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**FLOOR AMENDMENT STATEMENT:**

No

**LEGISLATIVE FISCAL ESTIMATE:**

Yes 5-7-2018  
6-12-2018

**VETO MESSAGE:**

No

**GOVERNOR'S PRESS RELEASE ON SIGNING:**

Yes

**FOLLOWING WERE PRINTED:**

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**REPORTS:**

**HEARINGS:**

**NEWSPAPER ARTICLES:**

Yes

"With pen, Murphy tightens gun rules – 'common sense' laws fulfill campaign promise," The Record, 6-14-2018

"Murphy signs six gun-control bills into law - He vows N.J. to be a leader in fight for firearms safety," South Jersey Times, 6-14-2018

"Murphy signs 6 gun-control bills into law - He vows Jersey to be a leader in fight for firearms safety," The Times, 6-14-2018

"Governor set to sign 6 gun-control measures in New Jersey," Associated Press State Wire: New Jersey, 6-13-2018

"Governor signs 6 gun control measures in New Jersey," Associated Press State Wire: New Jersey, 6-13-2018

"The Latest: Gov signs 6 gun control measures in New Jersey," Associated Press State Wire: New Jersey, 6-13-2018

RWH/JA

P.L. 2018, CHAPTER 35, *approved June 13, 2018*  
Assembly Committee Substitute (*Third Reprint*) for  
Assembly, No. 1217

1 AN ACT concerning extreme risk <sup>2</sup>**[protection]** protective<sup>2</sup> <sup>3</sup>**[order]**  
2 orders<sup>3</sup> and supplementing and amending various parts of the  
3 statutory law.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. (New section) This act shall be known and may be cited as  
9 the “Extreme Risk Protective Order Act of 2018.”

10  
11 2. (New section) As used in P.L. , c. (C. ) (pending  
12 before the Legislature as this bill):

13 “Ammunition” means ammunition or cartridge cases, primers,  
14 bullets, or propellant powder designed for use in any firearm, but  
15 does not include any shotgun shot or pellet not designed for use as  
16 the single, complete projectile load for one shotgun hull or casing or  
17 any unloaded, non-metallic shotgun hull or casing not having a  
18 primer.

19 “Deadly weapon” shall have the same meaning as in subsection  
20 c. of N.J.S.2C:11-1.

21 “Family or household member” means a spouse, domestic  
22 partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3),  
23 partner in a civil union couple as defined in section 2 of P.L.2006,  
24 c.103 (C.37:1-29), or former spouse, former domestic partner, or  
25 former partner in a civil union couple, or any other person who is a  
26 present household member or was at any time a household member;  
27 a person with whom the respondent has a child in common, or with  
28 whom the respondent anticipates having a child in common if one  
29 of the parties is pregnant; or a current or former dating partner.

30 “Firearm” shall have the same meaning as in N.J.S.2C:39-1.

31 “Law enforcement agency” means a department, division,  
32 bureau, commission, board or other authority of the State or of any  
33 political subdivision thereof which employs law enforcement  
34 officers.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AAP committee amendments adopted March 22, 2018.

<sup>2</sup>Senate SLP committee amendments adopted April 16, 2018.

<sup>3</sup>Senate SBA committee amendments adopted June 4, 2018.

1 “Law enforcement officer” means a person whose public duties  
2 include the power to act as an officer for the detection,  
3 apprehension, arrest, and conviction of offenders against the laws of  
4 this State.

5 “Petitioner” means a family or household member or law  
6 enforcement officer.

7 “Recent” means within six months prior to the date the petition  
8 was filed.

9

10 3. (New section) a. A law enforcement officer who, in good  
11 faith, does not file a petition for an extreme risk protective order or  
12 temporary extreme risk <sup>2</sup>~~protection~~ protective<sup>2</sup> order shall be  
13 immune from criminal or civil liability.

14 b. A law enforcement agency shall be immune from civil or  
15 criminal liability for any damage or deterioration of firearms or  
16 ammunition stored or transported pursuant to section <sup>2</sup>~~6 or~~<sup>2</sup> 7 <sup>2</sup>or ~~8~~<sup>2</sup>  
17 of P.L. , c. (C. ) (pending before the Legislature as this bill)  
18 unless the damage or deterioration resulted from recklessness, gross  
19 negligence, or intentional misconduct by the law enforcement agency.

20 <sup>3</sup>c. The immunity provided in subsections a. and b. of this section  
21 shall be in addition to any privileges or immunities provided pursuant  
22 to any other law.<sup>3</sup>

23

24 4. (New section) a. <sup>1</sup>~~[A]~~ Except as provided in subsection  
25 <sup>2</sup>~~[m.] l.~~<sup>2</sup> of this section, a<sup>1</sup> petitioner may file a petition <sup>1</sup>, as  
26 prescribed by the Administrative Director of the Courts,<sup>1</sup> for a  
27 temporary extreme risk protective order in the <sup>2</sup>~~[Superior Court]~~  
28 court<sup>2</sup> in accordance with the Rules of Court <sup>2</sup>~~[<sup>1</sup>or in any State,~~  
29 county, or municipal law enforcement agency<sup>1</sup>]<sup>2</sup> alleging that the  
30 respondent poses a significant danger of bodily injury to self or others  
31 by having custody or control of, owning, possessing, purchasing, or  
32 receiving a firearm. The petition shall be heard by the <sup>2</sup>~~[Superior~~  
33 Court] court<sup>2</sup> in an expedited manner.

34 <sup>3</sup>Petition forms shall be readily available at the courts, and at State,  
35 county, and municipal law enforcement agencies.<sup>3</sup>

36 <sup>2</sup>~~[<sup>1</sup>In the case of a petition filed in a]~~ <sup>3</sup>~~[A<sup>2</sup>]~~ Prior to filing a  
37 petition with the court, a family or household member may request  
38 assistance from a<sup>3</sup> State, county, or municipal law enforcement agency  
39 <sup>2</sup>~~[, a law enforcement officer or employee]<sup>2</sup> <sup>3</sup>which<sup>3</sup> shall advise the~~  
40 petitioner of the procedure for completing and signing a petition for a  
41 temporary extreme risk protective order.<sup>1</sup> <sup>3</sup>A law enforcement officer  
42 from the agency may assist the family or household member in  
43 preparing or filing the petition. This assistance may include, but not  
44 be limited to, providing information related to the factors set forth in  
45 subsection f. of this section, joining in the petition, referring the matter

1 to another law enforcement agency for additional assistance, or filing  
2 the officer's own petition with the court.<sup>3</sup>

3 Filing a petition pursuant to this section shall not prevent a  
4 petitioner from filing a criminal complaint <sup>2</sup>or applying for a  
5 restraining order pursuant to the "Prevention of Domestic Violence  
6 Act of 1991," P.L. 1991, c. 261 (C.2C:25-17 et seq.)<sup>2</sup> <sup>3</sup>or prevent any  
7 person from taking any action authorized pursuant to P.L.1987, c.116  
8 (C.30:4-27.1 et seq.)<sup>3</sup> based on the circumstances forming the basis of  
9 the petition.

10 A petitioner may apply for relief under this section in <sup>2</sup>**[a** <sup>1</sup>**[court]**  
11 county<sup>1</sup> where the respondent resides, or where the petitioner resides  
12 in]<sup>2</sup> accordance with the Rules of Court.

13 b. A petition for a temporary extreme risk protective order shall  
14 include an affidavit <sup>3</sup>**[including]** setting forth the facts tending to  
15 establish the grounds of the petition, or the reason for believing that  
16 they exist, and, to the extent available,<sup>3</sup> the number, types, physical  
17 description, and locations of any firearms and ammunition currently  
18 believed by the petitioner to be controlled or possessed by the  
19 respondent.

20 c. The court shall not charge a fee to file the petition.

21 d. <sup>3</sup>**[**Petition forms shall be readily available at the courts, and at  
22 State, county, and municipal]<sup>3</sup> <sup>1</sup>**[**police stations]<sup>3</sup> <sup>3</sup>**[**law enforcement  
23 agencies<sup>1</sup>]**]** The court, before issuing a temporary extreme risk  
24 protective order, shall examine under oath the petitioner and any  
25 witness the petitioner may produce. The court, in lieu of examining  
26 the petitioner and any witness, may rely on an affidavit submitted in  
27 support of the petition<sup>3</sup>.

28 e. A judge shall issue the order if the court finds good cause to  
29 believe that the respondent poses an immediate and present danger of  
30 causing bodily injury to the respondent or others by having custody or  
31 control of, owning, possessing, purchasing, or receiving a firearm.

32 f. <sup>2</sup>**[**<sup>1</sup>**[In]** To assist the court in<sup>1</sup> determining whether to issue an  
33 order pursuant to this section, <sup>1</sup>**[the]** The<sup>2</sup> county prosecutor <sup>2</sup>or a  
34 designee of the county prosecutor<sup>2</sup> shall produce in an expedited  
35 manner any available evidence <sup>2</sup>including, but not limited to,  
36 <sup>3</sup>available<sup>3</sup> evidence related to the factors set forth in this section,<sup>2</sup>  
37 and<sup>1</sup> the court shall consider whether the respondent <sup>2</sup>**[has]**<sup>2</sup>:

38 (1) <sup>2</sup>has<sup>2</sup> any history of threats or acts of violence by the  
39 respondent directed toward self or others;

40 (2) <sup>2</sup>has<sup>2</sup> any history of use, attempted use, or threatened use of  
41 physical force by the respondent against another person;

42 (3) <sup>2</sup>**[**any recent violation of] is the subject of a temporary or final  
43 restraining order or has violated<sup>2</sup> a <sup>2</sup>temporary or final<sup>2</sup> restraining  
44 order issued pursuant to the "Prevention of Domestic Violence Act of  
45 1991," P.L.1991, c.261 (C.2C:25-17 et seq.);

1 (4) <sup>2</sup>[any recent violation of] is the subject of a temporary or final  
2 protective order or has violated<sup>2</sup> a <sup>2</sup>temporary or final<sup>2</sup> protective order  
3 issued pursuant to the “Sexual Assault Survivor Protection Act of  
4 2015,” P.L.2015, c.147 (C.2C:14-13 et al.);

5 (5) <sup>2</sup>[ever been convicted of] has any prior arrests, pending  
6 charges, or convictions for<sup>2</sup> a violent <sup>2</sup>indictable crime or<sup>2</sup> disorderly  
7 persons <sup>2</sup>[or petty disorderly persons]<sup>2</sup> offense, stalking offense  
8 pursuant to section 1 of P.L.1992, c.209 (C.2C:12-10), or domestic  
9 violence offense enumerated in section 3 of P.L.1991, c.261 (C.2C:25-  
10 19);

11 (6) <sup>2</sup>has<sup>2</sup> <sup>3</sup>[ever been convicted of an] any prior arrests, pending  
12 charges, or convictions for any<sup>3</sup> offense involving cruelty to animals  
13 <sup>3</sup>or any history of acts involving cruelty to animals<sup>3</sup>; <sup>2</sup>[or ]<sup>2</sup>

14 (7) <sup>2</sup>has<sup>2</sup> any history of drug or alcohol abuse and recovery from  
15 this abuse <sup>2</sup>[.]; or<sup>2</sup>

16 <sup>2</sup>[g. In determining whether to issue an order pursuant to this  
17 section, <sup>1</sup>the county prosecutor shall produce in an expedited manner  
18 any available evidence and<sup>1</sup> the court also may consider any factors  
19 related to whether the respondent presents an increased risk of  
20 violence, including, but not limited to, whether the respondent has any:

21 (1) history of violating a restraining order issued pursuant to the  
22 “Prevention of Domestic Violence Act of 1991,” P.L.1991, c.261  
23 (C.2C:25-17 et seq.);

24 (2) history of violating a protective order issued pursuant to the  
25 “Sexual Assault Survivor Protection Act of 2015,” P.L.2015, c.147  
26 (C.2C:14-13 et al.)

27 (3) prior arrests for a violent disorderly persons or petty disorderly  
28 persons offense, stalking offense pursuant to section 1 of P.L.1992,  
29 c.209 (C.2C:12-10), or domestic violence offense enumerated in  
30 section 3 of P.L.1991, c.261 (C.2C:25-19); or

31 (4) recent acquisitions of] (8) has recently acquired<sup>2</sup> a firearm,  
32 ammunition, or other deadly weapon.

33 <sup>2</sup>[h.] g.<sup>2</sup> The temporary extreme risk protective order shall  
34 prohibit the respondent from having custody or control of, owning,  
35 purchasing, possessing, or receiving firearms or ammunition, and from  
36 securing or holding a firearms purchaser identification card or permit  
37 to purchase a handgun pursuant to N.J.S.2C:58-3, or a permit to carry  
38 a handgun pursuant to N.J.S.2C:58-4 during the period the protective  
39 order is in effect and shall order the respondent to surrender firearms  
40 and ammunition in the respondent’s custody or control, or which the  
41 respondent possesses or owns, and any firearms purchaser  
42 identification card, permit to purchase a handgun, or permit to carry a  
43 handgun held by the respondent in accordance with section 7 of P.L. ,  
44 c. (C. ) (pending before the Legislature as this bill). Any card or  
45 permit issued to the respondent shall be immediately revoked pursuant  
46 to subsection f. of N.J.S.2C:58-3.

1       <sup>2</sup>[i.] h.<sup>2</sup> A temporary extreme risk protective order issued under  
2 this section shall remain in effect until a court issues a further order.

3       <sup>2</sup>[j.] i.<sup>2</sup> The court that issues the temporary extreme risk  
4 protective order shall immediately forward<sup>3</sup>:

5       (1)<sup>3</sup> a copy of the order <sup>3</sup>[and petition]<sup>3</sup> to the <sup>3</sup>petitioner and<sup>3</sup>  
6 county prosecutor <sup>2</sup>[and<sup>1</sup>] <sup>3</sup>[who shall forward a copy to the<sup>2</sup>] in the  
7 county in which the respondent resides; and

8       (2) a copy of the order and the petition to the<sup>3</sup> appropriate law  
9 enforcement agency <sup>3</sup>in the municipality in which the respondent  
10 resides,<sup>3</sup> which shall immediately, or as soon as practicable, serve it on  
11 the respondent <sup>3</sup>[, <sup>2</sup>[and]<sup>2</sup> to the law enforcement agency of the  
12 municipality in which the petitioner resides or is sheltered <sup>2</sup>, and the  
13 petitioner<sup>2</sup>]<sup>3</sup>.

14       If personal service cannot be effected upon the respondent, the  
15 court may order other appropriate substituted service. At no time shall  
16 <sup>2</sup>[the] a<sup>2</sup> petitioner <sup>2</sup>who is a family or household member<sup>2</sup> be asked  
17 or required to serve any order on the respondent. The law enforcement  
18 agency serving the order shall not charge a fee or seek reimbursement  
19 from the petitioner for service of the order.

20       <sup>2</sup>[k.] j.<sup>2</sup> Notice of temporary extreme risk protective orders  
21 issued pursuant to this section shall be sent by the <sup>2</sup>[clerk of the court  
22 or other person designated by the court] county prosecutor<sup>2</sup> to the  
23 appropriate chiefs of police, members of the State Police, and any  
24 other appropriate law enforcement agency or court.

25       <sup>2</sup>[l.] k.<sup>2</sup> Any temporary extreme risk protective order issued  
26 pursuant to this section shall be in effect throughout the State, and  
27 shall be enforced by all law enforcement officers.

28       <sup>2</sup>[1.m.] l.<sup>2</sup> (1) A petition for a temporary extreme risk protective  
29 order filed against a law enforcement officer shall be filed in the law  
30 enforcement agency in which the officer is employed. The law  
31 enforcement officer or employee receiving the petition shall advise the  
32 petitioner of the procedure for completing and signing a petition.

33       (2) Upon receipt of the petition, the law enforcement officer's  
34 employer shall immediately initiate an internal affairs investigation.

35       (3) The disposition of the internal affairs investigation shall  
36 immediately be served upon the county prosecutor who shall make a  
37 determination whether to refer the matter to the courts.

38       (4) The law enforcement officer's employer shall take appropriate  
39 steps to implement any findings set forth in the disposition of the  
40 internal affairs investigation.

41       The law enforcement officer shall not be terminated during the  
42 pendency of the internal affairs investigation.<sup>1</sup>

43

44       5. (New section) a. A hearing for <sup>2</sup>[an] a final<sup>2</sup> extreme risk  
45 protective order shall be held <sup>1</sup>in the Superior Court<sup>1</sup> in accordance  
46 with the Rules of Court within 10 days of the filing of a petition

1 pursuant to <sup>1</sup>subsection a. of<sup>1</sup> section 4 of P.L. , c. (C. )  
2 (pending before the Legislature as this bill) <sup>2</sup>[in the county where the  
3 temporary extreme risk protective order was filed, unless good cause is  
4 shown for the hearing to be held in another county]<sup>2</sup>. A copy of the  
5 petition shall be served on the respondent in accordance with the Rules  
6 of Court.

7 b. <sup>2</sup>[<sup>1</sup>In order to assist the court in determining whether to issue  
8 an order pursuant to this section, the] <sup>2</sup>The<sup>2</sup> county prosecutor shall  
9 produce in an expedited manner any available evidence <sup>2</sup>including, but  
10 not limited to, evidence related to the factors enumerated in subsection  
11 f. of section 4 of P.L. , c. (C. ) (pending before the Legislature as  
12 this bill)<sup>2,1</sup>. If the court finds by a preponderance of the evidence at the  
13 hearing that the respondent poses a significant danger of bodily injury  
14 to the respondent's self or others by having custody or control of,  
15 owning, possessing, purchasing, or receiving a firearm, the court shall  
16 issue <sup>1</sup>[a one-year] <sup>an</sup> extreme risk protective order <sup>3</sup>[<sup>1</sup>which shall  
17 expire one year following the date of entry of the order unless the  
18 order is extended pursuant to section 6 of P.L. , c. (C. )  
19 (pending before the Legislature as this bill)<sup>1</sup>]<sup>3</sup>.

20 c. When deciding whether to issue the order, the court shall  
21 consider the factors enumerated in subsection f. of section 4 of  
22 P.L. , c. (C. ) (pending before the Legislature as this bill) <sup>2</sup>[and  
23 may consider, but is not limited to, the factors enumerated in  
24 subsection g. of section 4 of P.L. , c. (C. ) (pending before the  
25 Legislature as this bill),]<sup>2,3,3</sup> as well as any other relevant evidence.

26 d. An extreme risk protective order issued pursuant to this section  
27 shall prohibit the respondent from having custody or control of,  
28 owning, purchasing, possessing, or receiving a firearm. <sup>1</sup>A respondent  
29 who is a law enforcement officer shall be subject to the provisions of  
30 subsection <sup>2</sup>[m.] <sup>l.</sup><sup>2</sup> of section 4 of P.L. , c. (C. ) (pending  
31 before the Legislature as this bill).<sup>1</sup>

32  
33 <sup>3</sup>[6. (New section) a. Upon request by a petitioner <sup>2</sup>in a form  
34 prescribed by the Administrative Office of the Courts<sup>2</sup>, and after  
35 notice to the respondent <sup>2</sup>in accordance with the Rules of Court<sup>2,1</sup>,  
36 appropriate law enforcement, and the county prosecutor<sup>1</sup> and a  
37 hearing, the court may extend an extreme risk protective order  
38 issued pursuant to section 5 of P.L. , c. , (C. )  
39 (pending before the Legislature as this bill). A petition for an  
40 extension may be filed <sup>2</sup>[any time]<sup>2</sup> within three months preceding  
41 the expiration of the current protective order <sup>2</sup>but no less than 30  
42 days preceding the expiration of the current protective order<sup>2</sup>. The  
43 protective order may be extended for one year if the court makes  
44 the same findings by a preponderance of the evidence as required  
45 for granting the initial order issued pursuant to section 5 of P.L. ,  
46 c. (C. ) (pending before the Legislature as this bill). The court



1 shall consider the factors enumerated in subsection f. of section 4 of  
2 P.L. , c. (C. ) (pending before the Legislature as this bill)  
3 <sup>2</sup>and may consider, but is not limited to, the factors enumerated in  
4 subsection g. of section 4 of P.L. , c. (C. ) (pending before the  
5 Legislature as this bill),<sup>2</sup> as well as any other relevant evidence.

6 b. The court may terminate an order upon petition by the  
7 respondent after a hearing at which the respondent shall bear the  
8 burden of proving by a preponderance of the evidence that the  
9 respondent no longer poses a significant danger of causing bodily  
10 injury to the respondent's self or to other persons by having custody  
11 or control of, owning, possessing, purchasing, or receiving a  
12 firearm. The respondent may file no more than one petition to  
13 terminate an order while the order is in effect.<sup>3</sup>

14

15 <sup>3</sup>6. (New section) Upon request of the petitioner or respondent, in  
16 a form prescribed by the Administrative Office of the Courts, the court  
17 may terminate a final extreme risk protective order issued pursuant to  
18 section 5 of P.L. , c. (C. ) (pending before the Legislature as  
19 this bill) if:

20 a. the petitioner or respondent, as the case may be, has received  
21 notice in accordance with the Rules of Court;

22 b. the appropriate law enforcement agency and the county  
23 prosecutor have been notified; and

24 c. a hearing has been held by the court.

