be known and may be
4 cited as the Extreme Risk Protection Order Act.

5 Sec. 2. For purposes of the Extreme Risk Protection Order Act:

6 (1) Ex parte extreme risk protection order means a temporary
7 protection order issued on an ex parte basis under section 5 of this act;

8 (2) Family or household member includes spouses or former spouses,
9 children, persons who are presently residing together or who have resided
10 together in the past, persons who have a child in common whether or not
11 they have been married or have lived together at any time, other persons
12 related by consanguinity or affinity, and persons who are presently
13 involved in a dating relationship with each other or who have been
14 involved in a dating relationship with each other. For purposes of this
15 subdivision, dating relationship means frequent, intimate associations
16 primarily characterized by the expectation of affectional or sexual
17 involvement, but does not include a casual relationship or an ordinary
18 association between persons in a business or social context;

19 (3) Final extreme risk protection order means an order issued under
20 section 4 of this act or an ex parte extreme risk protection order that
21 is deemed final under section 5 of this act and includes renewals of such
22 orders;

23 (4) Firearm has the same meaning as in section 28-1201;

24 (5) Firearm permit means a permit to carry a concealed handgun
25 issued under the Concealed Handgun Permit Act, a certificate issued under
26 section 69-2404, or any other permit, certificate, or written
27 authorization under the laws of this state or another jurisdiction that

1 authorizes the purchase, receipt, possession, or concealment of a
2 firearm;

3 (6) Law enforcement agency means the police department or town
4 marshal in incorporated municipalities, the office of the sheriff in
5 unincorporated areas, and the Nebraska State Patrol;

6 (7) Law enforcement officer means any officer or employee of a law
7 enforcement agency authorized by law to make arrests;

8 (8) Petitioner means the person who petitions for an extreme risk
9 protection order;

10 (9) Respondent means the person who is identified as the respondent
11 in a petition filed under the act; and

12 (10) Superintendent means any person employed by a school district
13 as a superintendent.

14 Sec. 3. (1) A petition for an extreme risk protection order may be
15 filed beginning January 1, 2021. Such petition may be filed by (a) a
16 family or household member of the respondent, (b) a law enforcement
17 agency or law enforcement officer, or (c) a superintendent.

18 (2) A petition for an extreme risk protection order shall be filed
19 with the clerk of the district court of the county where the petitioner
20 or respondent resides, and the proceeding may be heard by the county
21 court or the district court as provided in section 25-2740. A petition
22 may not be withdrawn except upon order of the court.

23 (3) A petition for an extreme risk protection order shall:

24 (a) Allege that the respondent poses a significant risk of causing
25 personal injury to self or others by having in the respondent's custody
26 or control, purchasing, possessing, or receiving a firearm;

27 (b) Be accompanied by an affidavit made under oath stating the
28 specific statements, actions, or facts that give rise to a reasonable
29 fear of future dangerous acts by the respondent;

30 (c) Identify the number, types, and locations of any firearms the
31 petitioner believes to be in the respondent's current ownership,

1 possession, custody, or control;

2 (d) If known by the petitioner, identify any existing harassment
3 protection order, sexual assault protection order, domestic violence
4 protection order, or other similar protection order governing the
5 respondent, whether from this state or another jurisdiction; and

6 (e) Identify whether there is a pending lawsuit, complaint,
7 petition, or other action between the parties to the petition under the
8 laws of Nebraska or any other jurisdiction.

9 (4) The court shall verify the terms of any existing Nebraska court
10 order governing the parties and, if reasonably practicable, the terms of
11 any such existing court order from another jurisdiction. The court shall
12 not delay granting relief because of the existence of a pending action
13 between the parties or in order to verify the terms of an existing order.
14 A petition for an extreme risk protection order may be granted whether or
15 not there is a pending action between the parties.

16 (5) If the petitioner is a law enforcement agency or law enforcement
17 officer, the petitioner shall make a good faith effort to provide notice
18 to any known family or household member of the respondent who may be at
19 risk of violence and to any known third party who may be at risk of
20 violence. If such family or household member or third party is a minor,
21 notice to such minor's parent or guardian, other than the respondent,
22 shall be sufficient. The notice shall state that the petitioner intends
23 to petition the court for an extreme risk protection order or has already
24 done so, and include referrals to appropriate resources, including mental
25 health, domestic violence, and counseling resources. The petitioner shall
26 attest in the petition to having provided such notice or attest to the
27 steps that will be taken to provide such notice.

28 (6)(a) If the petitioner is a family or household member of the
29 respondent and the petition for an extreme risk protection order states
30 that disclosure of the petitioner's address would risk harm to the
31 petitioner or any member of the petitioner's family or household, the

1 petitioner's address may be omitted from all documents filed with the
2 court. In such case, the petitioner shall notify the court of the
3 petitioner's address. The court shall maintain the confidentiality of
4 such address. The court shall cause any filings of the respondent to be
5 served upon the petitioner. The petitioner shall keep the court informed
6 of any change to the petitioner's address.

7 (b) If the petitioner is a law enforcement agency, law enforcement
8 officer, or superintendent, the petition must contain the address of
9 record of such agency or of the place of employment of such officer or
10 superintendent.

