

Amendment No. 11 SA1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED (Y/N)
ADOPTED AS AMENDED (Y/N)
ADOPTED W/O OBJECTION (Y/N)
FAILED TO ADOPT (Y/N)
WITHDRAWN (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Appropriations Committee
2 Representative Berman offered the following:

3
4 **Substitute Amendment for Amendment (PCB APC 18-06 a11) by**
5 **Representative Berman (with title amendment)**

6 Remove lines 506-615 and insert:
7 Section 8. Section 790.401, Florida Statutes, is created
8 to read:

9 790.401 Risk protection orders.-
10 (1) DEFINITIONS.-As used in this section, the term:
11 (a) "Family or household member" has the same meaning as
12 provided in s. 741.28. The term includes a person who:
13 1. Has a biological or legal parent-child relationship
14 with the respondent, including stepparents and stepchildren and
15 grandparents and grandchildren.

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16 2. Is acting or has acted as the respondent's legal
17 guardian.

18 (b) "Petitioner" means the individual who petitions for an
19 order under this section.

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

22 (d) "Risk protection order" means an ex parte temporary
23 order or a final order granted under this section.

24 (2) PETITION FOR A RISK PROTECTION ORDER.—There shall
25 exist an action known as a petition for a risk protection order.

26 (a) A petition for a risk protection order may be filed by
27 a family or household member of the respondent or a law
28 enforcement officer or agency.

29 (b) An action under this section must be filed in the
30 county where the petitioner resides or the county where the
31 respondent resides.

32 (c) A petition must:

33 1. Allege that the respondent poses a significant danger
34 of causing personal injury to self or others by having a firearm
35 in his or her custody or control or by potentially purchasing,
36 possessing, or receiving a firearm, and be accompanied by an
37 affidavit made under oath stating the specific statements,
38 actions, or facts that give rise to a reasonable fear of future
39 dangerous acts by the respondent.

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40 2. Identify the numbers, types, and locations of any
41 firearms the petitioner believes to be in the respondent's
42 current ownership, possession, custody, or control.

43 3. Identify whether there is a known existing protection
44 order governing the respondent under s. 741.30, s. 784.06, or s.
45 784.0485 or under any other applicable statute.

46 4. Identify whether there is a pending lawsuit, complaint,
47 petition, or other action between the parties to the petition
48 under the laws of this state.

49 (d) The clerk of court shall verify the terms of any
50 existing order governing the parties. The court may not delay
51 granting relief because of the existence of a pending action
52 between the parties or the necessity of verifying the terms of
53 an existing order. A petition for a risk protection order may be
54 granted whether or not there is a pending action between the
55 parties.

56 (e) If the petitioner is a law enforcement officer or
57 agency, the petitioner shall make a good faith effort to provide
58 notice to a family or household member of the respondent and to
59 any known third party who may be at risk of violence. The notice
60 must state that the petitioner intends to petition the court for
61 a risk protection order or has already done so, and include
62 referrals to appropriate resources, including mental health,
63 domestic violence, and counseling resources. The petitioner must

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64 attest in the petition to having provided such notice, or attest
65 to the steps that will be taken to provide such notice.

66 (f) If the petition states that disclosure of the
67 petitioner's address would risk harm to the petitioner or any
68 member of the petitioner's family or household, the petitioner's
69 address may be omitted from all documents filed with the court.
70 If the petitioner has not disclosed an address under this
71 subsection, the petitioner must designate an alternative address
72 at which the respondent may serve notice of any motions. If the
73 petitioner is a law enforcement officer or agency, the address
74 of record must be that of the law enforcement agency.

75 (g) Within 90 days of receipt of the master copy from the
76 Office of the State Courts Administrator, all court clerk's
77 offices shall make available the standardized forms,
78 instructions, and informational brochures required by subsection
79 (14).

80 (h) No fees for filing or service of process may be
81 charged by a court or any public agency to petitioners seeking
82 relief under this section. Petitioners shall be provided the
83 necessary number of certified copies, forms, and instructional
84 brochures free of charge.

85 (i) A person is not required to post a bond to obtain
86 relief in any proceeding under this section.

87 (j) The circuit courts of this state have jurisdiction
88 over proceedings under this section.

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89 (3) RISK PROTECTION ORDER HEARINGS AND ISSUANCE.—

90 (a) Upon receipt of the petition, the court shall order a
91 hearing to be held not later than 14 days after the date of the
92 order and issue a notice of hearing to the respondent for the
93 same.