25 The petition for termination of the order may be filed at any time  
26 following the issuance of the order. During the hearing, the court shall  
27 consider the factors enumerated in subsection f. of section 4 of P.L. ,  
28 c. (C. ) (pending before the Legislature as this bill), as well as any  
29 other relevant evidence including, but not limited to, whether the  
30 respondent has received, or is receiving, mental health treatment.

31 If the respondent petitioned for termination, the respondent shall  
32 bear the burden at the hearing of proving by a preponderance of the  
33 evidence that the respondent no longer poses a significant danger of  
34 causing bodily injury to the respondent's self or to other persons by  
35 having custody or control of, owning, possessing, purchasing, or  
36 receiving a firearm.<sup>3</sup>

37

38 7. (New section) a. When a temporary <sup>2</sup>or final<sup>2</sup> extreme risk  
39 protective order <sup>2</sup>[or extreme risk protective order]<sup>2</sup> is issued pursuant  
40 to section 4 <sup>3</sup>[, 5, or 6] or <sup>3</sup>5<sup>3</sup> of P.L. , c. (C. ) (pending before  
41 the Legislature as this bill), the court shall order the respondent to  
42 surrender to the local law enforcement agency all firearms and  
43 ammunition in the respondent's custody or control, or which the  
44 respondent owns or possesses, and any firearms purchaser  
45 identification card, permit to purchase a handgun, or permit to carry a  
46 handgun held by the respondent. <sup>3</sup>The court also shall notify the  
47 respondent that the respondent is prohibited from purchasing firearms

1 or ammunition or applying for a firearms purchaser identification card,  
2 permit to purchase a handgun, or permit to carry a handgun.<sup>3</sup>

3 b. <sup>3</sup>**【**Upon being served with the protective order, the respondent  
4 immediately shall surrender, in a safe manner, all firearms and  
5 ammunition in the respondent's custody or control, or which the  
6 respondent owns or possesses, and any firearms purchaser  
7 identification card, permit to purchase a handgun, or permit to carry a  
8 handgun held by the respondent to the control of the law enforcement  
9 officer. (1)**】**<sup>3</sup>

10 If the <sup>3</sup>petition for the temporary extreme risk<sup>3</sup> protective order  
11 indicates that the respondent owns or possesses any firearms or  
12 ammunition, <sup>3</sup>the court shall issue a search warrant with the temporary  
13 or final extreme risk protective order and<sup>3</sup> the law enforcement officer  
14 who serves the order shall request that all firearms and ammunition  
15 immediately be surrendered.

16 <sup>3</sup>**【**(2) If a law enforcement officer is unable to personally serve the  
17 order, the respondent shall surrender all firearms and ammunition to  
18 the control of the respondent's local law enforcement agency within 24  
19 hours of being served with the order. Alternatively, the**】**

20 (1) The respondent immediately shall surrender, in a safe manner,  
21 all firearms and ammunition in the respondent's custody or control, or  
22 which the respondent owns or possesses, and any firearms purchaser  
23 identification card, permit to purchase a handgun, or permit to carry a  
24 handgun held by the respondent to the control of the law enforcement  
25 officer.

26 (2) The<sup>3</sup> respondent may <sup>3</sup>**【**surrender or sell**】** request that the law  
27 enforcement agency sell<sup>3</sup> all firearms and ammunition in a safe  
28 manner to a federally licensed firearms dealer <sup>2</sup>pursuant to section 8 of  
29 P.L. , c. (C. ) (pending before the Legislature as this bill)<sup>2</sup>.

30 (3) The law enforcement officer or licensed firearms dealer taking  
31 possession of any firearms or ammunition pursuant to this subsection  
32 shall issue a receipt identifying all firearms and ammunition that have  
33 been surrendered by the respondent. The officer or dealer shall  
34 provide a copy of the receipt to the respondent at the time of surrender.

35 (4) If the respondent surrenders firearms and ammunition to a law  
36 enforcement officer <sup>3</sup>pursuant to paragraph (1) of this subsection<sup>3</sup> or  
37 surrenders or sells firearms and ammunition to a licensed dealer  
38 pursuant to paragraph (2) of this subsection, the respondent shall,  
39 within 48 hours after being served with the order <sup>2,2</sup> file the receipt  
40 with <sup>2</sup>**【**the court that issued the protective order and file a copy of the  
41 receipt with the law enforcement agency that served the order**】** the  
42 county prosecutor<sup>2</sup>. Failure to timely file the receipt or copy of the  
43 receipt shall constitute contempt of the order.

44 c. The court which issued the protective order may issue a search  
45 warrant for a firearm or ammunition that is in the custody or control  
46 of, owned, or possessed by a respondent who is subject to a

1 <sup>2</sup>[restraining] temporary or final protective<sup>2</sup> order issued pursuant to  
2 section 4 <sup>3</sup>[<sup>1</sup>[or],<sup>1</sup> 5<sup>1</sup>,<sup>1</sup> or 6] or 5<sup>3</sup> of P.L. , c. (C. ) (pending  
3 before the Legislature as this bill) if the respondent has lawfully been  
4 served with that order and has failed to surrender the firearm or  
5 ammunition as required by this section.

6 d. <sup>3</sup>[If the respondent has surrendered a firearm or ammunition to  
7 a law enforcement agency, within 30 days of the expiration of the  
8 order or upon termination of the order, the] The<sup>3</sup> respondent may  
9 petition the agency for the return of any surrendered firearms or  
10 ammunition <sup>3</sup>upon termination of an order pursuant to section 6 of  
11 P.L. c. (C. ) (pending before the Legislature as this bill)<sup>3</sup>.  
12 Within 30 days of receiving a petition for the return of surrendered  
13 firearms or ammunition and after the <sup>3</sup>[expiration or]<sup>3</sup> termination of  
14 the order, the agency shall return the firearm or ammunition unless:

15 (1) the firearm has been reported as stolen; <sup>3</sup>or<sup>3</sup>  
16 (2) the respondent is prohibited from possessing a firearm under  
17 State or federal law<sup>3</sup>; or

18 (3) the protective order is extended <sup>2</sup>or a petition to extend the  
19 protective order is pending<sup>2</sup> pursuant to the provisions of section 6 of  
20 P.L. , c. (C. ) (pending before the Legislature as this bill)]<sup>3</sup>.

21 <sup>2</sup>Nothing in this act shall prohibit revocation and seizure of <sup>3</sup>[an  
22 individual's] a person's<sup>3</sup> firearms purchaser identification card, permit  
23 to purchase a handgun, permit to carry a handgun, and weapons  
24 <sup>3</sup>[pursuant to subsection f. of N.J.S.2C:58-3] as authorized pursuant  
25 to applicable law<sup>3</sup> .<sup>2</sup>

26 e. If a person other than the respondent claims title to any firearm  
27 or ammunition surrendered pursuant to this section, and the law  
28 enforcement agency determines that the person is the lawful owner of  
29 the firearm or ammunition, the firearm or ammunition shall be  
30 returned to that person.

31 f. If the respondent has surrendered a firearm or ammunition to a  
32 federally licensed firearms dealer, after <sup>3</sup>[expiration or]<sup>3</sup> termination  
33 of the order, the respondent may request the law enforcement agency,  
34 in writing, to authorize the return of the firearm or ammunition from  
35 the dealer. The dealer shall transfer the firearm or ammunition to the  
36 respondent in accordance with procedures required when a firearm or  
37 ammunition is being sold from the dealer's inventory <sup>2</sup>in accordance  
38 with N.J.S.2C:58-2<sup>2</sup>.

39  
40 8. (New section) A respondent who has surrendered any  
41 firearm or ammunition to a law enforcement agency pursuant to  
42 P.L. , c. (C. ) (pending before the Legislature as this bill)  
43 who does not want the firearm or ammunition returned or is no  
44 longer eligible to own or possess a firearm or ammunition may sell  
45 or transfer title of the firearm or ammunition to a federally licensed  
46 firearms dealer. The agency shall transfer possession of the firearm

1 or ammunition to a licensed dealer only after the dealer has  
2 displayed written proof of transfer of the firearm or ammunition  
3 from the respondent to the dealer and the agency has verified the  
4 transfer with the respondent.

5  
6 9. (New section) A law enforcement agency holding any firearm  
7 or ammunition surrendered pursuant to P.L. , c. (C. ) (pending  
8 before the Legislature as this bill) for more than one year after the  
9 <sup>3</sup>[expiration or]<sup>3</sup> termination of the extreme risk protective order may  
10 destroy the firearm or ammunition in accordance with the policies and  
11 procedures of the agency for destruction of firearms or ammunition.

12  
13 10. (New section) <sup>2</sup>[Except as provided in section 11 of P.L.,  
14 c. (C. ) (pending before the Legislature as this bill), a] A<sup>2</sup>  
15 violation by the respondent of an order issued pursuant to section 4  
16 <sup>3</sup>[<sup>2</sup>[or]<sup>2</sup> 5 <sup>2</sup>, or 6<sup>2</sup>] or 5<sup>3</sup> of P.L. , c. (C. ) (pending before the  
17 Legislature as this bill) shall constitute an offense under subsection e.  
18 of N.J.S.2C:29-9 and each order shall so state. All contempt  
19 proceedings conducted pursuant to N.J.S.2C:29-9 involving an  
20 extreme risk protective order shall be heard by the Superior Court. All  
21 contempt proceedings brought pursuant to P.L. , c. (C. )  
22 (pending before the Legislature as this bill) shall be made in  
23 accordance with the Rules of Court.

24  
25 <sup>2</sup>[11. (New section) <sup>1</sup>[If a law enforcement officer finds  
26 probable cause that a] a. A<sup>1</sup> respondent <sup>1</sup>[is]<sup>1</sup> in contempt of an  
27 order entered pursuant to P.L. , c. (C. ) (pending before the  
28 Legislature as this bill) <sup>1</sup>[, the respondent]<sup>1</sup> shall be arrested and  
29 taken into custody.

30 <sup>1</sup>b. If a person alleges that a respondent has violated or is in  
31 contempt of an order entered pursuant to P.L. , c. (C. )  
32 (pending before the Legislature as this bill) but the facts are  
33 insufficient to establish probable cause to arrest the respondent, a  
34 law enforcement officer shall advise the petitioner of the procedure  
35 for completing and signing a criminal complaint alleging a violation  
36 of subsection e. of N.J.S.2C:29-9.<sup>1</sup><sup>2</sup>

37  
38 <sup>2</sup>[12.] 11.<sup>2</sup> (New section) a. The Administrative Office of the  
39 Courts shall include all persons who have had <sup>2</sup>[<sup>1</sup>an] a final<sup>2</sup> extreme  
40 risk<sup>1</sup> protective <sup>1</sup>[orders] order<sup>1</sup> entered against them pursuant to  
41 section 5 <sup>3</sup>[or 6]<sup>3</sup> of<sup>1</sup> P.L. , c. (C. ) (pending before the  
42 Legislature as this bill), and all persons who have been charged with a  
43 violation of <sup>2</sup>[an] a temporary or final<sup>2</sup> extreme risk protective order  
44 issued pursuant to section 4 <sup>3</sup>[<sup>2</sup>[or], <sup>2</sup> 5 <sup>2</sup>, or 6<sup>2</sup>] or 5<sup>3</sup> of P.L. ,  
45 c. (C. ) (pending before the Legislature as this bill).<sup>1</sup> in <sup>2</sup>[the  
46 Domestic Violence Central Registry established pursuant to P.L.1999,

1 c.421 (C.2C:25-34 et seq.)<sup>1</sup> an electronic central registry created and  
2 maintained by the Administrative Office of the Courts<sup>2</sup>. All records  
3 made pursuant to this section shall be kept confidential <sup>2</sup>in  
4 accordance with the Rules of Court<sup>1</sup> and a and shall be released only  
5 to a police or other law enforcement agency investigating a report of a  
6 crime, offense, or act of domestic violence, or conducting a  
7 background investigation involving a person's application for a  
8 firearms purchaser identification card or permit to purchase a handgun  
9 or employment as a police or law enforcement officer, or for any other  
10 purpose authorized by law or the Supreme Court of the State of New  
11 Jersey. A<sup>2</sup> respondent's information, other than information related to  
12 a violation of <sup>2</sup>[an] a temporary or final<sup>2</sup> order issued pursuant to  
13 section 4 <sup>3</sup>[<sup>2</sup>or], <sup>2</sup> 5 <sup>2</sup>, or 6<sup>2</sup>] or 5<sup>3</sup> of P.L. , c. (C. ) (pending  
14 before the Legislature as this bill), shall be removed from the registry  
15 upon the <sup>3</sup>[expiration] termination<sup>3</sup> of the extreme risk protective  
16 order<sup>1</sup>.

17 b. Any person who disseminates or discloses a record or report of  
18 the central registry for a purpose other than the purposes authorized in  
19 this section or as otherwise authorized by law or the Supreme Court of  
20 the State of New Jersey is guilty of a crime of the fourth degree.

21  
22 <sup>2</sup>[13.] 12.<sup>2</sup> N.J.S.2C:29-9 is amended to read as follows:

23 2C:29-9. Contempt. a. A person is guilty of a crime of the  
24 fourth degree if **[he]** the person purposely or knowingly disobeys a  
25 judicial order or protective order, pursuant to section 1 of P.L.1985,  
26 c.250 (C.2C:28-5.1), or hinders, obstructs, or impedes the effectuation  
27 of a judicial order or the exercise of jurisdiction over any person,  
28 thing, or controversy by a court, administrative body, or investigative  
29 entity.

30 b. (1) Except as provided in paragraph (2) of this subsection, a  
31 person is guilty of a crime of the fourth degree if that person purposely  
32 or knowingly violates any provision in an order entered under the  
33 provisions of the "Prevention of Domestic Violence Act of 1991,"  
34 P.L.1991, c.261 (C.2C:25-17 et al.) or an order entered under the  
35 provisions of a substantially similar statute under the laws of another  
36 state or the United States when the conduct which constitutes the  
37 violation could also constitute a crime or a disorderly persons offense.

38 Orders entered pursuant to paragraphs (3), (4), (5), (8)<sup>3,3</sup> and (9) of  
39 subsection b. of section 13 of P.L.1991, c.261 (C.2C:25-29) or  
40 substantially similar orders entered under the laws of another state or  
41 the United States shall be excluded from the provisions of this  
42 paragraph.

43 (2) In all other cases a person is guilty of a disorderly persons  
44 offense if that person purposely or knowingly violates an order entered  
45 under the provisions of the "Prevention of Domestic Violence Act of  
46 1991," P.L.1991, c.261 (C.2C:25-17 et al.) or an order entered under

1 the provisions of a substantially similar statute under the laws of  
2 another state or the United States.

3 Orders entered pursuant to paragraphs (3), (4), (5), (8) <sup>3</sup><sub>2</sub> and (9)  
4 of subsection b. of section 13 of P.L.1991, c.261 (C.2C:25-29) or  
5 substantially similar orders entered under the laws of another state or  
6 the United States shall be excluded from the provisions of this  
7 paragraph.

8 c. A person is guilty of a crime of the third degree if that person  
9 purposely or knowingly violates any provision in an order entered  
10 under the provisions of section 3 of P.L.1996, c.39 (C.2C:12-10.1) or  
11 section 2 of P.L.1999, c.47 (C.2C:12-10.2) or an order entered under  
12 the provisions of a substantially similar statute under the laws of  
13 another state or the United States when the conduct which constitutes  
14 the violation could also constitute a crime or a disorderly persons  
15 offense.

16 d. (1) Except as provided in paragraph (2) of this subsection, a  
17 person is guilty of a crime of the fourth degree if that person purposely  
18 or knowingly violates any provision in an order entered under the  
19 provisions of P.L.2015, c.147 (C.2C:14-13 et al.) or an order entered  
20 under the provisions of a substantially similar statute under the laws of  
21 another state or the United States when the conduct which constitutes  
22 the violation could also constitute a crime or a disorderly persons  
23 offense.

24 (2) In all other cases a person is guilty of a disorderly persons  
25 offense if that person purposely or knowingly violates an order entered  
26 under the provisions of P.L.2015, c.147 (C.2C:14-13 et al.) or an order  
27 entered under the provisions of a substantially similar statute under the  
28 laws of another state or the United States.

29 e. A person is guilty of a crime of the fourth degree if the person  
30 purposely or knowingly violates any provision of an order entered  
31 under the provisions of the "Extreme Risk Protective Order Act of  
32 2018," P.L. , c. (C. ) (pending before the Legislature as this bill)  
33 or an order entered under the provisions of a substantially similar  
34 statute under the laws of another state or the United States.

35 As used in this section, "state" means a state of the United States,  
36 the District of Columbia, Puerto Rico, the United States Virgin  
37 Islands, or any territory or insular possession subject to the jurisdiction  
38 of the United States. The term includes an Indian tribe or band, or  
39 Alaskan native village, which is recognized by a federal law or  
40 formally acknowledged by a state.

41 (cf: P.L.2016, c.93, s.3)

42  
43 <sup>2</sup>**[14.] 13.**<sup>2</sup> Section 6 of P.L.1979, c.179 (C.2C:39-7) is  
44 amended to read as follows:

45 6. Certain Persons Not to Have Weapons.

46 a. Except as provided in subsection b. of this section, any  
47 person, having been convicted in this State or elsewhere of the  
48 crime of aggravated assault, arson, burglary, escape, extortion,

1 homicide, kidnapping, robbery, aggravated sexual assault, sexual  
2 assault, bias intimidation in violation of N.J.S.2C:16-1 or  
3 endangering the welfare of a child pursuant to N.J.S.2C:24-4,  
4 whether or not armed with or having in his possession any weapon  
5 enumerated in subsection r. of N.J.S.2C:39-1, or any person  
6 convicted of a crime pursuant to the provisions of N.J.S.2C:39-3,  
7 N.J.S.2C:39-4 or N.J.S.2C:39-9, or any person who has ever been  
8 committed for a mental disorder to any hospital, mental institution  
9 or sanitarium unless he possesses a certificate of a medical doctor  
10 or psychiatrist licensed to practice in New Jersey or other  
11 satisfactory proof that he is no longer suffering from a mental  
12 disorder which interferes with or handicaps him in the handling of a  
13 firearm, or any person who has been convicted of other than a  
14 disorderly persons or petty disorderly persons offense for the  
15 unlawful use, possession or sale of a controlled dangerous  
16 substance as defined in N.J.S.2C:35-2 who purchases, owns,  
17 possesses or controls any of the said weapons is guilty of a crime of  
18 the fourth degree.

19 b. (1) A person having been convicted in this State or  
20 elsewhere of the crime of aggravated assault, arson, burglary,  
21 escape, extortion, homicide, kidnapping, robbery, aggravated sexual  
22 assault, sexual assault, bias intimidation in violation of  
23 N.J.S.2C:16-1, endangering the welfare of a child pursuant to  
24 N.J.S.2C:24-4, stalking pursuant to P.L.1992, c.209 (C.2C:12-10)  
25 or a crime involving domestic violence as defined in section 3 of  
26 P.L.1991, c.261 (C.2C:25-19), whether or not armed with or having  
27 in his possession a weapon enumerated in subsection r. of  
28 N.J.S.2C:39-1, or a person having been convicted of a crime  
29 pursuant to the provisions of N.J.S.2C:35-3 through N.J.S.2C:35-6,  
30 inclusive; section 1 of P.L.1987, c.101 (C.2C:35-7); N.J.S.2C:35-  
31 11; N.J.S.2C:39-3; N.J.S.2C:39-4; or N.J.S.2C:39-9 who purchases,  
32 owns, possesses or controls a firearm is guilty of a crime of the  
33 second degree and upon conviction thereof, the person shall be  
34 sentenced to a term of imprisonment by the court. The term of  
35 imprisonment shall include the imposition of a minimum term,  
36 which shall be fixed at five years, during which the defendant shall  
37 be ineligible for parole. If the defendant is sentenced to an  
38 extended term of imprisonment pursuant to N.J.S.2C:43-7, the  
39 extended term of imprisonment shall include the imposition of a  
40 minimum term, which shall be fixed at, or between, one-third and  
41 one-half of the sentence imposed by the court or five years,  
42 whichever is greater, during which the defendant shall be ineligible  
43 for parole.

44 (2) A person having been convicted in this State or elsewhere of  
45 a disorderly persons offense involving domestic violence, whether  
46 or not armed with or having in his possession a weapon enumerated  
47 in subsection r. of N.J.S.2C:39-1, who purchases, owns, possesses  
48 or controls a firearm is guilty of a crime of the third degree.

1 (3) A person whose firearm is seized pursuant to the "Prevention  
2 of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et  
3 seq.) and whose firearm has not been returned, or who is subject to  
4 a court order prohibiting the possession of firearms issued pursuant  
5 to the "Prevention of Domestic Violence Act of 1991," P.L.1991 ,  
6 c.261 (C.2C:25-17 et seq.) who purchases, owns, possesses or  
7 controls a firearm is guilty of a crime of the third degree, except  
8 that the provisions of this paragraph shall not apply to any law  
9 enforcement officer while actually on duty, or to any member of the  
10 Armed Forces of the United States or member of the National  
11 Guard while actually on duty or traveling to or from an authorized  
12 place of duty.

13 (4) A person who is subject to a court order prohibiting the  
14 custody, control, ownership, purchase, possession, or receipt of a  
15 firearm or ammunition issued pursuant to the "Extreme Risk  
16 Protective Order Act of 2018," P.L. , c. (C. ) (pending before  
17 the Legislature as this bill) who purchases, acquires, owns,  
18 possesses, or controls a firearm or ammunition is guilty of a crime  
19 of the third degree.

