

AMENDMENTS TO LB58

(Amendments to Standing Committee amendments, AM2123)

Introduced by Morfeld, 46.

1 1. Strike amendment 1 and insert the following new amendment.

2 1. Strike the original sections and all amendments thereto and
3 insert the following new sections:

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

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

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

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

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

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

25 (5) Firearm permit means a permit to carry a concealed handgun
26 issued under the Concealed Handgun Permit Act, a certificate issued under

1 section 69-2404, or any other permit, certificate, or written
2 authorization under the laws of this state or another jurisdiction that
3 authorizes the purchase, receipt, possession, or concealment of a
4 firearm;

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

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

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

12 (9) Respondent means the person who is identified as the respondent
13 in a petition filed under the act.

14 Sec. 3. (1) Beginning January 1, 2021, a law enforcement agency or
15 law enforcement officer may file a petition for an extreme risk
16 protection order.

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

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

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

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

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

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

5 (e) Identify any relevant pending lawsuit, complaint, petition, or
6 other action against the respondent under the laws of Nebraska or any
7 other jurisdiction; and

8 (f) In the case of a petition filed by a law enforcement agency,
9 state the agency's address of record, and in the case of a petition filed
10 by a law enforcement officer, state the address of the law enforcement
11 agency employing such officer.

12 (4) The court shall verify the terms of any existing Nebraska court
13 order governing the respondent and, if reasonably practicable, the terms
14 of any such existing court order from another jurisdiction. The court
15 shall not delay granting relief in order to verify the terms of an
16 existing order.

17 (5) 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) No fees for filing or service of process shall be charged by a
29 court or any public agency to petitioners seeking relief under the
30 Extreme Risk Protection Order Act, except that a court may assess such
31 fees and costs if the court finds, by clear and convincing evidence, that

1 the statements contained in the petition were false and that the extreme
2 risk protection order was sought in bad faith.

3 (7) Petitioners shall be provided the necessary number of certified
4 copies, forms, and instructional brochures free of charge.

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

7 Sec. 4. (1) If an extreme risk protection order is not issued ex
8 parte under section 5 of this act, upon receipt of the petition, the
9 court shall immediately schedule an evidentiary hearing to be held within
10 fourteen days after the filing of the petition, and the court shall cause
11 notice of the hearing to be given to the petitioner and the respondent.
12 The clerk of the district court shall cause a copy of the notice of
13 hearing and petition to be forwarded on or before the next judicial day
14 to the appropriate law enforcement agency for service upon the
15 respondent. Service issued under this section takes precedence over the
16 service of other documents, unless the other documents are of a similar
17 emergency nature.

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

27 (3) Upon hearing the matter, if the court finds by a preponderance
28 of the evidence that the respondent poses a significant risk of causing
29 personal injury to self or others by having in the respondent's custody
30 or control, purchasing, possessing, or receiving a firearm, the court
31 shall issue an extreme risk protection order that shall be effective for

1 one year.

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

5 (a) A recent act or threat of violence by the respondent against
6 self or others, whether or not such violence or threat of violence
7 involves a firearm;

8 (b) A pattern of acts or threats of violence by the respondent,
9 including, but not limited to, acts or threats of violence by the
10 respondent against self or others;

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

13 (d) A violation by the respondent of a harassment protection order,
14 sexual assault protection order, domestic violence protection order, or
15 other similar protection order, whether from this state or another
16 jurisdiction;

17 (e) The existence of any previous or current extreme risk protection
18 order issued against the respondent, whether from this state or another
19 jurisdiction, and whether the respondent has violated such order;

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

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

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

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

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

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

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

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

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

11 (o) Evidence of the respondent's oral or written statement of hatred
12 for or animus toward any person or group, including because of the actual
13 or perceived race, color, religion, ancestry, national origin, gender,
14 gender expression, gender identity, sexual orientation, age, disability,
15 citizenship status, military status, or political affiliation of any
16 person or group or because of a person's or group's association with a
17 person or group of any such classification or status; and

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

21 (5) The court may:

22 (a) Examine under oath the petitioner, the respondent, and any
23 witnesses they may produce, or, in lieu of examination, consider sworn
24 affidavits of the petitioner, the respondent, and any witnesses they may
25 produce;