94 1. The court may schedule a hearing by telephone pursuant
95 to local court rule, to reasonably accommodate a disability, or
96 in exceptional circumstances to protect a petitioner from
97 potential harm. The court shall require assurances of the
98 petitioner's identity before conducting a telephonic hearing.

99 2. The court clerk shall cause a copy of the notice of
100 hearing and petition to be forwarded on or before the next
101 business day to the appropriate law enforcement agency for
102 service upon the respondent.

103 3. Personal service of the notice of hearing and petition
104 shall be made upon the respondent by a law enforcement officer
105 not less than 5 business days before the hearing. Service under
106 this section takes precedence over the service of other
107 documents, unless the other documents are of a similar emergency
108 nature. If timely personal service cannot be made, the court
109 shall set a new hearing date and shall either require additional
110 attempts at obtaining personal service or permit service by
111 publication or mail as provided in subsection (6). The court
112 shall not require more than two attempts at obtaining personal
113 service and shall permit service by publication or mail after

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114 two attempts at obtaining personal service unless the petitioner
115 requests additional time to attempt personal service. If the
116 court issues an order permitting service by publication or mail,
117 the court shall set the hearing date not later than 24 days
118 after the date the order issues.

119 4. The court may, as provided in subsection (4), issue an
120 ex parte risk protection order pending the hearing ordered under
121 this subsection. Such ex parte order must be served concurrently
122 with the notice of hearing and petition.

123 (b) Upon hearing the matter, if the court finds by a
124 preponderance of the evidence that the respondent poses a
125 significant danger of causing personal injury to self or others
126 by having in his or her custody or control, purchasing,
127 possessing, or receiving a firearm, the court shall issue a risk
128 protection order for a period of 1 year.

129 (c) In determining whether grounds for a risk protection
130 order exist, the court may consider any relevant evidence,
131 including, but not limited to, any of the following:

132 1. A recent act or threat of violence by the respondent
133 against self or others, whether or not such violence or threat
134 of violence involves a firearm.

135 2. A pattern of acts or threats of violence by the
136 respondent within the past 12 months, including, but not limited
137 to, acts or threats of violence by the respondent against self
138 or others.

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139 3. Any dangerous mental health issues of the respondent.

140 4. A violation by the respondent of a protection order or
141 a no-contact order issued under s. 741.30, s. 784.06, or s.
142 784.0485.

143 5. A previous or existing risk protection order issued
144 against the respondent.

145 6. A violation of a previous or existing risk protection
146 order issued against the respondent.

147 7. A conviction of the respondent for a crime that
148 constitutes domestic violence as defined in s. 741.28.

149 8. The respondent's ownership, access to, or intent to
150 possess firearms.

151 9. The unlawful or reckless use, display, or brandishing
152 of a firearm by the respondent.

153 10. The history of use, attempted use, or threatened use
154 of physical force by the respondent against another person, or
155 the respondent's history of stalking another person.

156 11. Any prior arrest of the respondent for a felony
157 offense or violent crime.

158 12. Corroborated evidence of the abuse of controlled
159 substances or alcohol by the respondent.

160 13. Evidence of recent acquisition of firearms by the
161 respondent.

162 (d) The court may:

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163 1. Examine under oath the petitioner, the respondent, and
164 any witnesses they may produce, or, in lieu of examination,
165 consider sworn affidavits of the petitioner, the respondent, and
166 any witnesses they may produce.

167 2. Ensure that a reasonable search has been conducted for
168 criminal history records related to the respondent.

169 (e) In a hearing under this section, the rules of evidence
170 apply to the same extent as in a domestic violence protection
171 order proceeding under s. 741.30.

172 (f) During the hearing, the court shall consider whether a
173 mental health evaluation or chemical dependency evaluation is
174 appropriate, and may order such evaluation if appropriate.

175 (g) A risk protection order must include:

176 1. A statement of the grounds supporting the issuance of
177 the order.

178 2. The date and time the order was issued.

179 3. The date and time the order expires.

180 4. Whether a mental health evaluation or chemical
181 dependency evaluation of the respondent is required.

182 5. The address of the court in which any responsive
183 pleading should be filed.

184 6. Instructions for relinquishment of firearms under
185 subsection (8).