20 c. Whenever any person shall have been convicted in another  
21 state, territory, commonwealth or other jurisdiction of the United  
22 States, or any country in the world, in a court of competent  
23 jurisdiction, of a crime which in said other jurisdiction or country is  
24 comparable to one of the crimes enumerated in subsection a. or b.  
25 of this section, then that person shall be subject to the provisions of  
26 this section.

27 (cf: P.L.2003, c.277, s.3)

28

29 <sup>2</sup>**[15.]** 14.<sup>2</sup> N.J.S.2C:58-3 is amended to read as follows:

30 2C:58-3. a. Permit to purchase a handgun. No person shall sell,  
31 give, transfer, assign or otherwise dispose of, nor receive, purchase,  
32 or otherwise acquire a handgun unless the purchaser, assignee,  
33 donee, receiver or holder is licensed as a dealer under this chapter  
34 or has first secured a permit to purchase a handgun as provided by  
35 this section.

36 b. Firearms purchaser identification card. No person shall sell,  
37 give, transfer, assign or otherwise dispose of nor receive, purchase  
38 or otherwise acquire an antique cannon or a rifle or shotgun, other  
39 than an antique rifle or shotgun, unless the purchaser, assignee,  
40 donee, receiver or holder is licensed as a dealer under this chapter  
41 or possesses a valid firearms purchaser identification card, and first  
42 exhibits the card to the seller, donor, transferor or assignor, and  
43 unless the purchaser, assignee, donee, receiver or holder signs a  
44 written certification, on a form prescribed by the superintendent,  
45 which shall indicate that he presently complies with the  
46 requirements of subsection c. of this section and shall contain his  
47 name, address and firearms purchaser identification card number or  
48 dealer's registration number. The certification shall be retained by



1 the seller, as provided in paragraph (4) of subsection a. of  
2 N.J.S.2C:58-2, or, in the case of a person who is not a dealer, it may  
3 be filed with the chief of police of the municipality in which he  
4 resides or with the superintendent.

5 c. Who may obtain. No person of good character and good  
6 repute in the community in which he lives, and who is not subject to  
7 any of the disabilities set forth in this section or other sections of  
8 this chapter, shall be denied a permit to purchase a handgun or a  
9 firearms purchaser identification card, except as hereinafter set  
10 forth. No handgun purchase permit or firearms purchaser  
11 identification card shall be issued:

12 (1) To any person who has been convicted of any crime, or a  
13 disorderly persons offense involving an act of domestic violence as  
14 defined in section 3 of P.L.1991, c.261 (C.2C:25-19), whether or  
15 not armed with or possessing a weapon at the time of the offense;

16 (2) To any drug dependent person as defined in section 2 of  
17 P.L.1970, c.226 (C.24:21-2), to any person who is confined for a  
18 mental disorder to a hospital, mental institution or sanitarium, or to  
19 any person who is presently an habitual drunkard;

20 (3) To any person who suffers from a physical defect or disease  
21 which would make it unsafe for him to handle firearms, to any  
22 person who has ever been confined for a mental disorder, or to any  
23 alcoholic unless any of the foregoing persons produces a certificate  
24 of a medical doctor or psychiatrist licensed in New Jersey, or other  
25 satisfactory proof, that he is no longer suffering from that particular  
26 disability in a manner that would interfere with or handicap him in  
27 the handling of firearms; to any person who knowingly falsifies any  
28 information on the application form for a handgun purchase permit  
29 or firearms purchaser identification card;

30 (4) To any person under the age of 18 years for a firearms  
31 purchaser identification card and to any person under the age of 21  
32 years for a permit to purchase a handgun;

33 (5) To any person where the issuance would not be in the  
34 interest of the public health, safety or welfare;

35 (6) To any person who is subject to a restraining order issued  
36 pursuant to the "Prevention of Domestic Violence Act of 1991,"  
37 P.L.1991, c.261 (C.2C:25-17 et seq.) prohibiting the person from  
38 possessing any firearm;

39 (7) To any person who as a juvenile was adjudicated delinquent  
40 for an offense which, if committed by an adult, would constitute a  
41 crime and the offense involved the unlawful use or possession of a  
42 weapon, explosive or destructive device or is enumerated in  
43 subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2);

44 (8) To any person whose firearm is seized pursuant to the  
45 "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261  
46 (C.2C:25-17 et seq.) and whose firearm has not been returned; **[or]**

1 (9) To any person named on the consolidated Terrorist Watchlist  
2 maintained by the Terrorist Screening Center administered by the  
3 Federal Bureau of Investigation; or

4 (10) To any person who is subject to a court order prohibiting  
5 the custody, control, ownership, purchase, possession, or receipt of  
6 a firearm or ammunition issued pursuant to the “Extreme Risk  
7 Protective Order Act of 2018,” P.L. , c. (C. ) (pending before  
8 the Legislature as this bill).

9 d. Issuance. The chief of police of an organized full-time  
10 police department of the municipality where the applicant resides or  
11 the superintendent, in all other cases, shall upon application, issue  
12 to any person qualified under the provisions of subsection c. of this  
13 section a permit to purchase a handgun or a firearms purchaser  
14 identification card.

15 Any person aggrieved by the denial of a permit or identification  
16 card may request a hearing in the Superior Court of the county in  
17 which he resides if he is a resident of New Jersey or in the Superior  
18 Court of the county in which his application was filed if he is a  
19 nonresident. The request for a hearing shall be made in writing  
20 within 30 days of the denial of the application for a permit or  
21 identification card. The applicant shall serve a copy of his request  
22 for a hearing upon the chief of police of the municipality in which  
23 he resides, if he is a resident of New Jersey, and upon the  
24 superintendent in all cases. The hearing shall be held and a record  
25 made thereof within 30 days of the receipt of the application for a  
26 hearing by the judge of the Superior Court. No formal pleading and  
27 no filing fee shall be required as a preliminary to a hearing.  
28 Appeals from the results of a hearing shall be in accordance with  
29 law.

30 e. Applications. Applications for permits to purchase a  
31 handgun and for firearms purchaser identification cards shall be in  
32 the form prescribed by the superintendent and shall set forth the  
33 name, residence, place of business, age, date of birth, occupation,  
34 sex and physical description, including distinguishing physical  
35 characteristics, if any, of the applicant, and shall state whether the  
36 applicant is a citizen, whether he is an alcoholic, habitual drunkard,  
37 drug dependent person as defined in section 2 of P.L.1970, c.226  
38 (C.24:21-2), whether he has ever been confined or committed to a  
39 mental institution or hospital for treatment or observation of a  
40 mental or psychiatric condition on a temporary, interim or  
41 permanent basis, giving the name and location of the institution or  
42 hospital and the dates of confinement or commitment, whether he  
43 has been attended, treated or observed by any doctor or psychiatrist  
44 or at any hospital or mental institution on an inpatient or outpatient  
45 basis for any mental or psychiatric condition, giving the name and  
46 location of the doctor, psychiatrist, hospital or institution and the  
47 dates of the occurrence, whether he presently or ever has been a  
48 member of any organization which advocates or approves the

1 commission of acts of force and violence to overthrow the  
2 Government of the United States or of this State, or which seeks to  
3 deny others their rights under the Constitution of either the United  
4 States or the State of New Jersey, whether he has ever been  
5 convicted of a crime or disorderly persons offense, whether the  
6 person is subject to a restraining order issued pursuant to the  
7 "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261  
8 (C.2C:25-17 et seq.) prohibiting the person from possessing any  
9 firearm, whether the person is subject to a <sup>2</sup>[restraining] protective<sup>2</sup>  
10 order issued pursuant to the "Extreme Risk Protective Order Act of  
11 2018." P.L. , c. (C. ) (pending before the Legislature as this  
12 bill) prohibiting the person from possessing any firearm, and other  
13 information as the superintendent shall deem necessary for the  
14 proper enforcement of this chapter. For the purpose of complying  
15 with this subsection, the applicant shall waive any statutory or other  
16 right of confidentiality relating to institutional confinement. The  
17 application shall be signed by the applicant and shall contain as  
18 references the names and addresses of two reputable citizens  
19 personally acquainted with him.

20 Application blanks shall be obtainable from the superintendent,  
21 from any other officer authorized to grant a permit or identification  
22 card, and from licensed retail dealers.

23 The chief police officer or the superintendent shall obtain the  
24 fingerprints of the applicant and shall have them compared with any  
25 and all records of fingerprints in the municipality and county in  
26 which the applicant resides and also the records of the State Bureau  
27 of Identification and the Federal Bureau of Investigation, provided  
28 that an applicant for a handgun purchase permit who possesses a  
29 valid firearms purchaser identification card, or who has previously  
30 obtained a handgun purchase permit from the same licensing  
31 authority for which he was previously fingerprinted, and who  
32 provides other reasonably satisfactory proof of his identity, need not  
33 be fingerprinted again; however, the chief police officer or the  
34 superintendent shall proceed to investigate the application to  
35 determine whether or not the applicant has become subject to any of  
36 the disabilities set forth in this chapter.

37 f. Granting of permit or identification card; fee; term; renewal;  
38 revocation. The application for the permit to purchase a handgun  
39 together with a fee of \$2, or the application for the firearms  
40 purchaser identification card together with a fee of \$5, shall be  
41 delivered or forwarded to the licensing authority who shall  
42 investigate the same and, unless good cause for the denial thereof  
43 appears, shall grant the permit or the identification card, or both, if  
44 application has been made therefor, within 30 days from the date of  
45 receipt of the application for residents of this State and within 45  
46 days for nonresident applicants. A permit to purchase a handgun  
47 shall be valid for a period of 90 days from the date of issuance and  
48 may be renewed by the issuing authority for good cause for an

1 additional 90 days. A firearms purchaser identification card shall  
2 be valid until such time as the holder becomes subject to any of the  
3 disabilities set forth in subsection c. of this section, whereupon the  
4 card shall be void and shall be returned within five days by the  
5 holder to the superintendent, who shall then advise the licensing  
6 authority. Failure of the holder to return the firearms purchaser  
7 identification card to the superintendent within the five days shall  
8 be an offense under subsection a. of N.J.S.2C:39-10. Any firearms  
9 purchaser identification card may be revoked by the Superior Court  
10 of the county wherein the card was issued, after hearing upon  
11 notice, upon a finding that the holder thereof no longer qualifies for  
12 the issuance of the permit. The county prosecutor of any county,  
13 the chief police officer of any municipality or any citizen may apply  
14 to the court at any time for the revocation of the card.

15 There shall be no conditions or requirements added to the form  
16 or content of the application, or required by the licensing authority  
17 for the issuance of a permit or identification card, other than those  
18 that are specifically set forth in this chapter.

19 g. Disposition of fees. All fees for permits shall be paid to the  
20 State Treasury if the permit is issued by the superintendent, to the  
21 municipality if issued by the chief of police, and to the county  
22 treasurer if issued by the judge of the Superior Court.

23 h. Form of permit; quadruplicate; disposition of copies. The  
24 permit shall be in the form prescribed by the superintendent and  
25 shall be issued to the applicant in quadruplicate. Prior to the time  
26 he receives the handgun from the seller, the applicant shall deliver  
27 to the seller the permit in quadruplicate and the seller shall  
28 complete all of the information required on the form. Within five  
29 days of the date of the sale, the seller shall forward the original  
30 copy to the superintendent and the second copy to the chief of  
31 police of the municipality in which the purchaser resides, except  
32 that in a municipality having no chief of police, the copy shall be  
33 forwarded to the superintendent. The third copy shall then be  
34 returned to the purchaser with the pistol or revolver and the fourth  
35 copy shall be kept by the seller as a permanent record.

36 i. Restriction on number of firearms person may purchase.  
37 Only one handgun shall be purchased or delivered on each permit  
38 and no more than one handgun shall be purchased within any 30-  
39 day period, but this limitation shall not apply to:

40 (1) a federal, State, or local law enforcement officer or agency  
41 purchasing handguns for use by officers in the actual performance  
42 of their law enforcement duties;

43 (2) a collector of handguns as curios or relics as defined in Title  
44 18, United States Code, section 921 (a) (13) who has in his  
45 possession a valid Collector of Curios and Relics License issued by  
46 the federal Bureau of Alcohol, Tobacco, Firearms and Explosives;

47 (3) transfers of handguns among licensed retail dealers,  
48 registered wholesale dealers and registered manufacturers;

1 (4) transfers of handguns from any person to a licensed retail  
2 dealer or a registered wholesale dealer or registered manufacturer;

3 (5) any transaction where the person has purchased a handgun  
4 from a licensed retail dealer and has returned that handgun to the  
5 dealer in exchange for another handgun within 30 days of the  
6 original transaction, provided the retail dealer reports the exchange  
7 transaction to the superintendent; or

8 (6) any transaction where the superintendent issues an  
9 exemption from the prohibition in this subsection pursuant to the  
10 provisions of section 4 of P.L.2009, c.186 (C.2C:58-3.4).

11 The provisions of this subsection shall not be construed to afford  
12 or authorize any other exemption from the regulatory provisions  
13 governing firearms set forth in chapter 39 and chapter 58 of Title  
14 2C of the New Jersey Statutes;

15 A person shall not be restricted as to the number of rifles or  
16 shotguns he may purchase, provided he possesses a valid firearms  
17 purchaser identification card and provided further that he signs the  
18 certification required in subsection b. of this section for each  
19 transaction.

20 j. Firearms passing to heirs or legatees. Notwithstanding any  
21 other provision of this section concerning the transfer, receipt or  
22 acquisition of a firearm, a permit to purchase or a firearms  
23 purchaser identification card shall not be required for the passing of  
24 a firearm upon the death of an owner thereof to his heir or legatee,  
25 whether the same be by testamentary bequest or by the laws of  
26 intestacy. The person who shall so receive, or acquire the firearm  
27 shall, however, be subject to all other provisions of this chapter. If  
28 the heir or legatee of the firearm does not qualify to possess or carry  
29 it, he may retain ownership of the firearm for the purpose of sale for  
30 a period not exceeding 180 days, or for a further limited period as  
31 may be approved by the chief law enforcement officer of the  
32 municipality in which the heir or legatee resides or the  
33 superintendent, provided that the firearm is in the custody of the  
34 chief law enforcement officer of the municipality or the  
35 superintendent during that period.

36 k. Sawed-off shotguns. Nothing in this section shall be  
37 construed to authorize the purchase or possession of any sawed-off  
38 shotgun.

39 l. Nothing in this section and in N.J.S.2C:58-2 shall apply to  
40 the sale or purchase of a visual distress signalling device approved  
41 by the United States Coast Guard, solely for possession on a private  
42 or commercial aircraft or any boat; provided, however, that no  
43 person under the age of 18 years shall purchase nor shall any person  
44 sell to a person under the age of 18 years a visual distress signalling  
45 device.

46 m. The provisions of subsections a. and b. of this section and  
47 paragraphs (4) and (5) of subsection a. of N.J.S.2C:58-2 shall not  
48 apply to the purchase of firearms by a law enforcement agency for

1 use by law enforcement officers in the actual performance of the  
2 officers' official duties, which purchase may be made directly from  
3 a manufacturer or from a licensed dealer located in this State or any  
4 other state.

5 (cf: P.L.2016, c.74, s.1)

6

7 <sup>2</sup>**[16.]** <sup>2</sup>15. <sup>3</sup>(New section)<sup>3</sup> The Supreme Court may promulgate  
8 Rules of Court to effectuate the purposes of the “Extreme Risk  
9 Protective Order Act of 2018,” P.L. , c. (C. ) (pending before  
10 the Legislature as this bill).

11

12 <sup>2</sup>**[17.]** <sup>2</sup>16. (New section) The Attorney General may adopt,  
13 pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410  
14 (C.52:14B-1 et seq.), rules and regulations necessary to implement  
15 the provisions of the “Extreme Risk Protective Order Act of 2018,”  
16 P.L. , c. (C. ) (pending before the Legislature as this bill).

17

18 <sup>2</sup>**[18.]** <sup>2</sup>17. This act shall take effect on the first day of the  
19 <sup>2</sup>**[seventh]** <sup>2</sup>fifteenth month next following enactment, but the  
20 Attorney General and the Administrative Director of the Courts  
21 may take any anticipatory action as shall be necessary to effectuate  
22 the purposes of this act.

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“Extreme Risk Protective Order Act of 2018.”

# ASSEMBLY, No. 1217

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex and Morris)**

**Co-Sponsored by:**

**Assemblyman Benson**

**SYNOPSIS**

Authorizes gun violence restraining orders and firearm seizure warrants.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT authorizing gun violence restraining orders and firearm  
2 seizure warrants and supplementing Title 2C of the New Jersey  
3 Statutes.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. For the purposes of this act:

9 “Firearm seizure warrant” shall mean a court order regarding a  
10 person who is subject to a gun violence restraining order and who is  
11 known to own or possess one or more firearms, that directs a law  
12 enforcement officer to seize any firearms in the possession of the  
13 person and to bring the unloaded firearm before the judge.

14 “Gun violence restraining order” shall mean a court order  
15 prohibiting a person from purchasing, owning, possessing, or  
16 controlling a firearm for a period of up to one year.

17  
18 2. Any person may submit an application to the court setting  
19 forth the facts and circumstances necessitating the issuance of a gun  
20 violence restraining order. The Administrative Office of the Courts  
21 shall prescribe the manner and form of the application.

22 a. A gun violence restraining order shall be issued to prohibit a  
23 person from possessing a firearm if an affidavit, signed by the  
24 applicant under oath, and any additional information provided to the  
25 court demonstrates, to the satisfaction of the court, that the person  
26 poses a significant risk of personal injury to himself or others by  
27 possessing a firearm.

28 b. In determining whether a gun violence restraining order  
29 should be issued, the judge may examine, under oath, the person  
30 seeking the order and any witnesses the person produces.

31 (1) In determining whether grounds for a gun violence  
32 restraining order exist, the judge shall consider all of the following:

33 (a) a recent threat or act of violence by the person  
34 directed toward others;

35 (b) a recent threat or act of violence by the person  
36 directed toward himself;

37 (c) a recent violation of a restraining order; and

38 (d) a conviction for a weapons offense under the provisions of  
39 chapter 39 of Title 2C of the New Jersey Statutes.

40 (2) In determining whether grounds for a gun violence  
41 restraining order exist, the judge may consider any of the following:

42 (a) the reckless use, display, or brandishing of a firearm by the  
43 person;

44 (b) the history of use, attempted use, or threatened use of  
45 physical force by the person against other persons;

46 (c) any prior arrest of the person for a crime or offense;

47 (d) any history of a violation by the person of a restraining  
48 order;



1 (e) evidence of recent or ongoing abuse of controlled substances  
2 or alcohol by the person; or  
3 (f) evidence of recent acquisition of firearms or other deadly  
4 weapons.  
5 (3) The affidavit shall set forth the facts establishing the  
6 grounds of the application, or probable cause for believing that they  
7 exist. In lieu of the required written affidavit, the judge may take  
8 an oral statement under oath.  
9 c. If the judge is satisfied of the existence of the grounds of the  
10 application, or that there is probable cause to believe their  
11 existence, the judge shall issue a gun violence restraining order.  
12 d. A gun violence restraining order shall include:  
13 (1) a statement of the grounds asserted for the order;  
14 (2) the date and time the order expires;  
15 (3) the address of the Superior Court for the county in which the  
16 restrained party resides; and  
17 (4) a statement to the restrained person stating: the time and  
18 date that the order expires; that the person may not own, possess,  
19 purchase, or receive, or attempt to purchase or receive a firearm  
20 while this order is in effect; that the person is entitled to submit one  
21 written request for a hearing at any time during the effective period  
22 of the order for an order permitting the person to own, possess,  
23 purchase, or receive a firearm; that the person may seek the advice  
24 of an attorney as to any matter connected with the order; and that  
25 the attorney should be consulted promptly so that the attorney may  
26 assist the person in any matter connected with the order.  
27 e. When serving a gun violence restraining order, the law  
28 enforcement officer shall inform the person that the person may  
29 submit one written request for a hearing, pursuant to section 5 of  
30 this act, at any time during the effective period of the order and  
31 provide the person with a form to request the hearing.  
32  
33 3. If there is probable cause to believe that a person who has  
34 been issued a gun violence restraining order possesses or owns a  
35 firearm, the judge shall issue a firearm seizure warrant to the  
36 appropriate law enforcement officer directing the officer to seize  
37 any specified firearm and to retain the firearm subject to the order  
38 of the court.  
39 a. A firearm seizure warrant shall be issued upon probable  
40 cause, supported by an affidavit, naming or describing with  
41 reasonable specificity the facts and circumstances justifying the  
42 court order and listing any firearm to be seized pursuant to the court  
43 order.  
44 b. A firearm described in the firearm seizure warrant may be  
45 taken from any place, or from any person in whose possession the  
46 firearm may be.  
47 c. When a law enforcement officer takes property under a  
48 firearm seizure warrant, the officer shall give a receipt for the

1 property taken, specifying it in detail, to the person from whom it  
2 was taken. In the absence of a person, the officer shall leave the  
3 receipt in the place where the property was found.

4 d. All firearms seized pursuant to a firearm seizure warrant by  
5 a law enforcement officer shall be delivered to the county  
6 prosecutor.