11 (7) No fees for filing or service of process shall be charged by a
12 court or any public agency to petitioners seeking relief under the
13 Extreme Risk Protection Order Act, except that a court may assess such
14 fees and costs if the court finds, by clear and convincing evidence, that
15 the statements contained in the petition were false and that the extreme
16 risk protection order was sought in bad faith.

17 (8) Petitioners shall be provided the necessary number of certified
18 copies, forms, and instructional brochures free of charge.

19 (9) A petitioner shall not be required to post a bond to obtain
20 relief in any proceeding under the Extreme Risk Protection Order Act.

21 Sec. 4. (1) If an extreme risk protection order is not issued ex
22 parte under section 5 of this act, upon receipt of the petition, the
23 court shall immediately schedule an evidentiary hearing to be held within
24 fourteen days after the filing of the petition, and the court shall cause
25 notice of the hearing to be given to the petitioner and the respondent.
26 The clerk of the district court shall cause a copy of the notice of
27 hearing and petition to be forwarded on or before the next judicial day
28 to the appropriate law enforcement agency for service upon the
29 respondent. Service issued under this section takes precedence over the
30 service of other documents, unless the other documents are of a similar
31 emergency nature.

1 (2) Subject to court rules, a hearing under the Extreme Risk
2 Protection Order Act, including an evidentiary hearing, may be held
3 telephonically or by videoconferencing or similar means at any location
4 within the judicial district as ordered by the court and in a manner that
5 ensures the preservation of an accurate record, when doing so is
6 necessary to reasonably accommodate a disability or in exceptional
7 circumstances to protect a petitioner or witness from potential harm. The
8 court shall require assurances of the identity of the petitioner and any
9 witness before conducting a hearing in such manner.

10 (3) Upon hearing the matter, if the court finds by a preponderance
11 of the evidence that the respondent poses a significant risk of causing
12 personal injury to self or others by having in the respondent's custody
13 or control, purchasing, possessing, or receiving a firearm, the court
14 shall issue an extreme risk protection order that shall be effective for
15 one year.

16 (4) In determining whether grounds for issuing an extreme risk
17 protection order exist, the court may consider any relevant evidence,
18 including, but not limited to:

19 (a) A recent act or threat of violence by the respondent against
20 self or others, whether or not such violence or threat of violence
21 involves a firearm;

22 (b) A pattern of acts or threats of violence by the respondent,
23 including, but not limited to, acts or threats of violence by the
24 respondent against self or others;

25 (c) Evidence of the respondent being seriously mentally ill or
26 having recurring mental health issues;

27 (d) A violation by the respondent of a harassment protection order,
28 sexual assault protection order, domestic violence protection order, or
29 other similar protection order, whether from this state or another
30 jurisdiction;

31 (e) The existence of any previous or current extreme risk protection

1 order issued against the respondent, whether from this state or another
2 jurisdiction, and whether the respondent has violated such order;

3 (f) Whether the respondent has been civilly committed under the
4 Nebraska Mental Health Commitment Act, the Sex Offender Commitment Act,
5 section 29-1823, sections 29-3701 to 29-3704, or under any other similar
6 law of this state or another jurisdiction;

7 (g) Whether the respondent, in this state or any other jurisdiction,
8 has been convicted of, had adjudication withheld or deferred on, or pled
9 nolo contendere to a crime in which any victim was a family or household
10 member of the respondent;

11 (h) The respondent's ownership of, access to, or intent to possess
12 firearms;

13 (i) The unlawful or reckless use, display, or brandishing of a
14 firearm by the respondent;

15 (j) The history of use, attempted use, or threatened use of physical
16 force by the respondent against another person;

17 (k) Any history of stalking by the respondent;

18 (l) Whether the respondent, in this state or any other jurisdiction,
19 has been arrested for, convicted of, had adjudication withheld or
20 deferred on, or pled nolo contendere to a crime involving violence or a
21 threat of violence;

22 (m) Corroborated evidence of the abuse of controlled or intoxicating
23 substances or alcohol by the respondent;

24 (n) Evidence of recent acquisition of firearms by the respondent;

25 (o) Evidence of the respondent's oral or written statement of hatred
26 for or animus toward any person or group, including because of the actual
27 or perceived race, color, religion, ancestry, national origin, gender,
28 gender expression, gender identity, sexual orientation, age, disability,
29 citizenship status, military status, or political affiliation of any
30 person or group or because of a person's or group's association with a
31 person or group of any such classification or status; and

1 (p) Evidence that the respondent has previously acted or may act in
2 a threatening manner towards a peace officer or other public safety
3 officer with the intent to provoke a lethal response by such officer.

4 (5) The court may:

5 (a) Examine under oath the petitioner, the respondent, and any
6 witnesses they may produce, or, in lieu of examination, consider sworn
7 affidavits of the petitioner, the respondent, and any witnesses they may
8 produce;

9 (b) Conduct a search for criminal history record information related
10 to the respondent, including sealed records; and

11 (c) Request that a criminal justice agency as defined in section
12 29-3509 conduct a search of criminal history record information related
13 to the respondent, including sealed records. In such case the court shall
14 identify the type of records to be searched.

15 (6) In a hearing under the Extreme Risk Protection Order Act, the
16 rules of evidence apply to the same extent as in proceedings for a
17 domestic protection order under the Protection from Domestic Abuse Act.

18 (7) During the hearing, the court shall consider whether a mental
19 health evaluation or substance or alcohol dependency evaluation of the
20 respondent is appropriate and, if appropriate, may order such evaluation.