186 7. The following statement:
187

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188 "To the subject of this protection order: This order will
189 last until the date and time noted above. If you have not
190 done so already, you must surrender to the (insert name of
191 local law enforcement agency) all firearms in your custody,
192 control, or possession and any license to carry a concealed
193 weapon or firearm issued to you under s. 790.06, Florida
194 Statutes, immediately. You may not have in your custody or
195 control, purchase, possess, receive, or attempt to purchase
196 or receive, a firearm while this order is in effect. You
197 have the right to request one hearing to terminate this
198 order every 12-month period that this order is in effect,
199 starting after the date of this order and continuing
200 through any renewals. You may seek the advice of an
201 attorney as to any matter connected with this order."

202
203 (h) When the court issues a risk protection order, the
204 court shall inform the respondent that he or she is entitled to
205 request termination of the order in the manner prescribed by
206 subsection (7). The court shall provide the respondent with a
207 form to request a termination hearing.

208 (i) If the court declines to issue a risk protection
209 order, the court shall state the particular reasons for the
210 court's denial.

211 (4) EX PARTE RISK PROTECTION ORDERS.-

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212 (a) A petitioner may request that an ex parte risk
213 protection order be issued before a hearing for a risk
214 protection order, without notice to the respondent, by including
215 in the petition detailed allegations based on personal knowledge
216 that the respondent poses a significant danger of causing
217 personal injury to self or others in the near future by having
218 in his or her custody or control, purchasing, possessing, or
219 receiving a firearm.

220 (b) In considering whether to issue an ex parte risk
221 protection order under this section, the court shall consider
222 all relevant evidence, including the evidence described in
223 paragraph (3) (c).

224 (c) If a court finds there is reasonable cause to believe
225 that the respondent poses a significant danger of causing
226 personal injury to self or others in the near future by having
227 in his or her custody or control, purchasing, possessing, or
228 receiving a firearm, the court shall issue an ex parte risk
229 protection order.

230 (d) The court shall hold an ex parte risk protection order
231 hearing in person or by telephone on the day the petition is
232 filed or on the business day immediately following the day the
233 petition is filed.

234 (e) In accordance with paragraph (3) (a), the court shall
235 schedule a hearing within 14 days of the issuance of an ex parte

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236 risk protection order to determine if a 1-year risk protection
237 order should be issued under this section.

238 (f) An ex parte risk protection order shall include:

239 1. A statement of the grounds asserted for the order.

240 2. The date and time the order was issued.

241 3. The date and time the order expires.

242 4. The address of the court in which any responsive
243 pleading should be filed.

244 5. The date and time of the scheduled hearing;

245 6. A description of the requirements for surrender of
246 firearms under subsection (8).

247 7. The following statement:

248
249 "To the subject of this protection order: This order is
250 valid until the date and time noted above. You are required
251 to surrender all firearms in your custody, control, or
252 possession. You may not have in your custody or control,
253 purchase, possess, receive, or attempt to purchase or
254 receive, a firearm while this order is in effect. You must
255 surrender to the (insert name of local law enforcement
256 agency) all firearms in your custody, control, or
257 possession and any license to carry a concealed weapon or
258 firearm issued to you under s. 790.06, Florida Statutes,
259 immediately. A hearing will be held on the date and at the
260 time noted above to determine if a risk protection order

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261 should be issued. Failure to appear at that hearing may
262 result in a court making an order against you that is valid
263 for 1 year. You may seek the advice of an attorney as to
264 any matter connected with this order."

265
266 (g) An ex parte risk protection order issued expires upon
267 the hearing on the risk protection order.

268 (h) An ex parte risk protection order shall be served by a
269 law enforcement officer in the same manner as provided for in
270 subsection (3) for service of the notice of hearing and petition
271 and shall be served concurrently with the notice of hearing and
272 petition.

273 (i) If the court declines to issue an ex parte risk
274 protection order, the court shall state the particular reasons
275 for the court's denial.

276 (5) SERVICE OF RISK PROTECTION ORDERS.—

277 (a) A risk protection order issued under subsection (3)
278 must be personally served upon the respondent, except as
279 otherwise provided in this section.

280 (b) The law enforcement agency with jurisdiction in the
281 area in which the respondent resides shall serve the respondent
282 personally, unless the petitioner elects to have the respondent
283 served by a private party.