7 e. If the location to be searched during the execution of a  
8 firearm seizure warrant is jointly occupied by multiple parties and a  
9 firearm located during the execution of the seizure warrant is owned  
10 by a person other than the person in the firearm seizure warrant, the  
11 firearm shall not be seized if the firearm is stored in a manner that  
12 the person named in the firearm seizure warrant does not have  
13 access to or control of the firearm and there is no evidence of  
14 unlawful possession of the firearm by the owner.

15 f. If the location to be searched during the execution of a  
16 firearm seizure warrant is jointly occupied by multiple parties and a  
17 gun safe that is owned by a person other than the person named in  
18 the firearm seizure warrant is located therein, the contents of the  
19 gun safe shall not be searched except in the owner's presence, or  
20 with the owner's consent, or unless a valid search warrant has been  
21 obtained.

22  
23 4. Except as provided in subsection f. of this section, no later  
24 than 14 days after the execution of a gun violence restraining order  
25 and a firearm seizure warrant, if applicable, the court that issued the  
26 order and seizure warrant shall hold a hearing to determine whether  
27 the person who is the subject of the order may possess, own,  
28 purchase, or receive a firearm and, when applicable, whether a  
29 seized firearm should be returned to the person named in the  
30 warrant.

31 a. At the hearing, the State shall have the burden of proving, by  
32 clear and convincing evidence, that the person poses a significant  
33 risk of personal injury to himself or others by owning or possessing  
34 the firearm.

35 b. If, at the hearing, the person is found to pose a significant  
36 risk of personal injury to himself or others by purchasing, owning,  
37 possessing, or controlling a firearm, the firearm seized pursuant to  
38 the warrant shall be retained by the law enforcement agency for a  
39 period not to exceed one year or until ownership of the firearm is  
40 transferred to a licensed firearms dealer. The person shall be  
41 prohibited from purchasing, owning, possessing, or controlling a  
42 firearm for a period not to exceed one year.

43 c. If the person violates subsection b. of this section, the person  
44 commits a crime of the fourth degree.

45 d. The court shall notify the Department of Law and Public  
46 Safety of the gun violence restraining order no later than two  
47 business days after issuing the order. The court also shall notify the  
48 department of any order restoring the person's ability to own or

1 possess firearms no later than two business days after issuing the  
2 order to restore the person's right to own or possess any type of  
3 firearm that may be lawfully owned and possessed. Any notice or  
4 report submitted pursuant to this subsection shall be in an electronic  
5 format, in a manner prescribed by the department.

6 e. If the court finds that the State has not met the required  
7 standard of proof, the firearm seized pursuant to the warrant shall  
8 be returned to the person.

9 f. If the person is prohibited by law from purchasing, owning,  
10 possessing, or controlling a firearm for a period of one year or more  
11 by any other provision of State or federal law, a hearing pursuant to  
12 this section shall not be required and the court shall issue an order  
13 to hold the firearm until either the person is no longer prohibited  
14 from owning a firearm or the person sells or transfers ownership of  
15 the firearm to a licensed firearms dealer.

16 g. If any other person claims title to a firearm seized pursuant  
17 to the warrant, the firearm shall be returned to the lawful owner.

18

19 5. A person who is the subject of a court order pursuant to  
20 subsection b. of section 4 of this act may submit one written request  
21 at any time during the effective period of the order for a hearing for  
22 an order permitting the person to possess, own, purchase, or receive  
23 a firearm.

24 The request shall be submitted in a form and manner as  
25 prescribed by the Administrative Office of the Courts.

26

27 6. a. If a law enforcement agency has probable cause to believe  
28 that a person subject to a gun violence restraining order continues to  
29 pose a significant risk of personal injury to himself or others by  
30 purchasing, owning, possessing, or controlling a firearm, the agency  
31 may initiate a request for a renewal of the order, setting forth the  
32 facts and circumstances necessitating the request.

33 The request shall be submitted in a form and manner as  
34 prescribed by the Administrative Office of the Courts.

35 (1) A hearing held pursuant to this section shall be held in  
36 Superior Court to determine if a request for renewal of the order  
37 shall be issued.

38 (2) The person named in the restraining order shall be given  
39 written notice and an opportunity to be heard.

40 b. A judge may, upon his own motion, or upon request of  
41 another person, issue a renewal of a gun violence restraining order  
42 when there is probable cause to believe that a person subject to the  
43 order continues to pose a significant risk of personal injury to  
44 himself or others by purchasing, owning, possessing, or controlling  
45 a firearm, after written notice to the person named in the restraining  
46 order and after the person has been given an opportunity for a  
47 hearing.

1       7. This act shall take effect on the first day of the seventh month  
2 after enactment.

3

4

5

STATEMENT

6

7       This bill authorizes courts in this State to issue gun violence  
8 restraining orders to persons who pose a significant risk of personal  
9 injury to themselves or others by possessing or owning a firearm.  
10 The bill also authorizes courts to issue a firearm seizure warrant  
11 authorizing a law enforcement officer to seize a firearm from a  
12 person who has been issued a gun violence restraining order.

13       Specifically, the bill authorizes any person, including family  
14 members or friends, to submit an application to the court setting  
15 forth the facts and circumstances necessitating the issuance of a gun  
16 violence restraining order. Under the bill, the court is to issue the  
17 restraining order if it finds, based upon the applicant's sworn and  
18 signed affidavit and other information received, that the person  
19 poses a significant risk of personal injury to himself or others by  
20 possessing a firearm. The bill defines a gun violence restraining  
21 order as a court order prohibiting a person from owning,  
22 purchasing, possessing, or receiving any firearms for a period of up  
23 to one year.

24       Under the bill, the court also is authorized to issue a firearm  
25 seizure warrant if there is probable cause to believe that a person  
26 who has been issued a gun violence restraining order possesses or  
27 owns a firearm. The warrant is to be issued to the appropriate law  
28 enforcement officer directing that officer to seize any specified  
29 firearm and to retain the firearm subject to the order of the court.  
30 The bill defines a "firearm seizure warrant" as a court order  
31 regarding a person who is subject to a gun violence restraining  
32 order and who is known to own or possess one or more firearms,  
33 that directs a law enforcement officer to seize any firearms in the  
34 person's possession and to bring the unloaded firearm to the county  
35 prosecutor.

36       The bill requires the court to hold a hearing within 14 days of the  
37 execution of a gun violence restraining order and firearm seizure  
38 warrant, if applicable, to determine whether the person who is the  
39 subject of the order may possess, own, purchase, or receive a  
40 firearm and whether a seized firearm should be returned to the  
41 person.

42       A person who is the subject of a gun violence restraining and  
43 firearm seizure warrant may submit one written request at any time  
44 during the effective period of the order for a hearing for a  
45 subsequent order permitting the person to possess, own, purchase,  
46 or receive a firearm.

47       If a law enforcement agency has probable cause to believe that a  
48 person subject to a gun violence restraining order continues to pose

**A1217 MCKEON**

7

1 a significant risk of personal injury to himself or others by  
2 possessing a firearm, the agency may initiate a request for a renewal  
3 of the order. A judge also may, upon his own motion or upon the  
4 request of another person, issue a renewal of a gun violence  
5 restraining order under these circumstances.

6 The purpose of this bill is to provide law enforcement officers in  
7 this State with the means to take away firearms from persons whose  
8 friends or family have reported as being mentally unstable.

# ASSEMBLY JUDICIARY COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 1217

# STATE OF NEW JERSEY

DATED: FEBRUARY 28, 2018

The Assembly Judiciary Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 1217.

The Assembly Committee Substitute for Assembly Bill No. 1217, entitled the “Extreme Risk Protective Order Act of 2018,” establishes a process and procedures for obtaining a protective order against persons who pose a significant danger of bodily injury to themselves or others by possessing or purchasing a firearm. The order would prohibit the subject of the order from possessing or purchasing a firearm or ammunition and from holding a firearms purchaser identification card, permit to purchase a handgun, and permit to carry a firearm.

#### TEMPORARY EXTREME RISK PROTECTIVE ORDER

The committee substitute specifically authorizes a family or household member or a police officer to file a petition in the Superior Court for a temporary extreme risk protective order, in accordance with the Rules of Court, alleging that a specific person poses a significant danger of bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm. The petition is to include an affidavit including the number, types, physical description, and locations of any firearms and ammunition the petitioner believes are controlled or possessed by the respondent.

The committee substitute directs that the petition is to be heard by the Superior Court in an expedited manner. The court is to issue the protective order if it finds good cause to believe that the respondent poses an immediate and present danger of causing bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm. The court would not charge a fee to file the petition.

In deciding whether to issue the temporary protective order, the court would consider: whether the person has a history of threats or acts of violence directed toward self or others; a history of use, attempted use, or threatened use of physical force against another; a recent violation of a restraining order issued pursuant to the “Prevention of Domestic Violence Act of 1991” or a protective order issued pursuant to the “Sexual Assault Survivor Protection Act of 2015”; a conviction of a violent disorderly persons or petty disorderly

persons offense, stalking offense, domestic violence offense, or an offense involving cruelty to animals; and a history of drug or alcohol abuse. The committee substitute also authorizes the court to consider other factors related to whether the respondent poses an increased risk of violence, including, but not limited to, whether the person has a history of violating a restraining order issued pursuant to the “Prevention of Domestic Violence Act of 1991” or a protective order issued pursuant to the “Sexual Assault Survivor Protection Act of 2015”; prior arrests for a violent disorderly persons or petty disorderly persons offense, stalking, or domestic violence offense; and recent acquisitions of a firearm, ammunition, or other deadly weapon.

A temporary extreme risk protective order prohibits the subject of the order from having custody or control of, owning, purchasing, possessing, or receiving firearms or ammunition. It also prohibits the person from securing or holding a firearms purchaser identification card, a permit to purchase a handgun, or a permit to carry a handgun while the order is in effect. Under the order, the subject would be required to surrender firearms and ammunition, as well as the identification card or permits, which would be immediately revoked.

#### EXTREME RISK PROTECTIVE ORDER

The temporary extreme risk protective order is to remain in effect until the court considers whether a one-year extreme risk protective order should be issued. A hearing for an extreme risk protective order would be held within 10 days of the filing of a petition for a temporary order. At the hearing, the court is to consider the same factors considered for a temporary order. The one-year order is to be issued if the court finds by a preponderance of the evidence at the hearing that the respondent poses a significant danger of bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm.

#### EXTENSION OF EXTREME RISK PROTECTIVE ORDER

The one-year order may be extended for another year if requested by the family or household member or law enforcement officer any time within three months of the expiration of the current protective order and upon notice to the respondent and a hearing. The court is required to make the same findings, by a preponderance of the evidence, as required for granting the initial one-year order.

#### SURRENDER PROVISIONS

A person against whom a temporary extreme risk protective order or extreme risk protective order is issued is required to surrender to the local law enforcement agency or to surrender or sell to a federally licensed dealer all firearms and ammunition in the person’s custody or control, or which the person owns or possesses, and to surrender to law enforcement any firearms purchaser identification card, permit to purchase a handgun, or permit to carry a handgun the person holds. The person can petition for the return of the firearms or ammunition within 30 days before the order expires with certain exceptions. The

person also may sell the firearms or ammunition to a licensed dealer. A law enforcement agency holding a surrendered firearm or ammunition a year after the order expires is authorized to destroy the firearm or ammunition in accordance with agency policies.

#### PETITION TO TERMINATE EXTREME RISK PROTECTIVE ORDER

The subject of an order has one opportunity to have an order terminated. The subject is required to prove at a hearing, by a preponderance of the evidence, that the person no longer poses a significant danger of causing bodily injury to self or another by having custody or control of, owning, possessing, purchasing, or receiving a firearm.

#### DOMESTIC VIOLENCE CENTRAL REGISTRY

The committee substitute further requires the Administrative Office of the Courts to include in the Domestic Violence Central Registry all persons who have had extreme risk protective orders entered against them, and all persons who have been charged with a violation of an extreme risk protective order. These records are to be kept confidential and released only to authorized entities which also are required to keep confidential the information and are prohibited from disseminating it for any reason other than as authorized by law.

#### AMENDATORY SECTIONS

N.J.S.A.2C:29-9 is amended to provide that a person subject to an extreme risk protective order who violates the order commits a crime of the fourth degree. Fourth degree crimes are punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both.

N.J.S.A.2C:39-7 is amended to provide that the subject of an extreme risk protective order who purchases, acquires, owns, possesses, or controls a firearm or ammunition commits a crime of the third degree. Third degree crimes are punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both.

N.J.S.A.2C:58-3 is amended to provide that the subject of an order also is disqualified from obtaining a firearms purchaser identification card or permit to purchase a handgun.

#### EFFECTIVE DATE

The committee substitute takes effect on the first day of the seventh month next following enactment and authorizes the Attorney General and the Administrative Director of the Courts to take anticipatory action.



# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 1217**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MARCH 22, 2018

The Assembly Appropriations Committee reports favorably on Assembly Committee Substitute for Assembly Bill No. 1217, with committee amendments

As amended and reported by the committee, the Assembly Committee Substitute for Assembly Bill No. 1217, entitled the “Extreme Risk Protective Order Act of 2018,” establishes a process and procedures for obtaining a protective order against persons who pose a significant danger of bodily injury to themselves or others by possessing or purchasing a firearm. The order would prohibit the subject of the order from possessing or purchasing a firearm or ammunition and from holding a firearms purchaser identification card, permit to purchase a handgun, and permit to carry a handgun.

#### TEMPORARY EXTREME RISK PROTECTIVE ORDER

The amended committee substitute authorizes a family or household member or a law enforcement officer to file a petition for a temporary extreme risk protective order alleging that a person poses a significant danger of bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm.

The amended substitute specifically authorizes a family or household member or a law enforcement officer to file a petition in the Superior Court, in accordance with the Rules of Court, or in a State, county, or municipal law enforcement agency for a temporary extreme risk protective order alleging that a specific person, other than a law enforcement officer, poses a significant danger of bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm. In the case of a petition filed in a law enforcement agency, the law enforcement officer or employee receiving the petition is required to advise the petitioner of the procedure for completing and signing a petition. The petition is to include an affidavit including the number, types, physical description, and locations of any firearms and ammunition the petitioner believes are controlled or possessed by the respondent.

A petition for a temporary extreme risk protective order filed against a law enforcement officer is to be filed in the law enforcement agency in which the officer is employed. The law enforcement officer or employee receiving the petition is required to advise the petitioner of the procedure for completing and signing a petition. Upon receipt of the petition, the officer's employer is immediately required to initiate an internal affairs investigation. The disposition of the internal affairs investigation is to immediately be served upon the county prosecutor, who is required to make a determination of whether to refer the matter to the courts. The officer's employer is required to take appropriate steps to implement any findings set forth in the disposition of the internal affairs investigation. The law enforcement officer is to not be terminated during the pendency of the internal affairs investigation.

The committee substitute directs that a petition filed against any person who is not a law enforcement officer is to be heard by the Superior Court in an expedited manner. The court is to issue the protective order if it finds good cause to believe that the respondent poses an immediate and present danger of causing bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm. The court would not charge a fee to file the petition.

In order to assist the court in determining whether to issue a temporary extreme risk protection order, the county prosecutor is to produce, in an expedited manner, any available evidence. In deciding whether to issue the temporary protective order, the court would consider: whether the person has a history of threats or acts of violence directed toward self or others; a history of use, attempted use, or threatened use of physical force against another; a recent violation of a restraining order issued pursuant to the "Prevention of Domestic Violence Act of 1991" or a protective order issued pursuant to the "Sexual Assault Survivor Protection Act of 2015"; a conviction of a violent disorderly persons or petty disorderly persons offense, stalking offense, domestic violence offense, or an offense involving cruelty to animals; and a history of drug or alcohol abuse. The committee substitute also authorizes the court to consider other factors related to whether the respondent poses an increased risk of violence, including information produced by the county prosecutor in an expedited manner as well as any other factors including, but not limited to, whether the person has a history of violating a restraining order issued pursuant to the "Prevention of Domestic Violence Act of 1991" or a protective order issued pursuant to the "Sexual Assault Survivor Protection Act of 2015"; prior arrests for a violent disorderly persons or petty disorderly persons offense, stalking, or domestic violence offense; and recent acquisitions of a firearm, ammunition, or other deadly weapon.

A temporary extreme risk protective order prohibits the subject of the order from having custody or control of, owning, purchasing,

possessing, or receiving firearms or ammunition. It also prohibits the person from securing or holding a firearms purchaser identification card, a permit to purchase a handgun, or a permit to carry a handgun while the order is in effect. Under the order, the subject would be required to surrender firearms and ammunition, as well as the identification card or permits, which would be immediately revoked.

#### EXTREME RISK PROTECTIVE ORDER

The temporary extreme risk protective order is to remain in effect until the court considers whether a one-year extreme risk protective order should be issued. A hearing for an extreme risk protective order would be held within 10 days of the filing of a petition for a temporary order. At the hearing, the court is to consider the same factors considered for a temporary order. The one-year order is to be issued if the court finds by a preponderance of the evidence at the hearing that the respondent poses a significant danger of bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm, and is to expire one year following the date of entry of the order.

#### EXTENSION OF EXTREME RISK PROTECTIVE ORDER

The one-year order may be extended for another year if requested by the family or household member or law enforcement officer any time within three months of the expiration of the current protective order and upon notice to the respondent and a hearing. The court is required to make the same findings, by a preponderance of the evidence, as required for granting the initial one-year order.

#### SURRENDER PROVISIONS

A person against whom a temporary extreme risk protective order or extreme risk protective order is issued is required to surrender to the local law enforcement agency or to surrender or sell to a federally licensed dealer all firearms and ammunition in the person's custody or control, or which the person owns or possesses, and to surrender to law enforcement any firearms purchaser identification card, permit to purchase a handgun, or permit to carry a handgun the person holds. The person can petition for the return of the firearms or ammunition within 30 days before the order expires with certain exceptions. The person also may sell the firearms or ammunition to a licensed dealer. A law enforcement agency holding a surrendered firearm or ammunition a year after the order expires is authorized to destroy the firearm or ammunition in accordance with agency policies.

#### PETITION TO TERMINATE EXTREME RISK PROTECTIVE ORDER

The subject of an order has one opportunity to have an order terminated. The subject is required to prove at a hearing, by a preponderance of the evidence, that he or she no longer poses a

significant danger of causing bodily injury to self or another by having custody or control of, owning, possessing, purchasing, or receiving a firearm.

#### CONTEMPT OF AN EXTREME RISK PROTECTIVE ORDER

Under the substitute, a respondent who is in contempt of an extreme risk protective order is to be arrested. If a person alleges that a respondent has committed contempt of an extreme risk protective order but the facts are insufficient to establish probable cause to arrest the respondent, a law enforcement officer shall advise the petitioner of the procedure for completing and signing a criminal complaint alleging a person is in contempt of an extreme risk protective order.

#### DOMESTIC VIOLENCE CENTRAL REGISTRY

The committee substitute further requires the Administrative Office of the Courts to include in the Domestic Violence Central Registry all persons who have had a final extreme risk protective order entered against them, and all persons who have been charged with a violation of a temporary extreme risk protective order or an extreme risk protective order. These records are to be kept confidential and released only to authorized entities which also are required to keep confidential the information and are prohibited from disseminating it for any reason other than as authorized by law. The substitute further provides that a respondent's information, other than information related to a violation of a temporary or final extreme risk protection order, are to be removed from the registry upon the expiration of the extreme risk protective order.

#### AMENDATORY SECTIONS

N.J.S.2C:29-9 is amended to provide that a person subject to an extreme risk protective order who violates the order commits a crime of the fourth degree. Fourth degree crimes are punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both.

N.J.S.2C:39-7 is amended to provide that the subject of an extreme risk protective order who purchases, acquires, owns, possesses, or controls a firearm or ammunition commits a crime of the third degree. Third degree crimes are punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both.

N.J.S.2C:58-3 is amended to provide that the subject of an order also is disqualified from obtaining a firearms purchaser identification card or permit to purchase a handgun.

EFFECTIVE DATE

The committee substitute takes effect on the first day of the seventh month next following enactment and authorizes the Attorney General and the Administrative Director of the Courts to take anticipatory action.

COMMITTEE AMENDMENTS:

The committee amended the committee substitute to:

- (1) clarify that a petition for an extreme risk protective order is to be in a form prescribed by the Administrative Director of the Courts;
- (2) clarify that, in addition to the court, a petition may be filed in any State, county, or municipal law enforcement agency;
- (3) provide that, in the case of a petition filed in a State, county, or municipal law enforcement agency, a law enforcement officer or employee is required to advise the petitioner of the procedure for completing and signing the petition;
- (4) provide that, in order to assist the court in determining whether to issue an extreme risk protective order, the county prosecutor is required to produce any available evidence in an expedited manner;
- (5) provide that a petition for a temporary extreme risk protective order filed against a law enforcement officer is required to be filed in the law enforcement agency in which the officer is employed and that, upon receipt of the petition, the officer's employer is to immediately initiate an internal affairs investigation;
- (6) provide that the disposition of the internal affairs investigation is to immediately be served upon the county prosecutor, who is required to make a determination regarding whether to refer the matter to the courts;
- (7) provide that the officer's employer is to take appropriate steps to implement any findings set forth in the disposition of the internal affairs investigation;
- (8) provide that the law enforcement officer is not to be terminated during the pendency of the internal affairs investigation;
- (9) clarify that an extreme risk protective order expires one year following the date of entry of the order, unless the order is extended by the court in accordance with the provisions of the substitute;
- (10) provide that if a person alleges that a respondent is in contempt of or has violated an extreme risk protective order but the facts are insufficient to establish probable cause to arrest the respondent, a law enforcement officer is to advise the petitioner of the procedure for completing and signing a criminal complaint concerning the contempt;

- (11) clarify that final extreme risk protection orders, and violations of temporary or final extreme risk protection orders, are to be entered in the Domestic Violence Central Registry;
- (12) require that a respondent's information, other than information related to a violation of a temporary or final extreme risk protection order, is to be removed from the registry upon the expiration of the final extreme risk protective order; and
- (13) make technical changes to the substitute.