21 (8) If the court issues an extreme risk protection order, such order
22 shall include:

23 (a) A statement of the grounds supporting the issuance of the order;

24 (b) The date and time the order was issued;

25 (c) The date and time the order expires;

26 (d) Whether a mental health evaluation or substance or alcohol
27 dependency evaluation of the respondent is required;

28 (e) The address of the court in which any responsive pleading should
29 be filed;

30 (f) A description of the requirements for relinquishment of firearms
31 under section 9 of this act; and

1 (g) A statement in substantially the following form: "To (name of
2 respondent): This order will continue in effect until (date and time of
3 expiration of order). If you have not done so already, you must
4 immediately surrender to the (name of local law enforcement agency) all
5 firearms in your custody, control, or possession, any permit to carry a
6 concealed handgun issued to you under the Concealed Handgun Permit Act,
7 any certificate issued to you under section 69-2404, and any other
8 permit, certificate, or written authorization under the law of this state
9 or another jurisdiction that authorizes the purchase, receipt,
10 possession, or concealment of a firearm. While this order is in effect
11 you shall not have a firearm in your custody or control or purchase,
12 possess, receive, or attempt to purchase, possess, or receive a firearm.
13 You have the sole responsibility to avoid or refrain from violating this
14 order. Only the court can terminate this order and only upon written
15 request. You have the right to request a hearing to terminate this order
16 once during every twelve-month period that this order is in effect,
17 starting from the date of this order and continuing through any renewals.
18 You may seek the advice of an attorney as to any matter connected with
19 this order."

20 (9) When the court issues an extreme risk protection order following
21 a hearing under this section, the court shall inform the respondent that
22 the respondent is entitled to request termination of the order in the
23 manner prescribed by section 7 of this act. The court shall provide the
24 respondent with a form to request a termination hearing.

25 (10) If the court declines to issue an extreme risk protection
26 order, the court shall state on the record the particular reasons for the
27 denial.

28 Sec. 5. (1) Beginning January 1, 2021, a petitioner may request
29 that an extreme risk protection order be issued ex parte to the
30 respondent and without prior notice to the respondent by including in the
31 petition detailed allegations based on personal knowledge that the

1 respondent poses a significant risk of causing personal injury to self or
2 others in the near future by having in the respondent's custody or
3 control, purchasing, possessing, or receiving a firearm.

4 (2) In considering whether to issue an ex parte extreme risk
5 protection order under this section, the court shall consider all
6 relevant evidence, including the evidence described in subsection (4) of
7 section 4 of this act.

8 (3) The court shall hold a hearing for a petition for an ex parte
9 extreme risk protection order on the day the petition is filed or on the
10 judicial day immediately following the day the petition is filed. Subject
11 to court rules, such hearing may be held telephonically or by
12 videoconferencing or similar means at any location within the judicial
13 district as ordered by the court when doing so is necessary. The court
14 shall require assurances of the identity of the petitioner and any
15 witness before conducting a hearing in such manner.

16 (4) If a court finds there is reasonable cause to believe that the
17 respondent poses a significant risk of causing personal injury to self or
18 others in the near future by having in the respondent's custody or
19 control, purchasing, possessing, or receiving a firearm, the court shall
20 issue an ex parte extreme risk protection order. The order shall contain
21 the matters required by subsection (8) of section 4 of this act.

22 (5)(a) If an extreme risk protection order is issued ex parte, such
23 order is a temporary order and the court shall forthwith cause notice of
24 the petition and ex parte protection order to be given to the respondent.
25 The court shall also cause a form to request a show-cause hearing to be
26 served upon the respondent. If the respondent wishes to appear and show
27 cause why the order should not remain in effect, the respondent shall
28 affix the respondent's current address, telephone number, and signature
29 to the form and return it to the clerk of the district court within ten
30 business days after service upon the respondent. Upon receipt of the
31 request for a show-cause hearing, the request of the petitioner, or upon

1 the court's own motion, the court shall immediately schedule a show-cause
2 hearing to be held within fourteen days after the receipt of the request
3 for a show-cause hearing and shall notify the petitioner and respondent
4 of the hearing date. The petition and affidavit shall be deemed to have
5 been offered into evidence at any show-cause hearing. The petition and
6 affidavit shall be admitted into evidence unless specifically excluded by
7 the court.

8 (b) If the respondent appears at the hearing and the court finds by
9 a preponderance of the evidence that the respondent poses a significant
10 risk of causing personal injury to self or others by having in the
11 respondent's custody or control, purchasing, possessing, or receiving a
12 firearm, the ex parte extreme risk protection order shall be affirmed,
13 shall be deemed the final extreme risk protection order, and shall be
14 effective for one year from its initial issuance as an ex parte
15 protection order. In such case, service of the ex parte protection order
16 shall be notice of the final protection order for purposes of prosecution
17 under subsection (2) of section 12 of this act.

18 (c) If the respondent appears at the hearing and the court does not
19 find by a preponderance of the evidence that the respondent poses a
20 significant risk of causing personal injury to self or others by having
21 in the respondent's custody or control, purchasing, possessing, or
22 receiving a firearm, the court shall rescind the ex parte extreme risk
23 protection order.