284 (c) If service by a law enforcement agency is to be used,
285 the clerk of the court shall cause a copy of the order issued

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286 under this section to be forwarded on or before the next
287 business day to the law enforcement agency specified in the
288 order for service upon the respondent. Service of an order
289 issued under this section takes precedence over the service of
290 other documents, unless the other documents are of a similar
291 emergency nature.

292 (d) If the law enforcement agency cannot complete service
293 upon the respondent within 10 days, the law enforcement agency
294 shall notify the petitioner. The petitioner shall provide
295 information sufficient to permit such notification.

296 (e) If an order entered by the court recites that the
297 respondent appeared in person before the court, the necessity
298 for further service is waived and proof of service of that order
299 is not necessary.

300 (f) If the court previously entered an order allowing
301 service of the notice of hearing and petition, or an ex parte
302 risk protection order, by publication or mail under subsection
303 (6), or if the court finds there are now grounds to allow such
304 alternate service, the court may permit service by publication
305 or mail of the risk protection order issued under this section
306 as provided in subsection (6). The court order must state
307 whether the court permitted service by publication or service by
308 mail.

309 (g) Returns of service under this section must be made in
310 accordance with the applicable court rules.

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311 (6) SERVICE BY PUBLICATION OR MAIL.-

312 (a) The court may order service by publication or service
313 by mail under the circumstances permitted for such service in s.
314 741.30, s. 784.06, or s. 784.0485, except any summons must be
315 essentially in the following form:

316
317 In the court of the state of Florida for
318 the county of

319, Petitioner

320 vs. No.

321, Respondent

322 The state of Florida to (respondent):

323 You are hereby summoned to appear on the day of . .

324, (year), at a.m./p.m., and respond

325 to the petition. If you fail to respond, a risk protection

326 order may be issued against you pursuant to the Risk

327 Protection Order Act, s. 790.401, Florida Statutes, for 1

328 year after the date you are required to appear. (An ex

329 parte risk protection order has been issued against you,

330 restraining you from having in your custody or control,

331 purchasing, possessing, or receiving any firearms. You must

332 surrender to the (insert name of local law enforcement

333 agency) all firearms in your custody, control, or

334 possession and any license to carry a concealed weapon or

335 firearm issued to you under s. 790.06, Florida Statutes,

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336 within 48 hours. A copy of the notice of hearing, petition,
337 and ex parte risk protection order has been filed with the
338 clerk of this court.) (A copy of the notice of hearing and
339 petition has been filed with the clerk of this court.)

340

341 Petitioner

342 (b) If the court orders service by publication or mail for
343 notice of a risk protection order hearing, it shall also reissue
344 the ex parte risk protection order, if issued, to expire on the
345 date of the risk protection order hearing.

346 (c) Following completion of service by publication or by
347 mail for notice of a risk protection order hearing, if the
348 respondent fails to appear at the hearing, the court may issue a
349 risk protection order as provided in subsection (3).

350 (7) TERMINATION AND RENEWAL OF ORDERS.—

351 (a) The respondent may submit one written request for a
352 hearing to terminate a risk protection order issued under this
353 section every 12-month period that the order is in effect,
354 starting after the date of the order and continuing through any
355 renewals.

356 1. Upon receipt of the request for a hearing to terminate
357 a risk protection order, the court shall set a date for a
358 hearing. Notice of the request must be served on the petitioner
359 in accordance with chapter 48. The hearing shall occur no sooner

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360 than 14 days and no later than 30 days after the date of service
361 of the request upon the petitioner.

362 2. The respondent shall have the burden of proving by a
363 preponderance of the evidence that the respondent does not pose
364 a significant danger of causing personal injury to self or
365 others by having in his or her custody or control, purchasing,
366 possessing, or receiving a firearm. The court may consider any
367 relevant evidence, including evidence of the considerations
368 listed in paragraph (3) (c).

369 3. If the court finds after the hearing that the
370 respondent has met his or her burden, the court shall terminate
371 the order.

372 (b) The court must notify the petitioner of the impending
373 expiration of a risk protection order. Notice must be received
374 by the petitioner 105 calendar days before the date the order
375 expires.

376 (c) A family or household member of a respondent or a law
377 enforcement officer or agency may by motion request a renewal of
378 a risk protection order at any time within 105 calendar days
379 before the expiration of the order.

380 1. Upon receipt of the motion to renew, the court shall
381 order that a hearing be held not later than 14 days after the
382 date the order issues.

383 a. The court may schedule a hearing by telephone in the
384 manner prescribed by subparagraph (3) (a)1.