FISCAL IMPACT:

The Office of Legislative Services states that since there is not enough information with which to determine the number of petitions that would be filed with the court for temporary extreme risk protective orders or extreme risk protective orders, it cannot determine the cost to be incurred by the Judiciary for hearing these petitions. In addition, the OLS notes that local law enforcement agencies may incur indeterminate costs to store those firearms or ammunition surrendered by individuals against whom temporary extreme risk protective orders or extreme risk protective orders are issued.

# SENATE LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

[First Reprint]

## ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 1217

with committee amendments

# STATE OF NEW JERSEY

DATED: APRIL 16, 2018

The Senate Law and Public Safety Committee reports favorably and with committee amendments the Assembly Committee Substitute for Assembly Bill No. 1217 (1R).

As amended and reported by the committee, this bill, entitled the “Extreme Risk Protective Order Act of 2018,” establishes a process and procedures for obtaining a protective order against persons who pose a significant danger of bodily injury to themselves or others by possessing or purchasing a firearm. The protective order would prohibit the subject from possessing or purchasing a firearm or ammunition and from holding a firearms purchaser identification card (FPIC), permit to purchase a handgun (PPH), and permit to carry a handgun (PCH).

### TEMPORARY EXTREME RISK PROTECTIVE ORDERS (T-ERPO)

The amended bill authorizes a family or household member or a law enforcement officer to petition for a T-ERPO alleging that a person poses a significant danger of bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm. A petition for a T-ERPO is to be filed in court in accordance with the Rules of Court. The petition is to include an affidavit including the number, types, physical description, and locations of any firearms and ammunition the family member or law enforcement officer believes are controlled or possessed by the person.

The court is to issue the T-ERPO if it finds good cause to believe that the person poses an immediate and present danger of causing bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm. The amended bill sets forth alternate procedures if the petition for a T-ERPO is filed against a law enforcement officer.

In deciding whether to issue a T-ERPO, the court is required to consider whether the person has a history of threats or acts of violence directed toward self or others; a history of use, attempted use, or threatened use of physical force against another; any temporary or

final domestic violence restraining order or sexual violence protective order or a violation of a temporary or final domestic violence restraining order or sexual violence protective order; any prior arrests, pending charges, or convictions for a violent indictable crime or disorderly persons offense, a stalking offense, or domestic violence offense; an offense involving animal cruelty; a history of drug or alcohol abuse; and any recent acquisitions of a firearm, ammunition, or other deadly weapon.

While a T-ERPO is in effect, the person is prohibited from possessing or purchasing firearms or ammunition, as well obtaining or holding a FPIC, PPH, or PCH. Firearms, ammunition, FPICs, PPHs, and PCHs are to be surrendered, and the FPICs, PPHs, and PCHs are revoked.

#### EXTREME RISK PROTECTIVE ORDER (ERPO)

The court is to consider whether a one-year ERPO should be issued during a hearing to be held within 10 days of the filing of the T-ERPO. The court is to consider the same factors considered for a T-ERPO. The ERPO is to be issued if the court finds by a preponderance of the evidence that the person poses a significant danger of bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm. The ERPO may be extended for one year under certain circumstances.

#### SURRENDER PROVISIONS

A person against whom a T-ERPO or ERPO is issued is required to surrender to the local law enforcement agency or to surrender or sell to a federally licensed dealer all firearms and ammunition in the person's custody or control, or which the person owns or possesses, and to surrender to law enforcement any FPICs, PPHs, and PCHs the person holds. The person can petition for the return of the firearms or ammunition within three months, but not less than 30 days of expiration of the order, with certain exceptions. The person also may sell the firearms or ammunition to a licensed dealer. A law enforcement agency holding a surrendered firearm or ammunition a year after the order expires is authorized to destroy the firearm or ammunition in accordance with agency policies.

A person has one opportunity to terminate a T-ERPO or ERPO. The person is required to prove at a hearing, by a preponderance of the evidence, that he or she no longer poses a significant danger of causing bodily injury to self or another by having custody or control of, owning, possessing, purchasing, or receiving a firearm.

#### PENALTIES

A person who violates a condition of a T-ERPO or ERPO is to be arrested for contempt of court.

A person who violates a T-ERPO or ERPO is guilty of a fourth degree crime, which is punishable by a term of imprisonment of up to



18 months, a fine of up to \$10,000, or both. A person subject to a T-ERPO or ERPO who purchases, acquires, owns, possesses, or controls a firearm or ammunition commits a crime of the third degree, which is punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both. The person also is disqualified from obtaining a FPIC, PPH, or PCH.

#### ELECTRONIC CENTRAL REGISTRY

Finally, the amended bill requires the Administrative Office of the Courts (AOC) to include in an electronic central registry created and maintained by the AOC all persons who have had an ERPO entered against them, and all persons who have been charged with a violation of a T-ERPO or ERPO.

As amended and reported by the committee, Assembly Bill No. 1217 (ACS/1R), is identical to Senate Bill No. 2259, which was amended and reported by the committee on this same date.

#### COMMITTEE AMENDMENTS:

The committee amended the bill to:

- (1) remove the provision allowing a person to file a petition for a T-ERPO in any State, county, or municipal law enforcement agency;
- (2) clarify that filing a petition under the bill does not preclude a person from applying for a restraining order pursuant to the “Prevention of Domestic Violence Act of 1991”;
- (3) require the county prosecutor or a designee to produce in an expedited manner any available evidence;
- (4) require the court to consider whether the respondent is the subject of a temporary or final domestic violence restraining order or has violated a temporary or final domestic violence restraining order; as reported out of Assembly Appropriations the court was required to consider whether the respondent had any recent violation of a domestic violence restraining order;
- (5) require the court to consider whether the respondent is the subject of any temporary or final sexual violence protective orders or has violated a temporary or final sexual violence protective order as reported out of Assembly Appropriations, the court was required to consider any recent violation of a sexual violence protective order;
- (6) require the court to consider whether the respondent has any prior arrests, pending charges, or convictions for a violent indictable crime or disorderly persons offense; as reported out of Assembly Appropriations Committee, the court was required to consider whether the respondent has ever been convicted of a violent disorderly persons or petty disorderly persons offense;

- (7) require the court to consider whether the respondent has any recent acquisitions of a firearm, ammunition, or other deadly weapon; as reported out of Assembly Appropriations, the court was permitted to consider this factor;
- (8) remove the provision containing other factors that the court may consider in determining whether to issue an order;
- (9) require the county prosecutor to forward a copy of the T-ERPO to the appropriate law enforcement agency; as reported out of Assembly Appropriations, the court was required to forward it to the law enforcement agency;
- (10) require a petition for an extension of an ERPO to be filed at least three months, but not less than 30 days before the expiration of the current protective order;
- (11) require the respondent to file a receipt of surrender of firearms with the county prosecutor; as reported out of Assembly Appropriations the bill required the receipt to be filed with the law enforcement agency that served the protective order;
- (12) clarify that the bill does not prohibit revocation and seizure of a person's firearms purchaser identification card, permit to purchase a handgun, permit to carry a handgun, and weapons as provided under current law;
- (13) require the AOC to include in an electronic central registry created and maintained by the AOC all persons who have had an ERPO entered against them and all persons who have been charged with a violation of a T-ERPO or ERPO; as reported out of the Assembly Appropriations Committee the bill required the AOC to include these persons in the Domestic Violence Central Registry;
- (14) provide that the records in the registry are only to be released to certain persons for specific purposes;
- (15) provide that a respondent's information, other than information regarding a violation of an T-ERPO or an ERPO is to be removed from the registry upon expiration of the ERPO; and
- (16) make other clarifying and technical changes.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[Second Reprint]

### ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 1217**

with committee amendments

## **STATE OF NEW JERSEY**

DATED: JUNE 4, 2018

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 1217 (ACS/2R), with committee amendments.

As amended, this bill, entitled the “Extreme Risk Protective Order Act of 2018,” establishes a process and procedures for obtaining a protective order against persons who pose a significant danger of bodily injury to themselves or others by possessing or purchasing a firearm. The protective order would prohibit the subject from possessing or purchasing a firearm or ammunition and from holding a firearms purchaser identification card (FPIC), permit to purchase a handgun (PPH), and permit to carry a handgun (PCH).

#### TEMPORARY EXTREME RISK PROTECTIVE ORDER (T-ERPO)

The amended bill authorizes a family or household member or a law enforcement officer to petition for a T-ERPO alleging that a person poses a significant danger of bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm. A petition for a T-ERPO is to be filed in court in accordance with the Rules of Court. The petition is to include an affidavit setting forth the facts tending to establish the grounds of the petition, or the reason for believing that they exist, and, *to the extent available*, provide the number, types, physical description, and locations of any firearms and ammunition currently believed by the petitioner to be controlled or possessed by the respondent.

The court is to issue the T-ERPO if it finds good cause to believe that the person poses an immediate and present danger of causing bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm. The amended bill sets forth alternate procedures if the petition for a T-ERPO is filed against a law enforcement officer.

In deciding whether to issue a T-ERPO, the court is required to consider whether the person has a history of threats or acts of violence

directed toward self or others; a history of use, attempted use, or threatened use of physical force against another; any temporary or final domestic violence restraining order or sexual violence protective order, or a violation of a temporary or final domestic violence restraining order or sexual violence protective order; any prior arrests, pending charges, or convictions for a violent indictable crime or disorderly persons offense, a stalking offense, or domestic violence offense; an offense involving animal cruelty; a history of animal cruelty or drug or alcohol abuse; and any recent acquisitions of a firearm, ammunition, or other deadly weapon.

While a T-ERPO is in effect, the person is prohibited from possessing or purchasing firearms or ammunition, as well obtaining or holding a FPIC, PPH, or PCH. Firearms, ammunition, FPICs, PPHs, and PCHs are to be surrendered, and the FPICs, PPHs, and PCHs are revoked.

#### FINAL EXTREME RISK PROTECTIVE ORDER (F-ERPO)

The court is to consider whether a F-ERPO should be issued during a hearing to be held within 10 days of the filing of the T-ERPO. The court is to consider the same factors considered for a T-ERPO. The F-ERPO is to be issued if the court finds by a preponderance of the evidence that the person poses a significant danger of bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm.

Upon request of the petitioner or respondent, at any time following the issuance of the F-ERPO and after notice and a hearing, the court may terminate the F-ERPO. The court is to consider the same factors during the hearing that were considered for the T-ERPO, as well as any other relevant evidence, including whether the respondent has received, or is receiving, mental health treatment. If the respondent petitioned to terminate the F-ERPO, the respondent bears the burden at the hearing of proving by a preponderance of the evidence that he or she no longer poses a significant danger of causing bodily injury to himself or herself or to others by having custody or control of, owning, possessing, purchasing, or receiving a firearm.

#### SURRENDER PROVISIONS

A person against whom a T-ERPO or F-ERPO is issued is required to surrender to the local law enforcement agency or surrender or sell to a federally licensed dealer all firearms and ammunition in the person's custody or control, or which the person owns or possesses, and to surrender to law enforcement any FPICs, PPHs, and PCHs the person holds. The person can petition for the return of the firearms or ammunition after the F-ERPO terminated. The agency is to return the firearms or ammunition within 30 days of the petition, unless the firearm has been reported stolen or the respondent is prohibited by law from possessing a firearm. The person also may sell surrendered

firearms or ammunition to a licensed dealer. A law enforcement agency holding a surrendered firearm or ammunition a year after the order is terminated is authorized to destroy the firearm or ammunition in accordance with agency policies.

#### PENALTIES

A person who violates a condition of a T-ERPO or F-ERPO is to be arrested for contempt of court.

A person who violates a T-ERPO or F-ERPO is guilty of a fourth degree crime, which is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both. A person subject to a T-ERPO or F-ERPO who purchases, acquires, owns, possesses, or controls a firearm or ammunition commits a crime of the third degree, which is punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both. The person also is disqualified from obtaining a FPIC, PPH, or PCH.

#### ELECTRONIC CENTRAL REGISTRY

Finally, the amended bill requires the Administrative Office of the Courts (AOC) to include in an electronic central registry created and maintained by the AOC all persons who have had an ERPO entered against them, and all persons who have been charged with a violation of a T-ERPO or F-ERPO.

As amended and reported by the committee, Assembly Bill No. 1217 (ACS/2R), is identical to the Senate Committee Substitute for Senate Bill No. 2259 (1R), which was reported by the committee on this same date.

#### COMMITTEE AMENDMENTS:

The committee amended the bill to:

1) clarify that the immunity granted to law enforcement officers under the bill is in addition to any other privileges or immunities currently provided under law;

2) clarify that prior to filing a petition for a T-ERPO, a family or household member may request assistance from the law enforcement agency and that the agency is to advise the petitioner of the procedure for completing and signing the petition;

3) clarify that a law enforcement officer may assist the family or household member in preparing or filing the petition for the T-ERPO by providing information related to the factors supporting the petition, joining in the petition, referring the matter to another law enforcement agency for additional assistance, or filing the officer's own petition with the court;

4) require that the affidavit to be included with the petition set forth the facts tending to establish the grounds of the petition, or the reason for believing that they exist, and, *to the extent available*, provide the number, types, physical description, and locations of any

firearms and ammunition currently believed by the petitioner to be controlled or possessed by the respondent;

5) require the court, before issuing a T-ERPO, to examine under oath the petitioner and any witness the petitioner may produce; in lieu of examining the petitioner and witnesses, the court may rely on an affidavit submitted in support of the petition;

6) include the respondent having a history of cruelty to animals in the factors for the court to consider;

7) require the court that issues the T-ERPO to immediately forward:

a) a copy to the petitioner and county prosecutor in the county in which the respondent resides; and

b) a copy of the T-ERPO and petition to the appropriate law enforcement agency in the municipality in which the respondent resides; the agency is required to immediately, or as soon as practicable, serve it on the respondent;

8) replace the provisions providing for automatic expiration of a F-ERPO after one year with a one-year extension, with a provision authorizing the court to terminate the F-ERPO upon request of the petitioner or respondent;

9) require the court to consider whether the respondent is receiving mental health treatment when deciding to terminate the F-ERPO;

10) require the court to issue a search warrant with a T-ERPO or F-ERPO if the petition for the temporary order indicates the respondent own or possesses firearms or ammunition;

11) remove the provision requiring the respondent to surrender all firearms and ammunition within 24 hours if the warrant is not personally served by the law enforcement officer, effectively requiring immediate surrender in all instances;

12) removing references to “expiration” of a F-ERPO in the context of a respondent petitioning to have surrendered firearms or ammunition returned after a F-ERPO is terminated; and

13) make other clarifying and technical changes.

FISCAL IMPACT:

The Office of Legislative Services (OLS) states that since there is not enough information with which to determine the number of petitions that would be filed with the court for temporary extreme risk protective orders (T-ERPO) or final extreme risk protective orders (F-ERPO), it cannot determine the cost to be incurred by the Judiciary for hearing these petitions. The OLS also notes that the Administrative Office of the Courts (AOC) would incur indeterminate costs to create and maintain an electronic central registry of all persons who have had a F-ERPO entered against them, and all persons who have been charged with a violation of a T-ERPO or ERPO.

In addition, the OLS notes that local law enforcement agencies may incur indeterminate costs to store or destroy after one year those

firearms or ammunition surrendered by individuals against whom T-ERPO or F-ERPO are issued.

The OLS states that the amended bill classifies certain violations of the provisions as third or fourth degree crimes. Offenders convicted of third or fourth degree crimes are subject to terms of imprisonment of up to 18 months (fourth degree) or 3 to 5 years (third degree). However, convictions for third and fourth degree offenses generally carry with them the presumption of non-incarceration for first time offenders. Any costs incurred by the Department of Corrections to house these offenders, if incarcerated, would be indeterminate.

**LEGISLATIVE FISCAL ESTIMATE**  
 [First Reprint]  
 ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 1217**  
**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

DATED: APRIL 16, 2018

**SUMMARY**

**Synopsis:** “Extreme Risk Protective Order Act of 2018”

**Type of Impact:** General Fund expenditure

**Agencies Affected:** The Judiciary, Department of Corrections, Department of Law and Public Safety

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<u><b>Year 1</b></u>	<u><b>Year 2</b></u>	<u><b>Year 3</b></u>
<b>State Cost</b>	Indeterminate		

- The Office of Legislative Services (OLS) states that since there is not enough information with which to determine the number of petitions that would be filed with the court for temporary extreme risk protective orders or extreme risk protective orders, it cannot determine the cost to be incurred by the Judiciary for hearing these petitions and updating the Domestic Violence Central registry. In addition, the OLS notes that local law enforcement agencies may incur indeterminate costs to store or destroy after one year those firearms or ammunition surrendered by individuals against whom temporary extreme risk protective orders or extreme risk protective orders are issued.
- The OLS also notes that the committee substitute classifies certain violations of the provisions as third or fourth degree crimes. Offenders convicted of third or fourth degree crimes are subject to terms of up to 18 months (fourth degree) or up to 5 years (third degree). However, convictions for third and fourth degree offenses carry with them the presumption of non-incarceration for first time offenders. Any costs incurred by the Department of Corrections to house these offenders, if incarcerated, would be indeterminate.
- The committee substitute, entitled the “Extreme Risk Protective Order Act of 2018,” establishes a process and procedures for obtaining a protective order against persons who pose a significant danger of bodily injury to themselves or others by possessing or purchasing





- a firearm. The order would prohibit the subject of the order from possessing or purchasing a firearm or ammunition and from holding a firearms purchaser identification card, permit to purchase a handgun, and permit to carry a handgun.

## **BILL DESCRIPTION**

The amended committee substitute, entitled the “Extreme Risk Protective Order Act of 2018,” establishes a process and procedures for obtaining a protective order against persons who pose a significant danger of bodily injury to themselves or others by possessing or purchasing a firearm. The order would prohibit the subject of the order from possessing or purchasing a firearm or ammunition and from holding a firearms purchaser identification card, permit to purchase a handgun, and permit to carry a handgun.

### **TEMPORARY EXTREME RISK PROTECTIVE ORDER**

The amended committee substitute authorizes a family or household member or a law enforcement officer to file a petition for a temporary extreme risk protective order alleging that a person poses a significant danger of bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm.

A temporary extreme risk protective order prohibits the subject of the order from having custody or control of, owning, purchasing, possessing, or receiving firearms or ammunition. It also prohibits the person from securing or holding a firearms purchaser identification card, a permit to purchase a handgun, or a permit to carry a handgun while the order is in effect. Under the order, the subject would be required to surrender firearms and ammunition, as well as the identification card or permits, which would be immediately revoked.

### **EXTREME RISK PROTECTIVE ORDER**

The temporary extreme risk protective order is to remain in effect until the court considers whether a one-year extreme risk protective order should be issued. The one-year order is to be issued if the court finds by a preponderance of the evidence at the hearing that the respondent poses a significant danger of bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm, and is to expire one year following the date of entry of the order.

### **EXTENSION OF EXTREME RISK PROTECTIVE ORDER**

The one-year order may be extended for another year if requested by the family or household member or law enforcement officer any time within three months of the expiration of the current protective order and upon notice to the respondent and a hearing. The court is required to make the same findings, by a preponderance of the evidence, as required for granting the initial one-year order.

### **SURRENDER PROVISIONS**

A person against whom a temporary extreme risk protective order or extreme risk protective order is issued is required to surrender to the local law enforcement agency or to surrender or sell to a federally licensed dealer all firearms and ammunition in the person’s custody or control, or which the person owns or possesses, and to surrender to law enforcement any firearms purchaser identification card, permit to purchase a handgun, or permit to carry a handgun the person holds. The person can petition for the return of the firearms or ammunition within 30 days before the order expires with certain exceptions. The person also may sell the firearms or ammunition to a licensed dealer. A law enforcement agency holding a surrendered firearm or ammunition a year after the order expires is authorized to destroy the firearm or ammunition in accordance with agency policies.

#### **PETITION TO TERMINATE EXTREME RISK PROTECTIVE ORDER**

The subject of an order has one opportunity to have an order terminated. The subject is required to prove at a hearing, by a preponderance of the evidence, that he or she no longer poses a significant danger of causing bodily injury to self or another by having custody or control of, owning, possessing, purchasing, or receiving a firearm.

#### **CONTEMPT OF AN EXTREME RISK PROTECTIVE ORDER**

Under the substitute, a respondent who is in contempt of an extreme risk protective order is to be arrested. If a person alleges that a respondent is in contempt of an extreme risk protective order but the facts are insufficient to establish probable cause to arrest the respondent, a law enforcement officer shall advise the petitioner of the procedure for completing and signing a criminal complaint alleging a person is in violation of an extreme risk protective order.

