

**ONE HUNDRED SIXTH LEGISLATURE - SECOND SESSION - 2020**  
**COMMITTEE STATEMENT**  
**LB58**

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**Hearing Date:** Thursday February 28, 2019  
**Committee On:** Judiciary  
**Introducer:** Morfeld  
**One Liner:** Adopt the Extreme Risk Protection Order Act

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**

<b>Aye:</b>	5	Senators Chambers, DeBoer, Lathrop, Morfeld, Pansing Brooks
<b>Nay:</b>	2	Senators Brandt, Slama
<b>Absent:</b>		
<b>Present Not Voting:</b>	1	Senator Wayne

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**Oral Testimony:**

**Proponents:**

Senator Adam Morfeld  
Jeff Bliemeister  
Kevin Griger  
Matt Barrall  
Michael Kozelichki  
Jayden Speed  
Philip Crawford  
Tom Perkins  
Gillian Allison

**Representing:**

Introducer  
Lincoln Police Department  
Sarpy County Sheriffs Office  
Nebraska State Fraternal Order of Police  
Omaha Police Department  
Students Demand Action  
Self  
Self  
Self

**Opponents:**

Patricia Harrold  
Gregg Lanik  
Byron Millison  
William Roche  
Korey Reiman

**Representing:**

Nebraska Firearms Owners Association  
Self  
Nebraska Firearms Owners Association  
Self  
Self

**Neutral:**

Kellee Kucera Moreno  
Mike Robinson

**Representing:**

Self  
Nebraska Sheriffs Associatoin

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**Summary of purpose and/or changes:**

LB58 would create a new protection order for people that pose a significant risk of causing personal injury to self or others by having a firearm.

Section 2 contains definitions of terms.

Section 3 would provide the requirements for filing a petition for an extreme risk protection order. The petition would be filed in county or district court in a county where the petitioner or respondent resides by a family or household member

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or law enforcement officer. This section also includes the required contents of the petition.

Section 5 would allow a petitioner to request the protection order be issued ex parte and would require the court to hold an evidentiary hearing the same or next judicial day the petition is filed. The hearing could be held telephonically or by video. Notice of an ex parte order would be sent to a respondent along with a form to request a hearing to show cause why the order should not remain in effect.

Section 4 would require the court to set the petition for an evidentiary hearing within fourteen days in the event the court does not issue an ex parte order. The hearing could be held telephonically or by video.

Section 6 would provide the notice and service requirements for an ex parte issued by the court.

Section 7 would allow a respondent to request termination of a final protection order once in each twelve-month period. The court would be required to set a hearing within thirty days and the respondent would bear the burden to prove they do not pose a risk of injury to self or others by having a firearm.

Section 8 would require a court to notify a petitioner 105 days before a final protection order will expire. A family or household member or law enforcement officer may file for renewal of the protection order and the court would be required to set the renewal motion for hearing within fourteen days.

Section 9 would require the protection order to include an order to require the respondent to surrender their firearms, concealed carry permit, and handgun purchase certificate. When serving the protection order, the law enforcement officer would be required to take possession of the respondent's firearms.

Section 10 would require law enforcement to return the respondent's firearms when a protection order expires or is terminated.

Section 11 would require a protection order to be entered into electronic court and law enforcement information systems.

Section 12 would create a criminal offense for knowingly making false statements in a petition for a protection order. This section would also create a criminal offense for possessing firearms in violation of an extreme risk protection order.

Section 13 would make clear that LB58 does not affect law enforcement's existing authority to seize firearms or conduct searches.

Section 14 would make clear that LB58 does not impose criminal or civil liability related to acts or omissions related to obtaining a protection order. This section references Section 13 as an exception, but does not reference the criminal offenses created in Section 12.

Section 15 would require the state court administrator to create forms and instructions for petitions for extreme risk protection orders.

Section 16 would require clerks of the district court to report statistics about extreme risk protection order petitions and orders to the state court administrator.

Section 17 would amend Sec. 25-2740 to amend the definition of domestic relations matters to include proceedings under LB58.

Sections 18, 19, and 20 to clarify that procedures related to revocations of handgun purchase certificates and concealed carry permits do not apply to proceedings under LB58.

Section 22 is an emergency clause.

**Explanation of amendments:**

AM2123 replaces the original bill.

Section 3 would create an effective date of January 1, 2021 and authorize superintendents to file a petition for an order.

Section 8 would require notice of an expiring order to be provided 45 days before expiration instead of 105.

Section 9 no longer states an officer may conduct any search permitted by law when serving the order. The officer is still required to take possession of all firearms surrendered, found in plain sight, or discovered pursuant to a lawful search.

Section 10 adds a requirement that a law enforcement agency provide notice to a respondent when an order expires and the agency determines that the respondent is not eligible under Nebraska law to own or possess firearms.

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Steve Lathrop, Chairperson