24 (d) If the respondent has been properly served with the ex parte
25 extreme risk protection order and the respondent was properly notified of
26 the hearing date, and the respondent fails to appear at the hearing, the
27 order shall be affirmed, shall be deemed the final extreme risk
28 protection order, and shall be effective for one year from its initial
29 issuance as an ex parte protection order. In such case, service of the ex
30 parte protection order shall be notice of the final protection order for
31 purposes of prosecution under subsection (2) of section 12 of this act.

1 (e) If the respondent fails to request a show-cause hearing within
2 ten business days after service of the ex parte extreme risk protection
3 order, and no hearing was requested by the petitioner or on the court's
4 own motion, the order shall be affirmed, shall be deemed the final
5 extreme risk protection order, and shall be effective for one year from
6 its initial issuance as an ex parte protection order. In such case,
7 service of the ex parte protection order shall be notice of the final
8 protection order for purposes of prosecution under subsection (2) of
9 section 12 of this act.

10 (6) If the court declines to issue an ex parte extreme risk
11 protection order, the court shall state on the record the particular
12 reasons for the denial.

13 Sec. 6. (1)(a) Upon the issuance of an ex parte extreme risk
14 protection order or final extreme risk protection order, the clerk of the
15 district court shall, on or before the next judicial day, provide,
16 without charge:

- 17 (i) The petitioner with two certified copies of such order;
- 18 (ii) The local law enforcement agency and the Nebraska State Patrol
19 with an electronic copy of such order and the sheriff's return thereon;
20 and
- 21 (iii) A copy of the extreme risk protection order to the sheriff's
22 office in the county where the respondent may be personally served
23 together with instructions for service. Upon receipt of the order and
24 instructions for service, such sheriff's office shall forthwith serve the
25 order upon the respondent and file its return thereon with the clerk of
26 the district court within ten days after the issuance of the order.

27 (b) If any protection order is dismissed or modified by the court,
28 the clerk of the district court shall, on or before the next judicial
29 day, provide the local law enforcement agency and the Nebraska State
30 Patrol, without charge, with an electronic copy of the order of dismissal
31 or modification.

1 (c) If the respondent has notice as described in subsection (2) of
2 this section, further service under this subsection is unnecessary.

3 (2) If the respondent was present at a hearing under section 5 of
4 this act and the extreme risk protection order was not dismissed, the
5 respondent shall be deemed to have notice by the court at such hearing
6 that the protection order will be granted and remain in effect and
7 further service of notice described in subsection (1) of this section is
8 not required for purposes of prosecution under subsection (2) of section
9 12 of this act.

10 (3) If the sheriff's office cannot complete service upon the
11 respondent within ten days, the sheriff's office shall notify the
12 petitioner. The petitioner shall provide information sufficient to permit
13 such notification.

14 Sec. 7. (1) A respondent may submit a written request for a hearing
15 to terminate a final extreme risk protection order once during every
16 twelve-month period that the order is in effect, starting from the date
17 of issuance of the order and continuing through any renewals.

18 (2) Upon receipt of a request for a hearing to terminate an extreme
19 risk protection order, the court shall set a date for a hearing to be
20 held within fourteen days after receipt of the request. The court may
21 also schedule such a hearing on its own motion. The court shall notify
22 the petitioner and respondent of the hearing date.

23 (3) At a hearing requested by the respondent, the respondent shall
24 have the burden of proving by a preponderance of the evidence that the
25 respondent does not pose a significant risk of causing personal injury to
26 self or others by having in the respondent's custody or control,
27 purchasing, possessing, or receiving a firearm. The court may consider
28 any relevant evidence, including evidence of the considerations listed in
29 subsection (4) of section 4 of this act.

30 (4) The court shall terminate the order if the court finds by a
31 preponderance of the evidence that the respondent does not pose a

1 significant risk of causing personal injury to self or others by having
2 in the respondent's custody or control, purchasing, possessing, or
3 receiving a firearm.

4 Sec. 8. (1) The court shall notify the petitioner of the impending
5 expiration of a final extreme risk protection order. The court shall
6 provide such notice on or before forty-five days before the date the
7 order expires.

8 (2) A family or household member of the respondent, a law
9 enforcement agency or law enforcement officer, or a superintendent may
10 file a motion requesting renewal of a final extreme risk protection order
11 at any time within forty-five days prior to the date the order is set to
12 expire, including the date the order expires.

13 (3) Upon receipt of a motion to renew, the court shall immediately
14 schedule an evidentiary hearing to be held within fourteen days after the
15 filing of the motion, and the court shall cause notice of the hearing to
16 be given to the petitioner; the movant, if other than the petitioner; and
17 the respondent. The clerk of the district court shall cause a copy of the
18 notice of hearing and motion to be forwarded no later than the next
19 judicial day to the appropriate law enforcement agency for service upon
20 the respondent and the petitioner, if other than the movant. Service
21 issued under this section takes precedence over the service of other
22 documents, unless the other documents are of a similar emergency nature.

23 (4) In determining whether to renew a final extreme risk protection
24 order, the court shall consider all relevant evidence presented by the
25 parties and follow the same procedure as provided in section 4 of this
26 act.

27 (5) A final extreme risk protection order may be renewed on the
28 basis of the petitioner's or movant's motion or affidavit stating that
29 there has been no material change in relevant circumstances since entry
30 of the order and stating the reason for the requested renewal if:

31 (a) The petitioner and movant seek no modification of the order; and

1 (b)(i) The respondent has been properly served under subsection (3)
2 of this section and fails to appear at the hearing; or

3 (ii) The respondent indicates that the respondent does not contest
4 the renewal.