#### **DOMESTIC VIOLENCE CENTRAL REGISTRY**

The committee substitute further requires the AOC to include in the Domestic Violence Central Registry all persons who have had a final extreme risk protective order entered against them, and all persons who have been charged with a violation of a temporary extreme risk protective order or an extreme risk protective order. These records are to be kept confidential and released only to authorized entities which also are required to keep confidential the information and are prohibited from disseminating it for any reason other than as authorized by law. The substitute further provides that a respondent's information, other than information related to a violation of a temporary or final extreme risk protection order, are to be removed from the registry upon the expiration of the extreme risk protective order.

The committee substitute takes effect on the first day of the seventh month next following enactment and authorizes the Attorney General and the Administrative Director of the Courts to take anticipatory action.

### **FISCAL ANALYSIS**

#### ***EXECUTIVE BRANCH***

None received.

#### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS states that since there is not enough information with which to determine the number of petitions that would be filed with the court for temporary extreme risk protective orders or extreme risk protective orders, it cannot determine the cost to be incurred by the Judiciary for hearing these petitions and updating the Domestic Violence Central registry. In addition, the OLS notes that local law enforcement agencies may incur indeterminate costs to store or destroy after one year those firearms or ammunition surrendered by individuals against whom temporary extreme risk protective orders or extreme risk protective orders are issued.

The OLS also notes that the committee substitute classifies certain violations of the provisions as third or fourth degree crimes. Offenders convicted of third or fourth degree crimes are subject to terms of up to 18 months (fourth degree) or up to 5 years (third degree). However, convictions for third and fourth degree offenses carry with them the presumption of non-incarceration for first time offenders. Any costs incurred by the Department of Corrections to house these offenders, if incarcerated, would be indeterminate.

FE to [1R] ACS for A1217

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*Section: Judiciary*

*Analyst: Anne Raughley  
Principle Fiscal Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

**LEGISLATIVE FISCAL ESTIMATE**  
 [Second Reprint]  
 ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 1217**  
**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

DATED: MAY 7, 2018

**SUMMARY**

**Synopsis:** “Extreme Risk Protective Order Act of 2018.”

**Type of Impact:** General Fund expenditure

**Agencies Affected:** The Judiciary, Department of Corrections, Department of Law and Public Safety

**Office of Legislative Services Estimate**

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
<b>State Cost</b>		Indeterminate	

- The Office of Legislative Services (OLS) states that since there is not enough information with which to determine the number of petitions that would be filed with the court for temporary extreme risk protective orders or extreme risk protective orders, it cannot determine the cost to be incurred by the Judiciary for hearing these petitions. The OLS also notes that the Administrative Office of the Courts (AOC) would incur indeterminate costs to create and maintain an electronic central registry of all persons who have had an extreme risk protective order (ERPO) entered against them, and all persons who have been charged with a violation of a temporary extreme risk protective order (T-ERPO) or ERPO.
- In addition, the OLS notes that local law enforcement agencies may incur indeterminate costs to store or destroy after one year those firearms or ammunition surrendered by individuals against whom temporary extreme risk protective orders or extreme risk protective orders are issued.
- The OLS states that the committee substitute classifies certain violations of the provisions as third or fourth degree crimes. Offenders convicted of third or fourth degree crimes are subject to terms of imprisonment of up to 18 months (fourth degree) or up to 5 years (third degree). However, convictions for third and fourth degree offenses carry with them the

presumption of non-incarceration for first time offenders. Any costs incurred by the Department of Corrections to house these offenders, if incarcerated, would be indeterminate.

- The committee substitute, entitled the “Extreme Risk Protective Order Act of 2018,” establishes a process and procedures for obtaining a protective order against persons who pose a significant danger of bodily injury to themselves or others by possessing or purchasing a firearm. The order would prohibit the subject of the order from possessing or purchasing a firearm or ammunition and from holding a firearms purchaser identification card, permit to purchase a handgun, and permit to carry a handgun.

## **BILL DESCRIPTION**

The amended committee substitute, entitled the “Extreme Risk Protective Order Act of 2018,” establishes a process and procedures for obtaining a protective order against persons who pose a significant danger of bodily injury to themselves or others by possessing or purchasing a firearm. The protective order would prohibit the subject from possessing or purchasing a firearm or ammunition and from holding a firearms purchaser identification card (FPIC), permit to purchase a handgun (PPH), and permit to carry a handgun (PCH).

### **TEMPORARY EXTREME RISK PROTECTIVE ORDERS (T-ERPO)**

The committee substitute authorizes a family or household member or a law enforcement officer to petition for a T-ERPO alleging that a person poses a significant danger of bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm. A petition for a T-ERPO is to be filed in court in accordance with the Rules of Court. The petition is to include an affidavit including the number, types, physical description, and locations of any firearms and ammunition the family member or law enforcement officer believes are controlled or possessed by the person.

The court is to issue the T-ERPO if it finds good cause to believe that the person poses an immediate and present danger of causing bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm. The committee substitute sets forth alternate procedures if the petition for a T-ERPO is filed against a law enforcement officer.

In deciding whether to issue a T-ERPO, the court is required to consider whether the person has a history of threats or acts of violence directed toward self or others; a history of use, attempted use, or threatened use of physical force against another; any temporary or final domestic violence restraining order or sexual violence protective order or a violation of a temporary or final domestic violence restraining order or sexual violence protective order; any prior arrests, pending charges, or convictions for a violent indictable crime or disorderly persons offense, a stalking offense, or domestic violence offense; an offense involving animal cruelty; a history of drug or alcohol abuse; and any recent acquisitions of a firearm, ammunition, or other deadly weapon.

While a T-ERPO is in effect, the person is prohibited from possessing or purchasing firearms or ammunition, as well obtaining or holding a FPIC, PPH, or PCH. Firearms, ammunition, FPICs, PPHs, and PCHs are to be surrendered, and the FPICs, PPHs, and PCHs are revoked.

### **EXTREME RISK PROTECTIVE ORDER (ERPO)**

The court is to consider whether a one-year ERPO should be issued during a hearing to be held within 10 days of the filing of the T-ERPO. The court is to consider the same factors considered for a T-ERPO. The ERPO is to be issued if the court finds by a preponderance of the

evidence that the person poses a significant danger of bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm. The ERPO may be extended for one year under certain circumstances.

#### SURRENDER PROVISIONS

A person against whom a T-ERPO or ERPO is issued is required to surrender to the local law enforcement agency or to surrender or sell to a federally licensed dealer all firearms and ammunition in the person's custody or control, or which the person owns or possesses, and to surrender to law enforcement any FPICs, PPHs, and PCHs the person holds. The person can petition for the return of the firearms or ammunition within three months, but not less than 30 days of expiration of the order, with certain exceptions. The person also may sell the firearms or ammunition to a licensed dealer. A law enforcement agency holding a surrendered firearm or ammunition a year after the order expires is authorized to destroy the firearm or ammunition in accordance with agency policies.

A person has one opportunity to terminate a T-ERPO or ERPO. The person is required to prove at a hearing, by a preponderance of the evidence, that he or she no longer poses a significant danger of causing bodily injury to self or another by having custody or control of, owning, possessing, purchasing, or receiving a firearm.

#### PENALTIES

A person who violates a condition of a T-ERPO or ERPO is to be arrested for contempt of court.

A person who violates a T-ERPO or ERPO is guilty of a fourth degree crime, which is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both. A person subject to a T-ERPO or ERPO who purchases, acquires, owns, possesses, or controls a firearm or ammunition commits a crime of the third degree, which is punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both. The person also is disqualified from obtaining a FPIC, PPH, or PCH.

#### ELECTRONIC CENTRAL REGISTRY

Finally, the committee substitute requires the AOC to include in an electronic central registry created and maintained by the AOC all persons who have had an ERPO entered against them, and all persons who have been charged with a violation of a T-ERPO or ERPO.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS states that since there is not enough information with which to determine the number of petitions that would be filed with the court for temporary extreme risk protective orders or extreme risk protective orders, it cannot determine the cost to be incurred by the Judiciary for hearing these petitions. A petitioner who is a family or household member is not to

be required to serve any order on a respondent and law enforcement agencies are not to charge a fee or seek reimbursement for cost to serve an order.

The OLS also notes that the AOC would incur indeterminate costs to create and maintain an electronic central registry of all persons who have had an ERPO entered against them, and all persons who have been charged with a violation of a T-ERPO or ERPO. In addition, local law enforcement agencies may incur indeterminate costs to store or destroy after one year those firearms or ammunition surrendered by individuals against whom temporary extreme risk protective orders or extreme risk protective orders are issued.

The OLS also notes that the committee substitute classifies certain violations of the provisions as third or fourth degree crimes. Offenders convicted of third or fourth degree crimes are subject to terms of up to 18 months (fourth degree) or up to 5 years (third degree). However, convictions for third and fourth degree offenses carry with them the presumption of non-incarceration for first time offenders. Any costs incurred by the Department of Corrections to house these offenders, if incarcerated, would be indeterminate.

*Section: Judiciary*

*Analyst: Anne Raughley  
Principal Fiscal Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

**LEGISLATIVE FISCAL ESTIMATE**  
 [Third Reprint]  
 ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 1217**  
**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

DATED: JUNE 12, 2018

**SUMMARY**

**Synopsis:** “Extreme Risk Protective Order Act of 2018.”

**Type of Impact:** General Fund expenditure

**Agencies Affected:** The Judiciary, Department of Corrections, Department of Law and Public Safety

**Office of Legislative Services Estimate**

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
<b>State Cost</b>		Indeterminate	

- The Office of Legislative Services (OLS) states that since there is not enough information with which to determine the number of petitions that would be filed with the court for temporary extreme risk protective orders or extreme risk protective orders, it cannot determine the cost to be incurred by the Judiciary for hearing these petitions. The OLS also notes that the Administrative Office of the Courts (AOC) would incur indeterminate costs to create and maintain an electronic central registry of all persons who have had an extreme risk protective order (ERPO) entered against them, and all persons who have been charged with a violation of a temporary extreme risk protective order (T-ERPO) or ERPO.
- In addition, the OLS notes that local law enforcement agencies may incur indeterminate costs to store or destroy after one year those firearms or ammunition surrendered by individuals against whom temporary extreme risk protective orders or extreme risk protective orders are issued.
- The OLS states that the committee substitute classifies certain violations of the provisions as third or fourth degree crimes. Offenders convicted of third or fourth degree crimes are subject to terms of imprisonment of up to 18 months (fourth degree) or 3 to 5 years (third



degree). However, convictions for third and fourth degree offenses generally carry with them the presumption of non-incarceration for first time offenders. Any costs incurred by the Department of Corrections to house these offenders, if incarcerated, would be indeterminate.

The committee substitute, entitled the “Extreme Risk Protective Order Act of 2018,” establishes a process and procedures for obtaining a protective order against persons who pose a significant danger of bodily injury to themselves or others by possessing or purchasing a firearm. The order would prohibit the subject of the order from possessing or purchasing a firearm or ammunition and from holding a firearms purchaser identification card, permit to purchase a handgun, and permit to carry a handgun.

## **BILL DESCRIPTION**

This committee substitute, entitled the “Extreme Risk Protective Order Act of 2018,” establishes a process and procedures for obtaining a protective order against persons who pose a significant danger of bodily injury to themselves or others by possessing or purchasing a firearm. The protective order would prohibit the subject from possessing or purchasing a firearm or ammunition and from holding a firearms purchaser identification card (FPIC), permit to purchase a handgun (PPH), and permit to carry a handgun (PCH).

### TEMPORARY EXTREME RISK PROTECTIVE ORDER (T-ERPO)

The committee substitute authorizes a family or household member or a law enforcement officer to petition for a T-ERPO alleging that a person poses a significant danger of bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm. A petition for a T-ERPO is to be filed in court in accordance with the Rules of Court. The petition is to include an affidavit setting forth the facts tending to establish the grounds of the petition, or the reason for believing that they exist, and, *to the extent available*, provide the number, types, physical description, and locations of any firearms and ammunition currently believed by the petitioner to be controlled or possessed by the respondent.

The court is to issue the T-ERPO if it finds good cause to believe that the person poses an immediate and present danger of causing bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm. The committee substitute sets forth alternate procedures if the petition for a T-ERPO is filed against a law enforcement officer.

In deciding whether to issue a T-ERPO, the court is required to consider whether the person has a history of threats or acts of violence directed toward self or others; a history of use, attempted use, or threatened use of physical force against another; any temporary or final domestic violence restraining order or sexual violence protective order, or a violation of a temporary or final domestic violence restraining order or sexual violence protective order; any prior arrests, pending charges, or convictions for a violent indictable crime or disorderly persons offense, a stalking offense, or domestic violence offense; an offense involving animal cruelty; a history of animal cruelty or drug or alcohol abuse; and any recent acquisitions of a firearm, ammunition, or other deadly weapon.

While a T-ERPO is in effect, the person is prohibited from possessing or purchasing firearms or ammunition, as well obtaining or holding a FPIC, PPH, or PCH. Firearms, ammunition, FPICs, PPHs, and PCHs are to be surrendered, and the FPICs, PPHs, and PCHs are revoked.

**FINAL EXTREME RISK PROTECTIVE ORDER (F-ERPO)**

The court is to consider whether an F-ERPO should be issued during a hearing to be held within 10 days of the filing of the T-ERPO. The court is to consider the same factors considered for a T-ERPO. The F-ERPO is to be issued if the court finds by a preponderance of the evidence that the person poses a significant danger of bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm.

Upon request of the petitioner or respondent, at any time following the issuance of the F-ERPO and after notice and a hearing, the court may terminate the F-ERPO. The court is to consider the same factors during the hearing that were considered for the T-ERPO, as well as any other relevant evidence, including whether the respondent has received, or is receiving, mental health treatment. If the respondent petitioned to terminate the F-ERPO, the respondent bears the burden at the hearing of proving by a preponderance of the evidence that he or she no longer poses a significant danger of causing bodily injury to himself or herself or to others by having custody or control of, owning, possessing, purchasing, or receiving a firearm.

**SURRENDER PROVISIONS**

A person against whom a T-ERPO or F-ERPO is issued is required to surrender to the local law enforcement agency or surrender or sell to a federally licensed dealer all firearms and ammunition in the person's custody or control, or which the person owns or possesses, and to surrender to law enforcement any FPICs, PPHs, and PCHs the person holds. The person can petition for the return of the firearms or ammunition after the F-ERPO terminated. The agency is to return the firearms or ammunition within 30 days of the petition, unless the firearm has been reported stolen or the respondent is prohibited by law from possessing a firearm. The person also may sell surrendered firearms or ammunition to a licensed dealer. A law enforcement agency holding a surrendered firearm or ammunition a year after the order is terminated is authorized to destroy the firearm or ammunition in accordance with agency policies.

**PENALTIES**

A person who violates a condition of a T-ERPO or F-ERPO is to be arrested for contempt of court.

A person who violates a T-ERPO or F-ERPO is guilty of a fourth degree crime, which is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both. A person subject to a T-ERPO or F-ERPO who purchases, acquires, owns, possesses, or controls a firearm or ammunition commits a crime of the third degree, which is punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both. The person also is disqualified from obtaining a FPIC, PPH, or PCH.

**ELECTRONIC CENTRAL REGISTRY**

Finally, the committee substitute requires the Administrative Office of the Courts (AOC) to include in an electronic central registry created and maintained by the AOC all persons who have had an ERPO entered against them, and all persons who have been charged with a violation of a T-ERPO or F-ERPO.

**FISCAL ANALYSIS*****EXECUTIVE BRANCH***

None received.

***OFFICE OF LEGISLATIVE SERVICES***

The OLS states that since there is not enough information with which to determine the number of petitions that would be filed with the court for temporary extreme risk protective orders or extreme risk protective orders, it cannot determine the cost to be incurred by the Judiciary for hearing these petitions. A petitioner who is a family or household member is not to be required to serve any order on a respondent and law enforcement agencies are not to charge a fee or seek reimbursement for the cost of service of an order.

The OLS also notes that the AOC would incur indeterminate costs to create and maintain an electronic central registry of all persons who have had an ERPO entered against them, and all persons who have been charged with a violation of a T-ERPO or ERPO. In addition, local law enforcement agencies may incur indeterminate costs to store or destroy after one year those firearms or ammunition surrendered by individuals against whom temporary extreme risk protective orders or extreme risk protective orders are issued.

The OLS also notes that the committee substitute classifies certain violations of the provisions as third or fourth degree crimes. Offenders convicted of third or fourth degree crimes are subject to terms of up to 18 months (fourth degree) or 3 to 5 years (third degree). However, convictions for third and fourth degree offenses generally carry with them the presumption of non-incarceration for first time offenders. Any costs incurred by the Department of Corrections to house these offenders, if incarcerated, would be indeterminate.

*Section:           Judiciary*

*Analyst:          Anne Raughley  
                      Principal Fiscal Analyst*

*Approved:        Frank W. Haines III  
                      Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

**SENATE, No. 2259**

**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

INTRODUCED MARCH 8, 2018

**Sponsored by:**

**Senator RICHARD J. CODEY**

**District 27 (Essex and Morris)**

**Senator LORETTA WEINBERG**

**District 37 (Bergen)**

**Co-Sponsored by:**

**Senators Singleton and Turner**

**SYNOPSIS**

“Extreme Risk Protective Order Act of 2018.”

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/27/2018)**

1 AN ACT concerning extreme risk protection orders and  
2 supplementing and amending various parts of the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. (New section) This act shall be known and may be cited as  
8 the “Extreme Risk Protective Order Act of 2018.”

9

10 2. (New section) As used in P.L. c. (C. ) (pending  
11 before the Legislature as this bill):

12 “Ammunition” means ammunition or cartridge cases, primers,  
13 bullets, or propellant powder designed for use in any firearm, but  
14 does not include any shotgun shot or pellet not designed for use as  
15 the single, complete projectile load for one shotgun hull or casing or  
16 any unloaded, non-metallic shotgun hull or casing not having a  
17 primer.

18 “Deadly weapon” shall have the same meaning as in subsection  
19 c. of N.J.S.2C:11-1.

20 “Family or household member” means a spouse, domestic  
21 partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3),  
22 partner in a civil union couple as defined in section 2 of P.L.2006,  
23 c.103 (C.37:1-29), or former spouse, former domestic partner, or  
24 former partner in a civil union couple, or any other person who is a  
25 present household member or was at any time a household member;  
26 a person with whom the respondent has a child in common, or with  
27 whom the respondent anticipates having a child in common if one  
28 of the parties is pregnant; or a current or former dating partner.

29 “Firearm” shall have the same meaning as in N.J.S.2C:39-1.

30 “Law enforcement agency” means a department, division,  
31 bureau, commission, board or other authority of the State or of any  
32 political subdivision thereof which employs law enforcement  
33 officers.

34 “Law enforcement officer” means a person whose public duties  
35 include the power to act as an officer for the detection,  
36 apprehension, arrest, and conviction of offenders against the laws of  
37 this State.

38 “Petitioner” means a family or household member or law  
39 enforcement officer.

40 “Recent” means within six months prior to the date the petition  
41 was filed.

42

43 3. (New section) a. A law enforcement officer who, in good  
44 faith, does not file a petition for an extreme risk protective order or  
45 temporary extreme risk protection order shall be immune from

**EXPLANATION** – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 criminal or civil liability.

2 b. A law enforcement agency shall be immune from civil or  
3 criminal liability for any damage or deterioration of firearms or  
4 ammunition stored or transported pursuant to section 6 or 7 of P.L.

5 c. (C. ) (pending before the Legislature as this bill) unless the  
6 damage or deterioration resulted from recklessness, gross  
7 negligence, or intentional misconduct by the law enforcement  
8 agency.

9  
10 4. (New section) a. A petitioner may file a petition for a  
11 temporary extreme risk protective order in the Superior Court in  
12 accordance with the Rules of Court alleging that the respondent  
13 poses a significant danger of bodily injury to self or others by  
14 having custody or control of, owning, possessing, purchasing, or  
15 receiving a firearm. The petition shall be heard by the Superior  
16 Court in an expedited manner.

17 Filing a petition pursuant to this section shall not prevent a  
18 petitioner from filing a criminal complaint based on the  
19 circumstances forming the basis of the petition.

20 A petitioner may apply for relief under this section in a court  
21 where the respondent resides, or where the petitioner resides in  
22 accordance with the Rules of Court.

23 b. A petition for a temporary extreme risk protective order shall  
24 include an affidavit including the number, types, physical  
25 description, and locations of any firearms and ammunition currently  
26 believed by the petitioner to be controlled or possessed by the  
27 respondent.

28 c. The court shall not charge a fee to file the petition.

29 d. Petition forms shall be readily available at the courts, and at  
30 State, county, and municipal police stations.

31 e. A judge shall issue the order if the court finds good cause to  
32 believe that the respondent poses an immediate and present danger  
33 of causing bodily injury to the respondent or others by having  
34 custody or control of, owning, possessing, purchasing, or receiving  
35 a firearm.