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385 b. The respondent shall be personally served in the same
386 manner prescribed by subparagraphs (3) (a) 2. and 3.

387 2. In determining whether to renew a risk protection order
388 issued under this section, the court shall consider all relevant
389 evidence presented by the petitioner and follow the same
390 procedure as provided in subsection (3).

391 3. If the court finds by a preponderance of the evidence
392 that the requirements for issuance of a risk protection order as
393 provided in subsection (3) continue to be met, the court shall
394 renew the order. However, if, after notice, the motion for
395 renewal is uncontested and the petitioner seeks no modification
396 of the order, the order may be renewed on the basis of the
397 petitioner's motion or affidavit stating that there has been no
398 material change in relevant circumstances since entry of the
399 order and stating the reason for the requested renewal.

400 4. The renewal of a risk protection order has a duration
401 of 1 year, subject to termination as provided in paragraph (a)
402 or further renewal by order of the court.

403 (8) SURRENDER OF FIREARMS.—

404 (a) Upon issuance of any risk protection order under this
405 section, including an ex parte risk protection order, the court
406 shall order the respondent to surrender to the local law
407 enforcement agency all firearms in the respondent's custody,
408 control, or possession and any license to carry a concealed
409 weapon or firearm issued under s. 790.06.

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410 (b) The law enforcement officer serving any risk
411 protection order under this section, including an ex parte risk
412 protection order, shall request that the respondent immediately
413 surrender all firearms in his or her custody, control, or
414 possession and any license to carry a concealed weapon or
415 firearm issued under s. 790.06, and conduct any search permitted
416 by law for such firearms. The law enforcement officer shall take
417 possession of all firearms belonging to the respondent that are
418 surrendered, in plain sight, or discovered pursuant to a lawful
419 search. Alternatively, if personal service by a law enforcement
420 officer is not possible, or not required because the respondent
421 was present at the risk protection order hearing, the respondent
422 shall surrender the firearms in a safe manner to the control of
423 the local law enforcement agency within 48 hours of being served
424 with the order by alternate service or within 48 hours of the
425 hearing at which the respondent was present.

426 (c) At the time of surrender, a law enforcement officer
427 taking possession of a firearm or license to carry a concealed
428 weapon or firearm shall issue a receipt identifying all firearms
429 that have been surrendered and provide a copy of the receipt to
430 the respondent. Within 72 hours after service of the order, the
431 officer serving the order shall file the original receipt with
432 the court and shall ensure that his or her law enforcement
433 agency retains a copy of the receipt.

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434 (d) Upon the sworn statement or testimony of the
435 petitioner or of any law enforcement officer alleging that the
436 respondent has failed to comply with the surrender of firearms
437 as required by an order issued under this section, the court
438 shall determine whether probable cause exists to believe that
439 the respondent has failed to surrender all firearms in his or
440 her possession, custody, or control. If probable cause exists,
441 the court shall issue a warrant describing the firearms and
442 authorizing a search of the locations where the firearms are
443 reasonably believed to be and the seizure of any firearms
444 discovered pursuant to such search.

445 (e) If a person other than the respondent claims title to
446 any firearms surrendered pursuant to this section, and he or she
447 is determined by the law enforcement agency to be the lawful
448 owner of the firearm, the firearm shall be returned to him or
449 her, provided that:

450 1. The firearm is removed from the respondent's custody,
451 control, or possession and the lawful owner agrees to store the
452 firearm in a manner such that the respondent does not have
453 access to or control of the firearm.

454 2. The firearm is not otherwise unlawfully possessed by
455 the owner.

456 (f) Upon the issuance of a 1-year risk protection order,
457 the court shall order a new hearing date and require the
458 respondent to appear not later than 3 business days from the

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459 issuance of the order. The court shall require a showing that
460 the person subject to the order has surrendered any firearms in
461 his or her custody, control, or possession. The court may
462 dismiss the hearing upon a satisfactory showing that the
463 respondent is in compliance with the order.

464 (g) All law enforcement agencies must develop policies and
465 procedures by June 1, 2019, regarding the acceptance, storage,
466 and return of firearms required to be surrendered under this
467 section.

468 (9) RETURN AND DISPOSAL OF FIREARMS.-

469 (a) If a risk protection order is terminated or expires
470 without renewal, a law enforcement agency holding any firearm
471 that has been surrendered pursuant to this section shall return
472 any surrendered firearm requested by a respondent only after
473 confirming, through a background check, that the respondent is
474 currently eligible to own or possess firearms under federal and
475 state law and after confirming with the court that the risk
476 protection order has terminated or has expired without renewal.