5 (6) If the court finds by a preponderance of the evidence that the
6 requirements for issuance of a final extreme risk protection order as
7 provided in subsection (3) of section 4 of this act continue to be met,
8 the court shall renew the order. On or before the next judicial day, the
9 clerk of the district court shall, without charge, provide:

10 (a) The petitioner with two certified copies of such order;

11 (b) The local law enforcement agency and the Nebraska State Patrol
12 with an electronic copy of such order and with one copy of such order and
13 the sheriff's return thereon; and

14 (c) A copy of the extreme risk protection order to the sheriff's
15 office in the county where the respondent may be personally served
16 together with instructions for service. Upon receipt of the order and
17 instructions for service, such sheriff's office shall forthwith serve the
18 order upon the respondent and file its return thereon with the clerk of
19 the district court within ten days after the issuance of the order. If
20 the respondent has notice as described in subsection (7) of this section,
21 further service under this subsection is unnecessary.

22 (7) If the respondent was present at a hearing under this section
23 and the extreme risk protection order was renewed, the respondent shall
24 be deemed to have notice by the court at such hearing that the protection
25 order will remain in effect and further service of notice described in
26 subsection (6) of this section is not required for purposes of
27 prosecution under subsection (2) of section 12 of this act.

28 (8) If the sheriff's office cannot complete service upon the
29 respondent within ten days, the sheriff's office shall notify the
30 petitioner. The petitioner shall provide information sufficient to permit
31 such notification.

1 (9) A renewed extreme risk protection order shall be effective for
2 one year to commence on the first day following the expiration of the
3 previous order, subject to termination as provided in section 7 of this
4 act or further renewal by order of the court.

5 Sec. 9. (1) Upon issuance of a final extreme risk protection order
6 or an ex parte extreme risk protection order, the court shall order the
7 respondent to surrender to the local law enforcement agency all firearms
8 and firearm permits in the respondent's custody, control, or possession.

9 (2)(a) A law enforcement officer serving an extreme risk protection
10 order shall require the respondent to immediately and safely surrender
11 all firearm and firearm permits in the respondent's custody, control, or
12 possession.

13 (b) If personal service by a law enforcement officer is not
14 possible, the respondent shall, within twenty-four hours of being served
15 with the extreme risk protection order, surrender to the local law
16 enforcement agency, in a safe manner, all firearms and firearm permits in
17 the respondent's custody, control, or possession.

18 (c) If personal service by a law enforcement officer is not required
19 because the respondent was present at a hearing at which an extreme risk
20 protection order was issued, the respondent shall, within twenty-four
21 hours of such hearing, surrender to the local law enforcement agency, in
22 a safe manner, all firearms and firearm permits in the respondent's
23 custody, control, or possession.

24 (d) A law enforcement officer serving or enforcing an extreme risk
25 protection order shall take possession of all firearms and firearm
26 permits belonging to the respondent that are surrendered, found in plain
27 sight, or otherwise lawfully obtained. Such firearm permits shall be
28 deemed revoked and the law enforcement officer shall cause such permits
29 to be returned to the issuing agency.

30 (3) At the time of surrender, a law enforcement officer taking
31 possession of a firearm or firearm permit shall issue a receipt

1 identifying all firearms and firearm permits that have been surrendered
2 and provide a copy of the receipt to the respondent. Within seventy-two
3 hours after service of the order, the officer serving the order shall
4 file the original receipt with the court and shall ensure that such
5 officer's law enforcement agency retains a copy of the receipt.

6 (4) Within forty-eight hours after service of an extreme risk
7 protection order or, if service by a law enforcement officer is not
8 required because the respondent was present at a hearing at which an
9 extreme risk protection order was issued, within forty-eight hours after
10 such hearing, the respondent may either:

11 (a) File with the court that issued the order one or more receipts
12 demonstrating that all firearms and firearm permits previously in the
13 respondent's custody, control, or possession, were surrendered in
14 accordance with this section or removed by the local law enforcement
15 agency and attest to the court that the respondent does not currently
16 have any firearms or firearm permits in the respondent's custody,
17 control, or possession; or

18 (b) Attest to the court that:

19 (i) At the time the order was issued, the respondent did not have
20 any firearms or firearm permits in the respondent's custody, control, or
21 possession; and

22 (ii) The respondent does not currently have any firearms or firearm
23 permits in the respondent's custody, control, or possession.

24 (5) If the applicable forty-eight hour deadline in subsection (4)
25 has elapsed and the respondent has not made the filing and attestation
26 under subdivision (4)(a) of this section or the attestations under
27 subdivision (4)(b) of this section, the clerk of the district court shall
28 so inform the appropriate law enforcement agency.

29 (6) A law enforcement agency that receives a notification pursuant
30 to subsection (5) of this section shall make a good faith effort to
31 determine whether there is evidence that the respondent has failed to

1 relinquish any firearms or firearm permits in the respondent's custody,
2 control, or possession.