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

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

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

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

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

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

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

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

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

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

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

18 (g) A statement in substantially the following form: "To (name of
19 respondent): This order will continue in effect until (date and time of
20 expiration of order). If you have not done so already, you must
21 immediately surrender to the (name of local law enforcement agency) all
22 firearms in your custody, control, or possession, any permit to carry a
23 concealed handgun issued to you under the Concealed Handgun Permit Act,
24 any certificate issued to you under section 69-2404, and any other
25 permit, certificate, or written authorization under the law of this state
26 or another jurisdiction that authorizes the purchase, receipt,
27 possession, or concealment of a firearm. While this order is in effect
28 you shall not have a firearm in your custody or control or purchase,
29 possess, receive, or attempt to purchase, possess, or receive a firearm.
30 You have the sole responsibility to avoid or refrain from violating this
31 order. Only the court can terminate this order and only upon written

1 request. You have the right to request a hearing to terminate this order
2 once during every twelve-month period that this order is in effect,
3 starting from the date of this order and continuing through any renewals.
4 You may seek the advice of an attorney as to any matter connected with
5 this order."

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

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

14 Sec. 5. (1) Beginning January 1, 2021, a law enforcement agency or
15 law enforcement officer may request that an extreme risk protection order
16 be issued ex parte to the respondent and without prior notice to the
17 respondent by including in the petition detailed allegations based on
18 personal knowledge that the respondent poses a significant risk of
19 causing personal injury to self or others in the near future by having in
20 the respondent's custody or control, purchasing, possessing, or receiving
21 a firearm.

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

26 (3) The court shall hold a hearing for a petition for an ex parte
27 extreme risk protection order on the day the petition is filed or on the
28 judicial day immediately following the day the petition is filed. Subject
29 to court rules, such hearing may be held telephonically or by
30 videoconferencing or similar means at any location within the judicial
31 district as ordered by the court when doing so is necessary. The court

1 shall require assurances of the identity of the petitioner and any
2 witness before conducting a hearing in such manner.

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

9 (5)(a) If an extreme risk protection order is issued ex parte, such
10 order is a temporary order and the court shall forthwith cause notice of
11 the petition and ex parte protection order to be given to the respondent.
12 The court shall also cause a form to request a show-cause hearing to be
13 served upon the respondent. If the respondent wishes to appear and show
14 cause why the order should not remain in effect, the respondent shall
15 affix the respondent's current address, telephone number, and signature
16 to the form and return it to the clerk of the district court within ten
17 business days after service upon the respondent. Upon receipt of the
18 request for a show-cause hearing, the request of the petitioner, or upon
19 the court's own motion, the court shall immediately schedule a show-cause
20 hearing to be held within fourteen days after the receipt of the request
21 for a show-cause hearing and shall notify the petitioner and respondent
22 of the hearing date. The petition and affidavit shall be deemed to have
23 been offered into evidence at any show-cause hearing. The petition and
24 affidavit shall be admitted into evidence unless specifically excluded by
25 the court.

26 (b) If the respondent appears at the hearing and the court finds by
27 a preponderance of the evidence that the respondent poses a significant
28 risk of causing personal injury to self or others by having in the
29 respondent's custody or control, purchasing, possessing, or receiving a
30 firearm, the ex parte extreme risk protection order shall be affirmed,
31 shall be deemed the final extreme risk protection order, and shall be

1 effective for one year from its initial issuance as an ex parte
2 protection order. In such case, service of the ex parte protection order
3 shall be notice of the final protection order for purposes of prosecution
4 under subsection (2) of section 12 of this act.

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

11 (d) If the respondent has been properly served with the ex parte
12 extreme risk protection order and the respondent was properly notified of
13 the hearing date, and the respondent fails to appear at the hearing, the
14 order shall be affirmed, shall be deemed the final extreme risk
15 protection order, and shall be effective for one year from its initial
16 issuance as an ex parte protection order. In such case, service of the ex
17 parte protection order shall be notice of the final protection order for
18 purposes of prosecution under subsection (2) of section 12 of this act.