477 (b) A law enforcement agency must, if requested, provide
478 prior notice of the return of a firearm to a respondent to
479 family or household members of the respondent.

480 (c) Any firearm surrendered by a respondent pursuant to
481 subsection (8) that remains unclaimed by the lawful owner shall
482 be disposed of in accordance with the law enforcement agency's

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483 policies and procedures for the disposal of firearms in police
484 custody.

485 (10) REPORTING OF ORDERS.—

486 (a) The clerk of the court shall enter any risk protection
487 order or ex parte risk protection order issued under this
488 section into the uniform case reporting system on the same day
489 such order is issued.

490 (b) The clerk of the court shall forward a copy of an
491 order issued under this section the same day such order is
492 issued to the appropriate law enforcement agency specified in
493 the order. Upon receipt of the copy of the order, the law
494 enforcement agency shall enter the order into the national
495 instant criminal background check system, any other federal or
496 state computer-based systems used by law enforcement or others
497 to identify prohibited purchasers of firearms, and any computer-
498 based criminal intelligence information system available in this
499 state used by law enforcement agencies to list outstanding
500 warrants. The order must remain in each system for the period
501 stated in the order, and the law enforcement agency shall only
502 expunge orders from the systems that have expired or terminated.
503 Entry into the computer-based criminal intelligence information
504 system constitutes notice to all law enforcement agencies of the
505 existence of the order. The order is fully enforceable in any
506 county in the state.

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507 (c) The issuing court shall, within 3 business days after
508 issuance of a risk protection order or ex parte risk protection
509 order, forward a copy of the respondent's driver license or
510 identification card, or comparable information, along with the
511 date of order issuance, to the Department of Agriculture and
512 Consumer Services. Upon receipt of the information, the
513 department shall determine if the respondent has a license to
514 carry a concealed weapon or firearm. If the respondent does have
515 a license to carry a concealed weapon or firearm, the department
516 shall immediately revoke the license.

517 (d) If a risk protection order is terminated before its
518 expiration date, the clerk of the court shall forward the same
519 day a copy of the termination order to the Department of
520 Agriculture and Consumer Services and the appropriate law
521 enforcement agency specified in the termination order. Upon
522 receipt of the order, the law enforcement agency shall promptly
523 remove the order from any computer-based system in which it was
524 entered pursuant to paragraph (b).

525 (11) PENALTIES.—

526 (a) Any person who files a petition under this section
527 knowing the information in such petition to be materially false,
528 or with intent to harass the respondent commits a misdemeanor of
529 the first degree, punishable as provided in s. 775.082 or s.
530 775.083.

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531 (b)1.a Except as provided in sub-subparagraph b., a person
532 who has in his or her custody or control a firearm or purchases,
533 possesses, or receives a firearm with knowledge that he or she
534 is prohibited from doing so by an order issued under this
535 section commits a misdemeanor of the first degree, punishable as
536 provided in s. 775.082 or s. 775.083.

537 b. If a person has two or more previous convictions for
538 violating an order issued under this section, the person commits
539 a felony of the third degree punishable as provided in s.
540 775.082, s. 775.083, or s. 775.084.

541 2. A person who is convicted of an offense under this
542 paragraph is prohibited from having a firearm in his or her
543 custody or control or purchasing, possessing, or receiving, or
544 attempting to purchase or receive a firearm for a period of 5
545 years after the date the existing order under this section
546 expires.

547 (12) LAW ENFORCEMENT RETAINS OTHER AUTHORITY.—This section
548 does not affect the ability of a law enforcement officer to
549 remove a firearm or license to carry a concealed weapon or
550 firearm from any person or conduct any search and seizure for
551 firearms pursuant to other lawful authority.

552 (13) LIABILITY.—Except as provided in subsection (11),
553 this section does not impose criminal or civil liability on any
554 person or entity for acts or omissions related to obtaining a
555 risk protection order or ex parte risk protection, including,

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556 but not limited to, reporting, declining to report,
557 investigating, declining to investigate, filing, or declining to
558 file a petition under this section.