3 (7) Upon the sworn statement or testimony of the petitioner or of
4 any law enforcement officer alleging that the respondent has failed to
5 surrender all firearms and firearm permits in the respondent's
6 possession, custody, or control, the court shall determine whether
7 probable cause exists to believe that the respondent has so failed to
8 comply. If probable cause exists, the court shall issue a warrant
9 authorizing the search for and seizure of such firearms and firearm
10 permits.

11 (8) If a person other than the respondent claims title to any
12 firearm surrendered pursuant to the Extreme Risk Protection Order Act and
13 such claim is determined to be valid by the law enforcement agency
14 holding such firearm, the firearm shall be returned to such person if:

15 (a) Such person agrees that the firearm shall remain removed from
16 the respondent's custody, control, or possession and such person agrees
17 to store the firearm in a manner such that the respondent does not have
18 access to or control of the firearm; and

19 (b) Possession of the firearm by such person is not otherwise
20 prohibited by law.

21 (9) By October 1, 2020, all law enforcement agencies shall develop
22 policies and procedures governing the acceptance, storage, and return of
23 firearms required to be surrendered under the act.

24 Sec. 10. (1) If a final extreme risk protection order or ex parte
25 extreme risk protection order is terminated or expires without renewal, a
26 law enforcement agency holding any firearm that has been surrendered or
27 seized pursuant to the Extreme Risk Protection Order Act shall return
28 such firearm upon request by a respondent, but only after confirming,
29 through a criminal history record information check, that the respondent
30 is currently eligible to own or possess any such firearm under Nebraska
31 and federal law and after confirming with the court that the extreme risk

1 protection order has terminated or expired without renewal. If the
2 respondent is not so eligible, the law enforcement agency shall notify
3 the respondent that the firearm will be disposed of in accordance with
4 the agency's policies and procedures. Such disposal shall not occur until
5 sixty days after such notification is sent.

6 (2) Any firearm surrendered or seized pursuant to the act that
7 remains unclaimed for more than sixty days following termination or
8 expiration of the order shall be disposed of in accordance with the law
9 enforcement agency's policies and procedures.

10 Sec. 11. (1) On the same day a final extreme risk protection order
11 or an ex parte extreme risk protection order is issued, the clerk of the
12 district court shall enter such order into a statewide judicial
13 information system and electronically forward a copy of such order to the
14 appropriate law enforcement agency specified in the order. Upon receipt
15 of such copy, the law enforcement agency shall enter the order into the
16 national criminal history record information system, any other federal or
17 state computer-based systems used by law enforcement or others to
18 identify prohibited purchasers of firearms, and any computer-based
19 criminal intelligence information system available in this state used by
20 law enforcement agencies to list outstanding warrants. The order shall
21 remain in each system for the period stated in the order. The law
22 enforcement agency shall only expunge orders from the systems that have
23 expired, been amended, or been terminated. Any final extreme risk
24 protection order or ex parte extreme risk protection order is fully
25 enforceable in any county in the state.

26 (2) Within three days, not including weekends or holidays, of
27 receiving notice of entry of an ex parte extreme risk protection order or
28 final extreme risk protection order:

29 (a) The Nebraska State Patrol shall determine if the respondent has
30 a permit to carry a concealed handgun issued under the Concealed Handgun
31 Permit Act. If the respondent has such a permit, the patrol shall

1 immediately revoke such permit. Such revocation shall not be subject to
2 the procedures of section 69-2439, including the fine set forth in
3 subsection (4) of such section; and

4 (b) The local law enforcement agency shall determine if the
5 respondent has a certificate issued under section 69-2404. If the
6 respondent has such a certificate, the local law enforcement agency shall
7 immediately revoke the certificate. If the respondent has such a
8 certificate issued by a different law enforcement agency, the local law
9 enforcement agency shall immediately notify such issuing agency, which
10 shall immediately revoke such certificate.

11 (3) When provided by the petitioner, the court shall make
12 confidential numeric victim identification information, including social
13 security numbers and dates of birth, available to appropriate criminal
14 justice agencies engaged in protection order enforcement efforts. Such
15 agencies shall maintain the confidentiality of this information, except
16 for entry into state and federal data bases for protection order
17 enforcement.

18 (4) If a final extreme risk protection order or an ex parte extreme
19 risk protection order is terminated before its expiration date, the clerk
20 of the district court shall, on the same day, electronically forward a
21 copy of the termination order to the Nebraska State Patrol and the
22 appropriate law enforcement agency specified in the termination order.
23 Upon receipt of such copy, the Nebraska State Patrol and law enforcement
24 agency shall promptly remove the extreme risk protection order from any
25 computer-based system in which it was entered pursuant to subsection (1)
26 of this section.

27 Sec. 12. (1) Any person who files a petition under the Extreme Risk
28 Protection Order Act knowing the information in such petition to be
29 materially false or with intent to harass the respondent shall be guilty
30 of a Class III misdemeanor.

31 (2) Any person who has in such person's custody or control or

1 purchases, possesses, or receives a firearm or firearm permit, knowing
2 that such person is prohibited from doing so by a final extreme risk
3 protection order, an ex parte extreme risk protection order, or an order
4 issued pursuant subsection (3) of this section:

5 (a) For a first or second violation, shall be guilty of a Class II
6 misdemeanor; and

7 (b) For a third or subsequent violation, shall be guilty of a Class
8 IV felony.