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

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

31 Sec. 6. (1)(a) Upon the issuance of an ex parte extreme risk

1 protection order or final extreme risk protection order, the clerk of the
2 district court shall, on or before the next judicial day, provide,
3 without charge:

4 (i) The petitioner with two certified copies of such order;

5 (ii) The local law enforcement agency and the Nebraska State Patrol
6 with an electronic copy of such order and the sheriff's return thereon;
7 and

8 (iii) A copy of the extreme risk protection order to the sheriff's
9 office in the county where the respondent may be personally served
10 together with instructions for service. Upon receipt of the order and
11 instructions for service, such sheriff's office shall forthwith serve the
12 order upon the respondent and file its return thereon with the clerk of
13 the district court within ten days after the issuance of the order.

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

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

21 (2) If the respondent was present at a hearing under section 5 of
22 this act and the extreme risk protection order was not dismissed, the
23 respondent shall be deemed to have notice by the court at such hearing
24 that the protection order will be granted and remain in effect and
25 further service of notice described in subsection (1) of this section is
26 not required for purposes of prosecution under subsection (2) of section
27 12 of this act.

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

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

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

17 (4) The court shall terminate the order if the court finds by a
18 preponderance of the evidence that the respondent does not pose a
19 significant risk of causing personal injury to self or others by having
20 in the respondent's custody or control, purchasing, possessing, or
21 receiving a firearm.

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

26 (2) A law enforcement agency or law enforcement officer, including
27 one other than the petitioner, may file a motion requesting renewal of a
28 final extreme risk protection order at any time within forty-five days
29 prior to the date the order is set to expire, including the date the
30 order expires.

31 (3) Upon receipt of a motion to renew, the court shall immediately

1 schedule an evidentiary hearing to be held within fourteen days after the
2 filing of the motion, and the court shall cause notice of the hearing to
3 be given to the petitioner; the movant, if other than the petitioner; and
4 the respondent. The clerk of the district court shall cause a copy of the
5 notice of hearing and motion to be forwarded no later than the next
6 judicial day to the appropriate law enforcement agency for service upon
7 the respondent and the petitioner, if other than the movant. Service
8 issued under this section takes precedence over the service of other
9 documents, unless the other documents are of a similar emergency nature.

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

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

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

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

21 (ii) The respondent indicates that the respondent does not contest
22 the renewal.

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

28 (a) The petitioner, and the movant, if other than the petitioner,
29 with two certified copies of such order;

30 (b) The local law enforcement agency and the Nebraska State Patrol
31 with an electronic copy of such order and with one copy of such order and

1 the sheriff's return thereon; and

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

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

16 (8) If the sheriff's office cannot complete service upon the
17 respondent within ten days, the sheriff's office shall notify the
18 petitioner and the movant, if other than the petitioner. The petitioner
19 and movant shall provide information sufficient to permit such
20 notification.

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

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

29 (2)(a) A law enforcement officer serving an extreme risk protection
30 order shall require the respondent to immediately and safely surrender
31 all firearm and firearm permits in the respondent's custody, control, or

1 possession.

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

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

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

19 (3) At the time of surrender, a law enforcement officer taking
20 possession of a firearm or firearm permit shall issue a receipt
21 identifying all firearms and firearm permits that have been surrendered
22 and provide a copy of the receipt to the respondent. Within seventy-two
23 hours after service of the order, the officer serving the order shall
24 file the original receipt with the court and shall ensure that such
25 officer's law enforcement agency retains a copy of the receipt.

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

31 (a) File with the court that issued the order one or more receipts

1 demonstrating that all firearms and firearm permits previously in the
2 respondent's custody, control, or possession, were surrendered in
3 accordance with this section or removed by the local law enforcement
4 agency and attest to the court that the respondent does not currently
5 have any firearms or firearm permits in the respondent's custody,
6 control, or possession; or

7 (b) Attest to the court that:

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

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

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

18 (6) A law enforcement agency that receives a notification pursuant
19 to subsection (5) of this section shall make a good faith effort to
20 determine whether there is evidence that the respondent has failed to
21 relinquish any firearms or firearm permits in the respondent's custody,
22 control, or possession.

23 (7) Upon the sworn statement or testimony of the petitioner or of
24 any law enforcement officer alleging that the respondent has failed to
25 surrender all firearms and firearm permits in the respondent's
26 possession, custody, or control, the court shall determine whether
27 probable cause exists to believe that the respondent has so failed to
28 comply. If probable cause exists, the court shall issue a warrant
29 authorizing the search for and seizure of such firearms and firearm
30 permits.