559 (14) INSTRUCTIONAL AND INFORMATIONAL MATERIAL.-

560 (a) The Office of the State Courts Administrator shall
561 develop and prepare instructions and informational brochures,
562 standard petitions and risk protection order forms, and a court
563 staff handbook on the risk protection order process. The
564 standard petition and order forms must be used after June 1,
565 2019, for all petitions filed and orders issued under this
566 section. The instructions, brochures, forms, and handbook shall
567 be prepared in consultation with interested persons, including
568 representatives of gun violence prevention groups, judges, and
569 law enforcement personnel. Materials must be based on best
570 practices and available electronically online to the public.

571 1. The instructions must be designed to assist petitioners
572 in completing the petition, and must include a sample of a
573 standard petition and order for protection forms.

574 2. The instructions and standard petition must include a
575 means for the petitioner to identify, with only lay knowledge,
576 the firearms the respondent may own, possesses, receive, or have
577 in his or her custody or control. The instructions must provide
578 pictures of types of firearms that the petitioner may choose
579 from to identify the relevant firearms, or an equivalent means

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580 to allow petitioners to identify firearms without requiring
581 specific or technical knowledge regarding the firearms.

582 3. The informational brochure must describe the use of and
583 the process for obtaining, modifying, and terminating a risk
584 protection order under this section, and provide relevant forms.

585 4. The risk protection order form must include, in a
586 conspicuous location, notice of criminal penalties resulting
587 from violation of the order, and the following statement: "You
588 have the sole responsibility to avoid or refrain from violating
589 this order's provisions. Only the court can change the order and
590 only upon written application."

591 5. The court staff handbook must allow for the addition of
592 a community resource list by the court clerk.

593 (b) All court clerks may create a community resource list
594 of crisis intervention, mental health, substance abuse,
595 interpreter, counseling, and other relevant resources serving
596 the county in which the court is located. The court may make the
597 community resource list available as part of or in addition to
598 the informational brochures described in paragraph (a).

599 (c) The Office of the State Courts Administrator shall
600 distribute a master copy of the petition and order forms,
601 instructions, and informational brochures to all court clerks.
602 Distribution of all documents shall, at a minimum, be in an
603 electronic format or formats accessible to all courts and court
604 clerks in the state.

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605 (d) The Office of the State Courts Administrator shall
606 determine the significant non-English-speaking or limited
607 English-speaking populations in the state. The office shall then
608 arrange for translation of the instructions and informational
609 brochures required by this section, which shall contain a sample
610 of the standard petition and order for protection forms, into
611 the languages spoken by those significant non-English-speaking
612 populations and shall distribute a master copy of the translated
613 instructions and informational brochures to all court clerks by
614 December 1, 2018.

615 (e) The Office of the State Courts Administrator shall
616 update the instructions, brochures, standard petition and risk
617 protection order forms, and court staff handbook as necessary,
618 including when changes in the law make an update necessary.

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T I T L E A M E N D M E N T

622

Remove lines 35-54 and insert:

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terminology; creating s. 790.401, F.S.; providing

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definitions; authorizing risk protection orders to

625

prevent persons who are at high risk of harming

626

themselves or others from accessing firearms;

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providing requirements for petitions for such orders;

628

providing duties for courts and clerks of court;

629

prohibiting fees for filing of such petitions;

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630 providing for jurisdiction for such petitions;
631 requiring hearings on petitions within a specified
632 period; providing for service; providing grounds that
633 may be considered in determining whether to grant such
634 a petition; providing requirements for proceedings;
635 providing requirements for such an orders; providing
636 for ex parte orders in certain circumstances;
637 providing for service of orders; providing for
638 termination or renewal of an order; providing for the
639 surrender and storage of firearms after issuance of
640 such an order; requiring law enforcement agencies to
641 develop certain policies and procedures by a certain
642 date; providing for return of firearms upon
643 termination of an order; requiring the reporting of
644 such an order to specified agencies; requiring the
645 termination of a license to carry a concealed weapon
646 or firearm that is held be a person subject to such an
647 order; prohibiting filing a petition for such an order
648 knowingly containing materially false or misleading
649 statements; providing criminal penalties; prohibiting
650 violations of such an order; providing criminal
651 penalties; prohibiting persons convicted of violating
652 such an order from possessing a firearm for a
653 specified period; providing construction; providing
654 that provisions do not create liability for certain

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COMMITTEE/SUBCOMMITTEE AMENDMENT

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655 | acts or omissions; requiring development and
656 | distribution of certain instructional and
657 | informational material;

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