9 (3)(a) Upon a conviction described in subdivision (2)(a) of this
10 section, the court shall issue an order prohibiting the respondent from
11 having in the respondent's custody or control, purchasing, possessing, or
12 receiving, or attempting to purchase, possess, or receive, a firearm or
13 firearm permit for a period of five years from the date of issuance of
14 the extreme risk protection order underlying the conviction.

15 (b) On the same day as an order under subdivision (3)(a) of this
16 section is issued, the clerk of the district court shall enter such order
17 into a statewide judicial information system and electronically forward a
18 copy of such order to the appropriate law enforcement agency specified in
19 the order. Upon receipt of such copy, the law enforcement agency shall
20 enter the order into the national criminal history record information
21 system, any other federal or state computer-based systems used by law
22 enforcement or others to identify prohibited purchasers of firearms, and
23 any computer-based criminal intelligence information system available in
24 this state used by law enforcement agencies to list outstanding warrants.
25 The order shall remain in each system for the period stated in the order.
26 The law enforcement agency shall only expunge orders from the systems
27 that have expired, been amended, or been terminated. Any such order is
28 fully enforceable in any county in the state.

29 Sec. 13. The Extreme Risk Protection Order Act does not affect the
30 ability, pursuant to other lawful authority, of a law enforcement agency
31 or law enforcement officer to seize from any person a firearm or firearm

1 permit or otherwise conduct any lawful search and seizure.

2 Sec. 14. Except as provided in subsection (1) of section 12 of this
3 act, the Extreme Risk Protection Order Act does not impose criminal or
4 civil liability on any person or entity for acts or omissions related to
5 seeking or obtaining an extreme risk protection order, including, but not
6 limited to:

7 (1) Reporting or declining to report;

8 (2) Investigating or declining to investigate; and

9 (3) Filing or declining to file a petition under the act.

10 Sec. 15. A law enforcement agency shall exercise reasonable care
11 when handling or storing firearms pursuant to the Extreme Risk Protection
12 Order Act.

13 Sec. 16. (1) On or before October 1, 2020, the State Court
14 Administrator shall develop and prepare instructions and informational
15 brochures, standard petitions and extreme risk protection order forms,
16 and a court staff handbook on the Extreme Risk Protection Order Act.

17 (2) The standard petition and order forms shall be used for all
18 petitions filed and orders issued under the Extreme Risk Protection Order
19 Act. The instructions, brochures, forms, and handbook shall be prepared
20 in consultation with interested persons, including representatives of gun
21 violence prevention groups, judges, and law enforcement personnel.
22 Materials shall be based on best practices and available to the public
23 online.

24 (a) The instructions shall be designed to assist petitioners in
25 completing the petition and shall include a sample of a standard petition
26 and order forms.

27 (b) The instructions and standard petition shall include a means for
28 the petitioner to identify, with only lay knowledge, the firearms the
29 respondent may own, possess, receive, or have in the respondent's custody
30 or control. The instructions shall provide pictures of types of firearms
31 that the petitioner may choose from to identify the relevant firearms, or

1 an equivalent means to allow petitioners to identify firearms without
2 requiring specific or technical knowledge regarding the firearms.

3 (c) The informational brochure must describe the use of and the
4 process for obtaining, renewing, and terminating an extreme risk
5 protection order and provide relevant forms.

6 (d) The court staff handbook shall allow for the addition of a
7 community resource list by the clerk of the district court.

8 (3) All clerks of the district court may create a community resource
9 list of crisis intervention, mental health, substance abuse, interpreter,
10 counseling, and other relevant resources serving the county in which the
11 court is located. The court may make the community resource list
12 available as part of or in addition to the informational brochures
13 described in subsection (1) of this section.

14 (4) On or before October 1, 2020, the State Court Administrator
15 shall distribute a master copy of the petition and order forms,
16 instructions, and informational brochures to all clerks of the district
17 court and shall distribute a master copy of the petition and order forms
18 to all county and district courts. Distribution of all documents shall,
19 at a minimum, be in an electronic format or formats accessible to such
20 courts and their clerks.

21 (5) The State Court Administrator shall determine the significant
22 non-English-speaking or limited English-speaking populations in this
23 state. The administrator shall then arrange for translation of the
24 instructions and informational brochures required by this section, which
25 shall contain a sample of the standard petition and order forms, into the
26 languages spoken by such populations and shall distribute a master copy
27 of the translated instructions and informational brochures to all clerks
28 of the district court on or before October 1, 2020.

29 (6) The State Court Administrator shall update the instructions,
30 brochures, standard petition and order forms, and court staff handbook as
31 necessary, including when changes in the law make an update necessary.

1 (7) On or before January 1, 2021, all clerks of the district court
2 shall make available to petitioners and the public the standardized
3 forms, instructions, and informational brochures required by this
4 section.

5 (8) A court clerk or such clerk's employees shall not provide
6 assistance in completing the forms.

7 Sec. 17. (1) On or before January 1, 2022, and each January 1
8 thereafter, each clerk of the district court shall report to the State
9 Court Administrator the total number, for the previous calendar year, of:

10 (a) Petitions for extreme risk protection orders and the total
11 number of those petitions that requested an ex parte extreme risk
12 protection order;

13 (b) Ex parte extreme risk protection orders issued and denied;

14 (c) Final extreme risk protection orders issued and denied;

15 (d) Extreme risk protection orders terminated; and

16 (e) Extreme risk protection orders renewed.