31 (8) If a person other than the respondent claims title to any

1 firearm surrendered pursuant to the Extreme Risk Protection Order Act and
2 such claim is determined to be valid by the law enforcement agency
3 holding such firearm, the firearm shall be returned to such person if:

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

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

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

13 Sec. 10. (1) If a final extreme risk protection order or ex parte
14 extreme risk protection order is terminated or expires without renewal, a
15 law enforcement agency holding any firearm that has been surrendered or
16 seized pursuant to the Extreme Risk Protection Order Act shall return
17 such firearm upon request by a respondent, but only after confirming,
18 through a criminal history record information check, that the respondent
19 is currently eligible to own or possess any such firearm under Nebraska
20 and federal law and after confirming with the court that the extreme risk
21 protection order has terminated or expired without renewal. If the
22 respondent is not so eligible, the law enforcement agency shall notify
23 the respondent that the firearm will be disposed of in accordance with
24 the agency's policies and procedures. Such disposal shall not occur until
25 sixty days after such notification is sent.

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

30 Sec. 11. (1) On the same day a final extreme risk protection order
31 or an ex parte extreme risk protection order is issued, the clerk of the

1 district court shall enter such order into a statewide judicial
2 information system and electronically forward a copy of such order to the
3 appropriate law enforcement agency specified in the order. Upon receipt
4 of such copy, the law enforcement agency shall enter the order into the
5 national criminal history record information system, any other federal or
6 state computer-based systems used by law enforcement or others to
7 identify prohibited purchasers of firearms, and any computer-based
8 criminal intelligence information system available in this state used by
9 law enforcement agencies to list outstanding warrants. The order shall
10 remain in each system for the period stated in the order. The law
11 enforcement agency shall only expunge orders from the systems that have
12 expired, been amended, or been terminated. Any final extreme risk
13 protection order or ex parte extreme risk protection order is fully
14 enforceable in any county in the state.

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

18 (a) The Nebraska State Patrol shall determine if the respondent has
19 a permit to carry a concealed handgun issued under the Concealed Handgun
20 Permit Act. If the respondent has such a permit, the patrol shall
21 immediately revoke such permit. Such revocation shall not be subject to
22 the procedures of section 69-2439, including the fine set forth in
23 subsection (4) of such section; and

24 (b) The local law enforcement agency shall determine if the
25 respondent has a certificate issued under section 69-2404. If the
26 respondent has such a certificate, the local law enforcement agency shall
27 immediately revoke the certificate. If the respondent has such a
28 certificate issued by a different law enforcement agency, the local law
29 enforcement agency shall immediately notify such issuing agency, which
30 shall immediately revoke such certificate.

31 (3) When provided by the petitioner, the court shall make

1 confidential numeric victim identification information, including social
2 security numbers and dates of birth, available to appropriate criminal
3 justice agencies engaged in protection order enforcement efforts. Such
4 agencies shall maintain the confidentiality of this information, except
5 for entry into state and federal data bases for protection order
6 enforcement.

7 (4) If a final extreme risk protection order or an ex parte extreme
8 risk protection order is terminated before its expiration date, the clerk
9 of the district court shall, on the same day, electronically forward a
10 copy of the termination order to the Nebraska State Patrol and the
11 appropriate law enforcement agency specified in the termination order.
12 Upon receipt of such copy, the Nebraska State Patrol and law enforcement
13 agency shall promptly remove the extreme risk protection order from any
14 computer-based system in which it was entered pursuant to subsection (1)
15 of this section.

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

20 (2) Any person who has in such person's custody or control or
21 purchases, possesses, or receives a firearm or firearm permit, knowing
22 that such person is prohibited from doing so by a final extreme risk
23 protection order, an ex parte extreme risk protection order, or an order
24 issued pursuant subsection (3) of this section:

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

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

29 (3)(a) Upon a conviction described in subdivision (2)(a) of this
30 section, the court shall issue an order prohibiting the respondent from
31 having in the respondent's custody or control, purchasing, possessing, or

1 receiving, or attempting to purchase, possess, or receive, a firearm or
2 firearm permit for a period of five years from the date of issuance of
3 the extreme risk protection order underlying the conviction.