36 f. In determining whether to issue an order pursuant to this  
37 section, the court shall consider whether the respondent has:

38 (1) any history of threats or acts of violence by the respondent  
39 directed toward self or others;

40 (2) any history of use, attempted use, or threatened use of  
41 physical force by the respondent against another person;

42 (3) any recent violation of a restraining order issued pursuant to  
43 the "Prevention of Domestic Violence Act of 1991," P.L.1991,  
44 c.261 (C.2C:25-17 et seq.);

45 (4) any recent violation of a protective order issued pursuant to  
46 the "Sexual Assault Survivor Protection Act of 2015," P.L.2015,  
47 c.147 (C.2C:14-13 et al.);

48 (5) ever been convicted of a violent disorderly persons or petty

1 disorderly persons offense, stalking offense pursuant to section 1 of  
2 P.L.1992, c.209 (C.2C:12-10), or domestic violence offense  
3 enumerated in section 3 of P.L.1991, c.261 (C.2C:25-19);

4 (6) ever been convicted of an offense involving cruelty to  
5 animals; or

6 (7) any history of drug or alcohol abuse and recovery from this  
7 abuse.

8 g. In determining whether to issue an order pursuant to this  
9 section, the court also may consider any factors related to whether  
10 the respondent presents an increased risk of violence, including, but  
11 not limited to, whether the respondent has any:

12 (1) history of violating a restraining order issued pursuant to the  
13 “Prevention of Domestic Violence Act of 1991,” P.L.1991, c.261  
14 (C.2C:25-17 et seq.);

15 (2) history of violating a protective order issued pursuant to the  
16 “Sexual Assault Survivor Protection Act of 2015,” P.L.2015, c.147  
17 (C.2C:14-13 et al.)

18 (3) prior arrests for a violent disorderly persons or petty  
19 disorderly persons offense, stalking offense pursuant to section 1 of  
20 P.L.1992, c.209 (C.2C:12-10), or domestic violence offense  
21 enumerated in section 3 of P.L.1991, c.261 (C.2C:25-19); or

22 (4) recent acquisitions of a firearm, ammunition, or other deadly  
23 weapon.

24 h. The temporary extreme risk protective order shall prohibit  
25 the respondent from having custody or control of, owning,  
26 purchasing, possessing, or receiving firearms or ammunition, and  
27 from securing or holding a firearms purchaser identification card or  
28 permit to purchase a handgun pursuant to N.J.S.2C:58-3, or a  
29 permit to carry a handgun pursuant to N.J.S.2C:58-4 during the  
30 period the protective order is in effect and shall order the  
31 respondent to surrender firearms and ammunition in the  
32 respondent’s custody or control, or which the respondent possesses  
33 or owns, and any firearms purchaser identification card, permit to  
34 purchase a handgun, or permit to carry a handgun held by the  
35 respondent in accordance with section 7 of (P.L. c. (C. )  
36 (pending before the Legislature as this bill). Any card or permit  
37 issued to the respondent shall be immediately revoked pursuant to  
38 subsection f. of N.J.S.2C:58-3.

39 i. A temporary extreme risk protective order issued under this  
40 section shall remain in effect until a court issues a further order.

41 j. The court that issues the temporary extreme risk protective  
42 order shall immediately forward a copy of the order and petition to  
43 the appropriate law enforcement agency which shall immediately,  
44 or as soon as practicable, serve it on the respondent, and to the law  
45 enforcement agency of the municipality in which the petitioner  
46 resides or is sheltered. If personal service cannot be effected upon  
47 the respondent, the court may order other appropriate substituted  
48 service. At no time shall the petitioner be asked or required to serve

1 any order on the respondent. The law enforcement agency serving  
2 the order shall not charge a fee or seek reimbursement from the  
3 petitioner for service of the order.

4 k. Notice of temporary extreme risk protective orders issued  
5 pursuant to this section shall be sent by the clerk of the court or  
6 other person designated by the court to the appropriate chiefs of  
7 police, members of the State Police, and any other appropriate law  
8 enforcement agency or court.

9 l. Any temporary extreme risk protective order issued pursuant  
10 to this section shall be in effect throughout the State, and shall be  
11 enforced by all law enforcement officers.

12

13 5. (New section) a. A hearing for an extreme risk protective  
14 order shall be held in accordance with the Rules of Court within 10  
15 days of the filing of a petition pursuant to section 4 of  
16 P.L. c. (C. ) (pending before the Legislature as this bill) in  
17 the county where the temporary extreme risk protective order was  
18 filed, unless good cause is shown for the hearing to be held in  
19 another county. A copy of the petition shall be served on the  
20 respondent in accordance with the Rules of Court.

21 b. If the court finds by a preponderance of the evidence at the  
22 hearing that the respondent poses a significant danger of bodily  
23 injury to the respondent's self or others by having custody or  
24 control of, owning, possessing, purchasing, or receiving a firearm,  
25 the court shall issue a one-year extreme risk protective order.

26 c. When deciding whether to issue the order, the court shall  
27 consider the factors enumerated in subsection f. of section 4 of  
28 P.L. c. (C. ) (pending before the Legislature as this bill) and  
29 may consider, but is not limited to, the factors enumerated in  
30 subsection g. of section 4 of P.L. c. (C. ) (pending before the  
31 Legislature as this bill), as well as any other relevant evidence.

32 d. An extreme risk protective order issued pursuant to this  
33 section shall prohibit the respondent from having custody or control  
34 of, owning, purchasing, possessing, or receiving a firearm.

35

36 6. (New section) a. Upon request by a petitioner, and after  
37 notice to the respondent and a hearing, the court may extend an  
38 extreme risk protective order issued pursuant to section 5 of  
39 P.L. c. (C. ) (pending before the Legislature as this bill). A  
40 petition for an extension may be filed any time within three months  
41 preceding the expiration of the current protective order. The  
42 protective order may be extended for one year if the court makes  
43 the same findings by a preponderance of the evidence as required  
44 for granting the initial order issued pursuant to section 5 of  
45 P.L. c. (C. ) (pending before the Legislature as this bill).  
46 The court shall consider the factors enumerated in subsection f. of  
47 section 4 of P.L. c. (C. ) (pending before the Legislature as  
48 this bill) and may consider, but is not limited to, the factors  
49 enumerated in subsection g. of section 4 of P.L. c. (C. )



1 (pending before the Legislature as this bill), as well as any other  
2 relevant evidence.

3 b. The court may terminate an order upon petition by the  
4 respondent after a hearing at which the respondent shall bear the  
5 burden of proving by a preponderance of the evidence that the  
6 respondent no longer poses a significant danger of causing bodily  
7 injury to the respondent's self or to other persons by having custody  
8 or control of, owning, possessing, purchasing, or receiving a  
9 firearm. The respondent may file no more than one petition to  
10 terminate an order while the order is in effect.

11  
12 7. (New section) a. When a temporary extreme risk protective  
13 order or extreme risk protective order is issued pursuant to section  
14 4, 5, or 6 of P.L. c. (C. ) (pending before the Legislature as  
15 this bill), the court shall order the respondent to surrender to the  
16 local law enforcement agency all firearms and ammunition in the  
17 respondent's custody or control, or which the respondent owns or  
18 possesses, and any firearms purchaser identification card, permit to  
19 purchase a handgun, or permit to carry a handgun held by the  
20 respondent.

21 b. Upon being served with the protective order, the respondent  
22 immediately shall surrender, in a safe manner, all firearms and  
23 ammunition in the respondent's custody or control, or which the  
24 respondent owns or possesses, and any firearms purchaser  
25 identification card, permit to purchase a handgun, or permit to carry  
26 a handgun held by the respondent to the control of a law  
27 enforcement officer.

28 (1) If the protective order indicates that the respondent owns or  
29 possesses any firearms or ammunition, the law enforcement officer  
30 who serves the order shall request that all firearms and ammunition  
31 immediately be surrendered.

32 (2) If a law enforcement officer is unable to personally serve the  
33 order, the respondent shall surrender all firearms and ammunition to  
34 the control of the respondent's local law enforcement agency within  
35 24 hours of being served with the order. Alternatively, the  
36 respondent may surrender or sell all firearms and ammunition in a  
37 safe manner to a federally licensed firearms dealer.

38 (3) The law enforcement officer or licensed firearms dealer  
39 taking possession of any firearms or ammunition pursuant to this  
40 subsection shall issue a receipt identifying all firearms and  
41 ammunition that have been surrendered by the respondent. The  
42 officer or dealer shall provide a copy of the receipt to the  
43 respondent at the time of surrender.

44 (4) If the respondent surrenders firearms and ammunition to a  
45 law enforcement officer or surrenders or sells firearms and  
46 ammunition to a licensed dealer pursuant to paragraph (2) of this  
47 subsection, the respondent shall, within 48 hours after being served  
48 with the order file the receipt with the court that issued the  
49 protective order and file a copy of the receipt with the law

1 enforcement agency that served the order. Failure to timely file the  
2 receipt or copy of the receipt shall constitute contempt of the order.

3 c. The court which issued the protective order may issue a  
4 search warrant for a firearm or ammunition that is in the custody or  
5 control of, owned, or possessed by a respondent who is subject to a  
6 restraining order issued pursuant to section 4 or 5 or 6 of  
7 P.L. c. (C. ) (pending before the Legislature as this bill) if  
8 the respondent has lawfully been served with that order and has  
9 failed to surrender the firearm or ammunition as required by this  
10 section.

11 d. If the respondent has surrendered a firearm or ammunition to  
12 a law enforcement agency, within 30 days of the expiration of the  
13 order or upon termination of the order, the respondent may petition  
14 the agency for the return of any surrendered firearms or  
15 ammunition. Within 30 days of receiving a petition for the return of  
16 surrendered firearms or ammunition and after the expiration or  
17 termination of the order, the agency shall return the firearm or  
18 ammunition unless:

19 (1) the firearm has been reported as stolen;

20 (2) the respondent is prohibited from possessing a firearm under  
21 State or federal law; or

22 (3) the protective order is extended pursuant to the provisions of  
23 section 6 of P.L. c. (C. ) (pending before the Legislature as  
24 this bill).

25 e. If a person other than the respondent claims title to any  
26 firearm or ammunition surrendered pursuant to this section, and the  
27 law enforcement agency determines that the person is the lawful  
28 owner of the firearm or ammunition, the firearm or ammunition  
29 shall be returned to that person.

30 f. If the respondent has surrendered a firearm or ammunition to  
31 a federally licensed firearms dealer, after expiration or termination  
32 of the order, the respondent may request the law enforcement  
33 agency, in writing, to authorize the return of the firearm or  
34 ammunition from the dealer. The dealer shall transfer the firearm  
35 or ammunition to the respondent in accordance with procedures  
36 required when a firearm or ammunition is being sold from the  
37 dealer's inventory.

38

39 8. (New section) A respondent who has surrendered any  
40 firearm or ammunition to a law enforcement agency pursuant to  
41 P.L. c. (C. ) (pending before the Legislature as this bill) who  
42 does not want the firearm or ammunition returned or is no longer  
43 eligible to own or possess a firearm or ammunition may sell or  
44 transfer title of the firearm or ammunition to a federally licensed  
45 firearms dealer. The agency shall transfer possession of the firearm  
46 or ammunition to a licensed dealer only after the dealer has  
47 displayed written proof of transfer of the firearm or ammunition  
48 from the respondent to the dealer and the agency has verified the  
49 transfer with the respondent.

1       9. (New section) A law enforcement agency holding any  
2 firearm or ammunition surrendered pursuant to P.L.   c.   (C.   )  
3 (pending before the Legislature as this bill) for more than one year  
4 after the expiration or termination of the extreme risk protective  
5 order may destroy the firearm or ammunition in accordance with the  
6 policies and procedures of the agency for destruction of firearms or  
7 ammunition.

8  
9       10. (New section) Except as provided in section 11 of  
10 P.L.   c.   (C.   ) (pending before the Legislature as this bill), a  
11 violation by the respondent of an order issued pursuant to section 4  
12 or 5 of P.L.   c.   (C.   ) (pending before the Legislature as this  
13 bill) shall constitute an offense under subsection e. of N.J.S.2C:29-9  
14 and each order shall so state. All contempt proceedings conducted  
15 pursuant to N.J.S.2C:29-9 involving an extreme risk protective  
16 order shall be heard by the Superior Court. All contempt  
17 proceedings brought pursuant to P.L.   c.   (C.   ) (pending  
18 before the Legislature as this bill) shall be made in accordance with  
19 the Rules of Court.

20  
21       11. (New section) If a law enforcement officer finds probable  
22 cause that a respondent is in contempt of an order entered pursuant  
23 to P.L.   c.   (C.   ) (pending before the Legislature as this bill),  
24 the respondent shall be arrested and taken into custody.

25  
26       12. (New section) a. The Administrative Office of the Courts  
27 shall include all persons who have had protective orders entered  
28 against them pursuant to P.L.   c.   (C.   ) (pending before the  
29 Legislature as this bill), and all persons who have been charged  
30 with a violation of an extreme risk protective order in the Domestic  
31 Violence Central Registry established pursuant to P.L.1999, c.421  
32 (C.2C:25-34 et seq.). All records made pursuant to this section  
33 shall be kept confidential in accordance with the Rules of Court.

34       b. Any person who disseminates or discloses a record or report  
35 of the central registry for a purpose other than the purposes  
36 authorized in this section or as otherwise authorized by law or the  
37 Supreme Court of the State of New Jersey is guilty of a crime of the  
38 fourth degree.

39  
40       13. N.J.S.2C:29-9 is amended to read as follows:

41       2C:29-9. Contempt. a. A person is guilty of a crime of the fourth  
42 degree if **【he】** the person purposely or knowingly disobeys a  
43 judicial order or protective order, pursuant to section 1 of P.L.1985,  
44 c.250 (C.2C:28-5.1), or hinders, obstructs<sub>2</sub> or impedes the  
45 effectuation of a judicial order or the exercise of jurisdiction over  
46 any person, thing<sub>2</sub> or controversy by a court, administrative body<sub>2</sub> or  
47 investigative entity.

48       b. (1) Except as provided in paragraph (2) of this subsection, a  
49 person is guilty of a crime of the fourth degree if that person

1 purposely or knowingly violates any provision in an order entered  
2 under the provisions of the "Prevention of Domestic Violence Act  
3 of 1991," P.L.1991, c.261 (C.2C:25-17 et al.) or an order entered  
4 under the provisions of a substantially similar statute under the laws  
5 of another state or the United States when the conduct which  
6 constitutes the violation could also constitute a crime or a  
7 disorderly persons offense.

8 Orders entered pursuant to paragraphs (3), (4), (5), (8) and (9) of  
9 subsection b. of section 13 of P.L.1991, c.261 (C.2C:25-29) or  
10 substantially similar orders entered under the laws of another state  
11 or the United States shall be excluded from the provisions of this  
12 paragraph.

13 (2) In all other cases a person is guilty of a disorderly persons  
14 offense if that person purposely or knowingly violates an order  
15 entered under the provisions of the "Prevention of Domestic  
16 Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et al.) or an  
17 order entered under the provisions of a substantially similar statute  
18 under the laws of another state or the United States.

19 Orders entered pursuant to paragraphs (3), (4), (5), (8) and (9) of  
20 subsection b. of section 13 of P.L.1991, c.261 (C.2C:25-29) or  
21 substantially similar orders entered under the laws of another state  
22 or the United States shall be excluded from the provisions of this  
23 paragraph.

24 c. A person is guilty of a crime of the third degree if that  
25 person purposely or knowingly violates any provision in an order  
26 entered under the provisions of section 3 of P.L.1996, c.39  
27 (C.2C:12-10.1) or section 2 of P.L.1999, c.47 (C.2C:12-10.2) or an  
28 order entered under the provisions of a substantially similar statute  
29 under the laws of another state or the United States when the  
30 conduct which constitutes the violation could also constitute a  
31 crime or a disorderly persons offense.

32 d. (1) Except as provided in paragraph (2) of this subsection, a  
33 person is guilty of a crime of the fourth degree if that person  
34 purposely or knowingly violates any provision in an order entered  
35 under the provisions of P.L.2015, c.147 (C.2C:14-13 et al.) or an  
36 order entered under the provisions of a substantially similar statute  
37 under the laws of another state or the United States when the  
38 conduct which constitutes the violation could also constitute a  
39 crime or a disorderly persons offense.

40 (2) In all other cases a person is guilty of a disorderly persons  
41 offense if that person purposely or knowingly violates an order  
42 entered under the provisions of P.L.2015, c.147 (C.2C:14-13 et al.)  
43 or an order entered under the provisions of a substantially similar  
44 statute under the laws of another state or the United States.

45 e. A person is guilty of a crime of the fourth degree if the  
46 person purposely or knowingly violates any provision of an order  
47 entered under the provisions of the "Extreme Risk Protective Order  
48 Act of 2018," P.L. c. (C. ) (pending before the Legislature  
49 as this bill) or an order entered under the provisions of a

1 substantially similar statute under the laws of another state or the  
2 United States.

3 As used in this section, "state" means a state of the United States,  
4 the District of Columbia, Puerto Rico, the United States Virgin  
5 Islands, or any territory or insular possession subject to the  
6 jurisdiction of the United States. The term includes an Indian tribe  
7 or band, or Alaskan native village, which is recognized by a federal  
8 law or formally acknowledged by a state.

9 (cf: P.L.2016, c.93, s.3)

10

11 14. Section 6 of P.L.1979, c.179 (C.2C:39-7) is amended to read  
12 as follows:

13 6. Certain Persons Not to Have Weapons.

14 a. Except as provided in subsection b. of this section, any  
15 person, having been convicted in this State or elsewhere of the  
16 crime of aggravated assault, arson, burglary, escape, extortion,  
17 homicide, kidnapping, robbery, aggravated sexual assault, sexual  
18 assault, bias intimidation in violation of N.J.S.2C:16-1 or  
19 endangering the welfare of a child pursuant to N.J.S.2C:24-4,  
20 whether or not armed with or having in his possession any weapon  
21 enumerated in subsection r. of N.J.S.2C:39-1, or any person  
22 convicted of a crime pursuant to the provisions of N.J.S.2C:39-3,  
23 N.J.S.2C:39-4 or N.J.S.2C:39-9, or any person who has ever been  
24 committed for a mental disorder to any hospital, mental institution  
25 or sanitarium unless he possesses a certificate of a medical doctor  
26 or psychiatrist licensed to practice in New Jersey or other  
27 satisfactory proof that he is no longer suffering from a mental  
28 disorder which interferes with or handicaps him in the handling of a  
29 firearm, or any person who has been convicted of other than a  
30 disorderly persons or petty disorderly persons offense for the  
31 unlawful use, possession or sale of a controlled dangerous  
32 substance as defined in N.J.S.2C:35-2 who purchases, owns,  
33 possesses or controls any of the said weapons is guilty of a crime of  
34 the fourth degree.

35 b. (1) A person having been convicted in this State or  
36 elsewhere of the crime of aggravated assault, arson, burglary,  
37 escape, extortion, homicide, kidnapping, robbery, aggravated sexual  
38 assault, sexual assault, bias intimidation in violation of  
39 N.J.S.2C:16-1, endangering the welfare of a child pursuant to  
40 N.J.S.2C:24-4, stalking pursuant to P.L.1992, c.209 (C.2C:12-10)  
41 or a crime involving domestic violence as defined in section 3 of  
42 P.L.1991, c.261 (C.2C:25-19), whether or not armed with or having  
43 in his possession a weapon enumerated in subsection r. of  
44 N.J.S.2C:39-1, or a person having been convicted of a crime  
45 pursuant to the provisions of N.J.S.2C:35-3 through N.J.S.2C:35-6,  
46 inclusive; section 1 of P.L.1987, c.101 (C.2C:35-7); N.J.S.2C:35-  
47 11; N.J.S.2C:39-3; N.J.S.2C:39-4; or N.J.S.2C:39-9 who purchases,  
48 owns, possesses or controls a firearm is guilty of a crime of the  
49 second degree and upon conviction thereof, the person shall be

1 sentenced to a term of imprisonment by the court. The term of  
2 imprisonment shall include the imposition of a minimum term,  
3 which shall be fixed at five years, during which the defendant shall  
4 be ineligible for parole. If the defendant is sentenced to an  
5 extended term of imprisonment pursuant to N.J.S.2C:43-7, the  
6 extended term of imprisonment shall include the imposition of a  
7 minimum term, which shall be fixed at, or between, one-third and  
8 one-half of the sentence imposed by the court or five years,  
9 whichever is greater, during which the defendant shall be ineligible  
10 for parole.

11 (2) A person having been convicted in this State or elsewhere of  
12 a disorderly persons offense involving domestic violence, whether  
13 or not armed with or having in his possession a weapon enumerated  
14 in subsection r. of N.J.S.2C:39-1, who purchases, owns, possesses  
15 or controls a firearm is guilty of a crime of the third degree.

16 (3) A person whose firearm is seized pursuant to the "Prevention  
17 of Domestic Violence Act of 1991," P.L.1991,c.261 (C.2C:25-17 et  
18 seq.) and whose firearm has not been returned, or who is subject to  
19 a court order prohibiting the possession of firearms issued pursuant  
20 to the "Prevention of Domestic Violence Act of 1991,"  
21 P.L.1991,c.261 (C.2C:25-17 et seq.) who purchases, owns,  
22 possesses or controls a firearm is guilty of a crime of the third  
23 degree, except that the provisions of this paragraph shall not apply  
24 to any law enforcement officer while actually on duty, or to any  
25 member of the Armed Forces of the United States or member of the  
26 National Guard while actually on duty or traveling to or from an  
27 authorized place of duty.