17 (2) No later than April 1, 2022, and each April 1 thereafter, the
18 State Court Administrator shall compile and publish on the
19 administrator's web site a report which aggregates the information
20 received pursuant to this section during the previous calendar year and
21 lists each category by county and type of court.

22 Sec. 18. Section 25-2740, Revised Statutes Cumulative Supplement,
23 2018, is amended to read:

24 25-2740 (1) For purposes of this section:

25 (a) Domestic relations matters means proceedings under sections
26 28-311.09 and 28-311.10 (including harassment protection orders and valid
27 foreign harassment protection orders), sections 28-311.11 and 28-311.12
28 (including sexual assault protection orders and valid foreign sexual
29 assault protection orders), the Extreme Risk Protection Order Act, the
30 Conciliation Court Law and sections 42-347 to 42-381 (including
31 dissolution, separation, annulment, custody, and support), section

1 43-512.04 (including child support or medical support), section 42-924
2 (including domestic protection orders), sections 43-1401 to 43-1418
3 (including paternity determinations and parental support), and sections
4 43-1801 to 43-1803 (including grandparent visitation); and

5 (b) Paternity or custody determinations means proceedings to
6 establish the paternity of a child under sections 43-1411 to 43-1418 or
7 proceedings to determine custody of a child under section 42-364.

8 (2) Except as provided in subsection (3) of this section, in
9 domestic relations matters, a party shall file his or her petition or
10 complaint and all other court filings with the clerk of the district
11 court. The party shall state in the petition or complaint whether such
12 party requests that the proceeding be heard by a county court judge or by
13 a district court judge. If the party requests the case be heard by a
14 county court judge, the county court judge assigned to hear cases in the
15 county in which the matter is filed at the time of the hearing is deemed
16 appointed by the district court and the consent of the county court judge
17 is not required. Such proceeding is considered a district court
18 proceeding, even if heard by a county court judge, and an order or
19 judgment of the county court in a domestic relations matter has the force
20 and effect of a district court judgment. The testimony in a domestic
21 relations matter heard before a county court judge shall be preserved as
22 provided in section 25-2732.

23 (3) In addition to the jurisdiction provided for paternity or
24 custody determinations under subsection (2) of this section, a county
25 court or separate juvenile court which already has jurisdiction over the
26 child whose paternity or custody is to be determined has jurisdiction
27 over such paternity or custody determination.

28 Sec. 19. Section 69-2406, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 69-2406 (1) Any person who is denied a certificate, whose
31 certificate is revoked, or who has not been issued a certificate upon

1 expiration of the three-day period may appeal within ten days of receipt
2 of the denial or revocation to the county court of the county of the
3 applicant's place of residence. The applicant shall file with the court
4 the specific reasons for the denial or revocation by the chief of police
5 or sheriff and a filing fee of ten dollars in lieu of any other filing
6 fee required by law. The court shall issue its decision within thirty
7 days of the filing of the appeal.

8 (2) This section does not apply to revocations pursuant to the
9 Extreme Risk Protection Order Act.

10 Sec. 20. Section 69-2407, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 69-2407 (1) A certificate issued in accordance with section 69-2404
13 shall contain the holder's name, address, and date of birth and the
14 effective date of the certificate. A certificate shall authorize the
15 holder to acquire any number of handguns during the period that the
16 certificate is valid. The certificate shall be valid throughout the state
17 and shall become invalid three years after its effective date. If the
18 chief of police or sheriff who issued the certificate determines that the
19 applicant has become disqualified for the certificate under section
20 69-2404, he or she may immediately revoke the certificate and require the
21 holder to surrender the certificate immediately. Revocation may be
22 appealed pursuant to section 69-2406.

23 (2) This section does not apply to revocations pursuant to the
24 Extreme Risk Protection Order Act.

25 Sec. 21. Section 69-2439, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 69-2439 (1) Any peace officer having probable cause to believe that
28 a permitholder is no longer in compliance with one or more requirements
29 of section 69-2433, except as provided in subsection (4) of section
30 69-2443, shall bring an application for revocation of the permit to be
31 prosecuted as provided in subsection (2) of this section.

1 (2) It is the duty of the county attorney or his or her deputy of
2 the county in which such permitholder resides to prosecute a case for the
3 revocation of a permit to carry a concealed handgun brought pursuant to
4 subsection (1) of this section. In case the county attorney refuses or is
5 unable to prosecute the case, the duty to prosecute shall be upon the
6 Attorney General or his or her assistant.

7 (3) The case shall be prosecuted as a civil case, and the permit
8 shall be revoked upon a showing by a preponderance of the evidence that
9 the permitholder does not meet one or more of the requirements of section
10 69-2433, except as provided in subsection (4) of section 69-2443.

11 (4) A person who has his or her permit revoked under this section
12 may be fined up to one thousand dollars and shall be charged with the
13 costs of the prosecution. The money collected under this subsection as an
14 administrative fine shall be remitted to the State Treasurer for
15 distribution in accordance with Article VII, section 5, of the
16 Constitution of Nebraska.

17 (5) This section does not apply to revocations pursuant to the
18 Extreme Risk Protection Order Act.

19 Sec. 22. Original sections 69-2406, 69-2407, and 69-2439, Reissue
20 Revised Statutes of Nebraska, and section 25-2740, Revised Statutes
21 Cumulative Supplement, 2018, are repealed.