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

18 Sec. 13. The Extreme Risk Protection Order Act does not affect the
19 ability, pursuant to other lawful authority, of a law enforcement agency
20 or law enforcement officer to seize from any person a firearm or firearm
21 permit or otherwise conduct any lawful search and seizure.

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

- 27 (1) Reporting or declining to report;
28 (2) Investigating or declining to investigate; and
29 (3) Filing or declining to file a petition under the act.

30 Sec. 15. A law enforcement agency shall exercise reasonable care
31 when handling or storing firearms pursuant to the Extreme Risk Protection

1 Order Act.

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

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

13 (a) The instructions shall be designed to assist petitioners in
14 completing the petition and shall include a sample of a standard petition
15 and order forms.

16 (b) The informational brochure must describe the use of and the
17 process for obtaining, renewing, and terminating an extreme risk
18 protection order and provide relevant forms.

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

26 (4) The State Court Administrator shall update the instructions,
27 brochures, standard petition and order forms, and court staff handbook as
28 necessary, including when changes in the law make an update necessary.

29 (5) On or before January 1, 2021, all clerks of the district court
30 shall make available to law enforcement agencies the standardized forms,
31 instructions, and informational brochures required by this section.

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

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

6 (a) Petitions for extreme risk protection orders and the total
7 number of those petitions that requested an ex parte extreme risk
8 protection order;

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

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

11 (d) Extreme risk protection orders terminated; and

12 (e) Extreme risk protection orders renewed.

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

18 Sec. 18. Section 25-2740, Revised Statutes Cumulative Supplement,
19 2018, is amended to read:

20 25-2740 (1) For purposes of this section:

21 (a) Domestic relations matters means proceedings under sections
22 28-311.09 and 28-311.10 (including harassment protection orders and valid
23 foreign harassment protection orders), sections 28-311.11 and 28-311.12
24 (including sexual assault protection orders and valid foreign sexual
25 assault protection orders), the Extreme Risk Protection Order Act, the
26 Conciliation Court Law and sections 42-347 to 42-381 (including
27 dissolution, separation, annulment, custody, and support), section
28 43-512.04 (including child support or medical support), section 42-924
29 (including domestic protection orders), sections 43-1401 to 43-1418
30 (including paternity determinations and parental support), and sections
31 43-1801 to 43-1803 (including grandparent visitation); and

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

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

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

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

26 69-2406 (1) Any person who is denied a certificate, whose
27 certificate is revoked, or who has not been issued a certificate upon
28 expiration of the three-day period may appeal within ten days of receipt
29 of the denial or revocation to the county court of the county of the
30 applicant's place of residence. The applicant shall file with the court
31 the specific reasons for the denial or revocation by the chief of police

1 or sheriff and a filing fee of ten dollars in lieu of any other filing
2 fee required by law. The court shall issue its decision within thirty
3 days of the filing of the appeal.

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

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

8 69-2407 (1) A certificate issued in accordance with section 69-2404
9 shall contain the holder's name, address, and date of birth and the
10 effective date of the certificate. A certificate shall authorize the
11 holder to acquire any number of handguns during the period that the
12 certificate is valid. The certificate shall be valid throughout the state
13 and shall become invalid three years after its effective date. If the
14 chief of police or sheriff who issued the certificate determines that the
15 applicant has become disqualified for the certificate under section
16 69-2404, he or she may immediately revoke the certificate and require the
17 holder to surrender the certificate immediately. Revocation may be
18 appealed pursuant to section 69-2406.

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

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

23 69-2439 (1) Any peace officer having probable cause to believe that
24 a permitholder is no longer in compliance with one or more requirements
25 of section 69-2433, except as provided in subsection (4) of section
26 69-2443, shall bring an application for revocation of the permit to be
27 prosecuted as provided in subsection (2) of this section.

28 (2) It is the duty of the county attorney or his or her deputy of
29 the county in which such permitholder resides to prosecute a case for the
30 revocation of a permit to carry a concealed handgun brought pursuant to
31 subsection (1) of this section. In case the county attorney refuses or is

1 unable to prosecute the case, the duty to prosecute shall be upon the
2 Attorney General or his or her assistant.

3 (3) The case shall be prosecuted as a civil case, and the permit
4 shall be revoked upon a showing by a preponderance of the evidence that
5 the permitholder does not meet one or more of the requirements of section
6 69-2433, except as provided in subsection (4) of section 69-2443.

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

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

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