28 (4) A person who is subject to a court order prohibiting the  
29 custody, control, ownership, purchase, possession, or receipt of a  
30 firearm or ammunition issued pursuant to the "Extreme Risk  
31 Protective Order Act of 2018," P.L. c. (C. ) (pending before  
32 the Legislature as this bill) who purchases, acquires, owns,  
33 possesses, or controls a firearm or ammunition is guilty of a crime  
34 of the third degree.

35 c. Whenever any person shall have been convicted in another  
36 state, territory, commonwealth or other jurisdiction of the United  
37 States, or any country in the world, in a court of competent  
38 jurisdiction, of a crime which in said other jurisdiction or country is  
39 comparable to one of the crimes enumerated in subsection a. or b.  
40 of this section, then that person shall be subject to the provisions of  
41 this section.

42 (cf: P.L.2003, c.277, s.3)

43

44 15. N.J.S.2C:58-3 is amended to read as follows:

45 2C:58-3. a. Permit to purchase a handgun. No person shall sell,  
46 give, transfer, assign or otherwise dispose of, nor receive, purchase,  
47 or otherwise acquire a handgun unless the purchaser, assignee,  
48 donee, receiver or holder is licensed as a dealer under this chapter

1 or has first secured a permit to purchase a handgun as provided by  
2 this section.

3 b. Firearms purchaser identification card. No person shall sell,  
4 give, transfer, assign or otherwise dispose of nor receive, purchase  
5 or otherwise acquire an antique cannon or a rifle or shotgun, other  
6 than an antique rifle or shotgun, unless the purchaser, assignee,  
7 donee, receiver or holder is licensed as a dealer under this chapter  
8 or possesses a valid firearms purchaser identification card, and first  
9 exhibits the card to the seller, donor, transferor or assignor, and  
10 unless the purchaser, assignee, donee, receiver or holder signs a  
11 written certification, on a form prescribed by the superintendent,  
12 which shall indicate that he presently complies with the  
13 requirements of subsection c. of this section and shall contain his  
14 name, address and firearms purchaser identification card number or  
15 dealer's registration number. The certification shall be retained by  
16 the seller, as provided in paragraph (4) of subsection a. of  
17 N.J.S.2C:58-2, or, in the case of a person who is not a dealer, it may  
18 be filed with the chief of police of the municipality in which he  
19 resides or with the superintendent.

20 c. Who may obtain. No person of good character and good  
21 repute in the community in which he lives, and who is not subject to  
22 any of the disabilities set forth in this section or other sections of  
23 this chapter, shall be denied a permit to purchase a handgun or a  
24 firearms purchaser identification card, except as hereinafter set  
25 forth. No handgun purchase permit or firearms purchaser  
26 identification card shall be issued:

27 (1) To any person who has been convicted of any crime, or a  
28 disorderly persons offense involving an act of domestic violence as  
29 defined in section 3 of P.L.1991, c.261 (C.2C:25-19), whether or  
30 not armed with or possessing a weapon at the time of the offense;

31 (2) To any drug dependent person as defined in section 2 of  
32 P.L.1970, c.226 (C.24:21-2), to any person who is confined for a  
33 mental disorder to a hospital, mental institution or sanitarium, or to  
34 any person who is presently an habitual drunkard;

35 (3) To any person who suffers from a physical defect or disease  
36 which would make it unsafe for him to handle firearms, to any  
37 person who has ever been confined for a mental disorder, or to any  
38 alcoholic unless any of the foregoing persons produces a certificate  
39 of a medical doctor or psychiatrist licensed in New Jersey, or other  
40 satisfactory proof, that he is no longer suffering from that particular  
41 disability in a manner that would interfere with or handicap him in  
42 the handling of firearms; to any person who knowingly falsifies any  
43 information on the application form for a handgun purchase permit  
44 or firearms purchaser identification card;

45 (4) To any person under the age of 18 years for a firearms  
46 purchaser identification card and to any person under the age of 21  
47 years for a permit to purchase a handgun;

48 (5) To any person where the issuance would not be in the  
49 interest of the public health, safety or welfare;

1 (6) To any person who is subject to a restraining order issued  
2 pursuant to the "Prevention of Domestic Violence Act of 1991,"  
3 P.L.1991, c.261 (C.2C:25-17 et seq.) prohibiting the person from  
4 possessing any firearm;

5 (7) To any person who as a juvenile was adjudicated delinquent  
6 for an offense which, if committed by an adult, would constitute a  
7 crime and the offense involved the unlawful use or possession of a  
8 weapon, explosive or destructive device or is enumerated in  
9 subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2);

10 (8) To any person whose firearm is seized pursuant to the  
11 "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261  
12 (C.2C:25-17 et seq.) and whose firearm has not been returned; **[or]**

13 (9) To any person named on the consolidated Terrorist Watchlist  
14 maintained by the Terrorist Screening Center administered by the  
15 Federal Bureau of Investigation; or

16 (10) To any person who is subject to a court order prohibiting  
17 the custody, control, ownership, purchase, possession, or receipt of  
18 a firearm or ammunition issued pursuant to the "Extreme Risk  
19 Protective Order Act of 2018," P.L. c. (C. ) (pending before  
20 the Legislature as this bill).

21 d. Issuance. The chief of police of an organized full-time  
22 police department of the municipality where the applicant resides or  
23 the superintendent, in all other cases, shall upon application, issue  
24 to any person qualified under the provisions of subsection c. of this  
25 section a permit to purchase a handgun or a firearms purchaser  
26 identification card.

27 Any person aggrieved by the denial of a permit or identification  
28 card may request a hearing in the Superior Court of the county in  
29 which he resides if he is a resident of New Jersey or in the Superior  
30 Court of the county in which his application was filed if he is a  
31 nonresident. The request for a hearing shall be made in writing  
32 within 30 days of the denial of the application for a permit or  
33 identification card. The applicant shall serve a copy of his request  
34 for a hearing upon the chief of police of the municipality in which  
35 he resides, if he is a resident of New Jersey, and upon the  
36 superintendent in all cases. The hearing shall be held and a record  
37 made thereof within 30 days of the receipt of the application for a  
38 hearing by the judge of the Superior Court. No formal pleading and  
39 no filing fee shall be required as a preliminary to a hearing.  
40 Appeals from the results of a hearing shall be in accordance with  
41 law.

42 e. Applications. Applications for permits to purchase a  
43 handgun and for firearms purchaser identification cards shall be in  
44 the form prescribed by the superintendent and shall set forth the  
45 name, residence, place of business, age, date of birth, occupation,  
46 sex and physical description, including distinguishing physical  
47 characteristics, if any, of the applicant, and shall state whether the  
48 applicant is a citizen, whether he is an alcoholic, habitual drunkard,  
49 drug dependent person as defined in section 2 of P.L.1970, c.226



1 (C.24:21-2), whether he has ever been confined or committed to a  
2 mental institution or hospital for treatment or observation of a  
3 mental or psychiatric condition on a temporary, interim or  
4 permanent basis, giving the name and location of the institution or  
5 hospital and the dates of confinement or commitment, whether he  
6 has been attended, treated or observed by any doctor or psychiatrist  
7 or at any hospital or mental institution on an inpatient or outpatient  
8 basis for any mental or psychiatric condition, giving the name and  
9 location of the doctor, psychiatrist, hospital or institution and the  
10 dates of the occurrence, whether he presently or ever has been a  
11 member of any organization which advocates or approves the  
12 commission of acts of force and violence to overthrow the  
13 Government of the United States or of this State, or which seeks to  
14 deny others their rights under the Constitution of either the United  
15 States or the State of New Jersey, whether he has ever been  
16 convicted of a crime or disorderly persons offense, whether the  
17 person is subject to a restraining order issued pursuant to the  
18 "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261  
19 (C.2C:25-17 et seq.) prohibiting the person from possessing any  
20 firearm, whether the person is subject to a restraining order issued  
21 pursuant to the "Extreme Risk Protective Order Act of 2018."  
22 P.L. , c. (C. ) (pending before the Legislature as this bill)  
23 prohibiting the person from possessing any firearm, and other  
24 information as the superintendent shall deem necessary for the  
25 proper enforcement of this chapter. For the purpose of complying  
26 with this subsection, the applicant shall waive any statutory or other  
27 right of confidentiality relating to institutional confinement. The  
28 application shall be signed by the applicant and shall contain as  
29 references the names and addresses of two reputable citizens  
30 personally acquainted with him.

31 Application blanks shall be obtainable from the superintendent,  
32 from any other officer authorized to grant a permit or identification  
33 card, and from licensed retail dealers.

34 The chief police officer or the superintendent shall obtain the  
35 fingerprints of the applicant and shall have them compared with any  
36 and all records of fingerprints in the municipality and county in  
37 which the applicant resides and also the records of the State Bureau  
38 of Identification and the Federal Bureau of Investigation, provided  
39 that an applicant for a handgun purchase permit who possesses a  
40 valid firearms purchaser identification card, or who has previously  
41 obtained a handgun purchase permit from the same licensing  
42 authority for which he was previously fingerprinted, and who  
43 provides other reasonably satisfactory proof of his identity, need not  
44 be fingerprinted again; however, the chief police officer or the  
45 superintendent shall proceed to investigate the application to  
46 determine whether or not the applicant has become subject to any of  
47 the disabilities set forth in this chapter.

48 f. Granting of permit or identification card; fee; term; renewal;  
49 revocation. The application for the permit to purchase a handgun

1 together with a fee of \$2, or the application for the firearms  
2 purchaser identification card together with a fee of \$5, shall be  
3 delivered or forwarded to the licensing authority who shall  
4 investigate the same and, unless good cause for the denial thereof  
5 appears, shall grant the permit or the identification card, or both, if  
6 application has been made therefor, within 30 days from the date of  
7 receipt of the application for residents of this State and within 45  
8 days for nonresident applicants. A permit to purchase a handgun  
9 shall be valid for a period of 90 days from the date of issuance and  
10 may be renewed by the issuing authority for good cause for an  
11 additional 90 days. A firearms purchaser identification card shall  
12 be valid until such time as the holder becomes subject to any of the  
13 disabilities set forth in subsection c. of this section, whereupon the  
14 card shall be void and shall be returned within five days by the  
15 holder to the superintendent, who shall then advise the licensing  
16 authority. Failure of the holder to return the firearms purchaser  
17 identification card to the superintendent within the five days shall  
18 be an offense under subsection a. of N.J.S.2C:39-10. Any firearms  
19 purchaser identification card may be revoked by the Superior Court  
20 of the county wherein the card was issued, after hearing upon  
21 notice, upon a finding that the holder thereof no longer qualifies for  
22 the issuance of the permit. The county prosecutor of any county,  
23 the chief police officer of any municipality or any citizen may apply  
24 to the court at any time for the revocation of the card.

25 There shall be no conditions or requirements added to the form  
26 or content of the application, or required by the licensing authority  
27 for the issuance of a permit or identification card, other than those  
28 that are specifically set forth in this chapter.

29 g. Disposition of fees. All fees for permits shall be paid to the  
30 State Treasury if the permit is issued by the superintendent, to the  
31 municipality if issued by the chief of police, and to the county  
32 treasurer if issued by the judge of the Superior Court.

33 h. Form of permit; quadruplicate; disposition of copies. The  
34 permit shall be in the form prescribed by the superintendent and  
35 shall be issued to the applicant in quadruplicate. Prior to the time  
36 he receives the handgun from the seller, the applicant shall deliver  
37 to the seller the permit in quadruplicate and the seller shall  
38 complete all of the information required on the form. Within five  
39 days of the date of the sale, the seller shall forward the original  
40 copy to the superintendent and the second copy to the chief of  
41 police of the municipality in which the purchaser resides, except  
42 that in a municipality having no chief of police, the copy shall be  
43 forwarded to the superintendent. The third copy shall then be  
44 returned to the purchaser with the pistol or revolver and the fourth  
45 copy shall be kept by the seller as a permanent record.

46 i. Restriction on number of firearms person may purchase.  
47 Only one handgun shall be purchased or delivered on each permit  
48 and no more than one handgun shall be purchased within any 30-  
49 day period, but this limitation shall not apply to:

- 1 (1) a federal, State, or local law enforcement officer or agency
- 2 purchasing handguns for use by officers in the actual performance
- 3 of their law enforcement duties;
- 4 (2) a collector of handguns as curios or relics as defined in Title
- 5 18, United States Code, section 921 (a) (13) who has in his
- 6 possession a valid Collector of Curios and Relics License issued by
- 7 the federal Bureau of Alcohol, Tobacco, Firearms and Explosives;
- 8 (3) transfers of handguns among licensed retail dealers,
- 9 registered wholesale dealers and registered manufacturers;
- 10 (4) transfers of handguns from any person to a licensed retail
- 11 dealer or a registered wholesale dealer or registered manufacturer;
- 12 (5) any transaction where the person has purchased a handgun
- 13 from a licensed retail dealer and has returned that handgun to the
- 14 dealer in exchange for another handgun within 30 days of the
- 15 original transaction, provided the retail dealer reports the exchange
- 16 transaction to the superintendent; or
- 17 (6) any transaction where the superintendent issues an
- 18 exemption from the prohibition in this subsection pursuant to the
- 19 provisions of section 4 of P.L.2009, c.186 (C.2C:58-3.4).
- 20 The provisions of this subsection shall not be construed to afford
- 21 or authorize any other exemption from the regulatory provisions
- 22 governing firearms set forth in chapter 39 and chapter 58 of Title
- 23 2C of the New Jersey Statutes;
- 24 A person shall not be restricted as to the number of rifles or
- 25 shotguns he may purchase, provided he possesses a valid firearms
- 26 purchaser identification card and provided further that he signs the
- 27 certification required in subsection b. of this section for each
- 28 transaction.
- 29 j. Firearms passing to heirs or legatees. Notwithstanding any
- 30 other provision of this section concerning the transfer, receipt or
- 31 acquisition of a firearm, a permit to purchase or a firearms
- 32 purchaser identification card shall not be required for the passing of
- 33 a firearm upon the death of an owner thereof to his heir or legatee,
- 34 whether the same be by testamentary bequest or by the laws of
- 35 intestacy. The person who shall so receive, or acquire the firearm
- 36 shall, however, be subject to all other provisions of this chapter. If
- 37 the heir or legatee of the firearm does not qualify to possess or carry
- 38 it, he may retain ownership of the firearm for the purpose of sale for
- 39 a period not exceeding 180 days, or for a further limited period as
- 40 may be approved by the chief law enforcement officer of the
- 41 municipality in which the heir or legatee resides or the
- 42 superintendent, provided that the firearm is in the custody of the
- 43 chief law enforcement officer of the municipality or the
- 44 superintendent during that period.
- 45 k. Sawed-off shotguns. Nothing in this section shall be
- 46 construed to authorize the purchase or possession of any sawed-off
- 47 shotgun.
- 48 l. Nothing in this section and in N.J.S.2C:58-2 shall apply to
- 49 the sale or purchase of a visual distress signalling device approved

1 by the United States Coast Guard, solely for possession on a private  
2 or commercial aircraft or any boat; provided, however, that no  
3 person under the age of 18 years shall purchase nor shall any person  
4 sell to a person under the age of 18 years a visual distress signalling  
5 device.

6 m. The provisions of subsections a. and b. of this section and  
7 paragraphs (4) and (5) of subsection a. of N.J.S.2C:58-2 shall not  
8 apply to the purchase of firearms by a law enforcement agency for  
9 use by law enforcement officers in the actual performance of the  
10 officers' official duties, which purchase may be made directly from  
11 a manufacturer or from a licensed dealer located in this State or any  
12 other state.

13 (cf: P.L.2016, c.74, s.1)

14

15 16. The Supreme Court may promulgate Rules of Court to  
16 effectuate the purposes of the "Extreme Risk Protective Order Act  
17 of 2018," P.L. c. (C. ) (pending before the Legislature as  
18 this bill).

19

20 17. (New section) The Attorney General may adopt, pursuant to  
21 the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1  
22 et seq.), rules and regulations necessary to implement the provisions  
23 of the "Extreme Risk Protective Order Act of 2018,"  
24 P.L. c. (C. ) (pending before the Legislature as this bill).

25

26 18. This act shall take effect on the first day of the seventh  
27 month next following enactment, but the Attorney General and the  
28 Administrative Director of the Courts may take any anticipatory  
29 action as shall be necessary to effectuate the purposes of this act.

30

31

32

#### STATEMENT

33

34 The bill, entitled the "Extreme Risk Protective Order Act of  
35 2018," establishes a process and procedures for obtaining a  
36 protective order against persons who pose a significant danger of  
37 bodily injury to themselves or others by possessing or purchasing a  
38 firearm. The order would prohibit the subject of the order from  
39 possessing or purchasing a firearm or ammunition and from holding  
40 a firearms purchaser identification card, permit to purchase a  
41 handgun, and permit to carry a firearm.

#### TEMPORARY EXTREME RISK PROTECTIVE ORDER

42 The bill specifically authorizes a family or household member or  
43 a police officer to file a petition in the Superior Court for a  
44 temporary extreme risk protective order, in accordance with the  
45 Rules of Court, alleging that a specific person poses a significant  
46 danger of bodily injury to self or others by having custody or  
47 control of, owning, possessing, purchasing, or receiving a firearm.  
48 The petition is to include an affidavit including the number, types,  
49

1 physical description, and locations of any firearms and ammunition  
2 the petitioner believes are controlled or possessed by the  
3 respondent.

4 The bill directs that the petition is to be heard by the Superior  
5 Court in an expedited manner. The court is to issue the protective  
6 order if it finds good cause to believe that the respondent poses an  
7 immediate and present danger of causing bodily injury to self or  
8 others by having custody or control of, owning, possessing,  
9 purchasing, or receiving a firearm. The court would not charge a  
10 fee to file the petition.

11 In deciding whether to issue the temporary protective order, the  
12 court would consider: whether the person has a history of threats or  
13 acts of violence directed toward self or others; a history of use,  
14 attempted use, or threatened use of physical force against another; a  
15 recent violation of a restraining order issued pursuant to the  
16 “Prevention of Domestic Violence Act of 1991” or a protective  
17 order issued pursuant to the “Sexual Assault Survivor Protection  
18 Act of 2015”; a conviction of a violent disorderly persons or petty  
19 disorderly persons offense, stalking offense, domestic violence  
20 offense, or an offense involving cruelty to animals; and a history of  
21 drug or alcohol abuse. The bill also authorizes the court to consider  
22 other factors related to whether the respondent poses an increased  
23 risk of violence, including, but not limited to, whether the person  
24 has a history of violating a restraining order issued pursuant to the  
25 “Prevention of Domestic Violence Act of 1991” or a protective  
26 order issued pursuant to the “Sexual Assault Survivor Protection  
27 Act of 2015”; prior arrests for a violent disorderly persons or petty  
28 disorderly persons offense, stalking, or domestic violence offense;  
29 and recent acquisitions of a firearm, ammunition, or other deadly  
30 weapon.

31 A temporary extreme risk protective order prohibits the subject  
32 of the order from having custody or control of, owning, purchasing,  
33 possessing, or receiving firearms or ammunition. It also prohibits  
34 the person from securing or holding a firearms purchaser  
35 identification card, a permit to purchase a handgun, or a permit to  
36 carry a handgun while the order is in effect. Under the order, the  
37 subject would be required to surrender firearms and ammunition, as  
38 well as the identification card or permits, which would be  
39 immediately revoked.

#### 40 EXTREME RISK PROTECTIVE ORDER

41 The temporary extreme risk protective order is to remain in  
42 effect until the court considers whether a one-year extreme risk  
43 protective order should be issued. A hearing for an extreme risk  
44 protective order would be held within 10 days of the filing of a  
45 petition for a temporary order. At the hearing, the court is to  
46 consider the same factors considered for a temporary order. The  
47 one-year order is to be issued if the court finds by a preponderance  
48 of the evidence at the hearing that the respondent poses a significant

1 danger of bodily injury to self or others by having custody or  
2 control of, owning, possessing, purchasing, or receiving a firearm.

3 EXTENSION OF EXTREME RISK PROTECTIVE ORDER

4 The one-year order may be extended for another year if  
5 requested by the family or household member or law enforcement  
6 officer any time within three months of the expiration of the current  
7 protective order and upon notice to the respondent and a hearing.  
8 The court is required to make the same findings, by a  
9 preponderance of the evidence, as required for granting the initial  
10 one-year order.

11 SURRENDER PROVISIONS

12 A person against whom a temporary extreme risk protective  
13 order or extreme risk protective order is issued is required to  
14 surrender to the local law enforcement agency or to surrender or sell  
15 to a federally licensed dealer all firearms and ammunition in the  
16 person's custody or control, or which the person owns or possesses,  
17 and to surrender to law enforcement any firearms purchaser  
18 identification card, permit to purchase a handgun, or permit to carry  
19 a handgun the person holds. The person can petition for the return  
20 of the firearms or ammunition within 30 days before the order  
21 expires with certain exceptions. The person also may sell the  
22 firearms or ammunition to a licensed dealer. A law enforcement  
23 agency holding a surrendered firearm or ammunition a year after the  
24 order expires is authorized to destroy the firearm or ammunition in  
25 accordance with agency policies.

26 PETITION TO TERMINATE EXTREME RISK PROTECTIVE ORDER

27 The subject of an order has one opportunity to have an order  
28 terminated. The subject is required to prove at a hearing, by a  
29 preponderance of the evidence, that the person no longer poses a  
30 significant danger of causing bodily injury to self or another by  
31 having custody or control of, owning, possessing, purchasing, or  
32 receiving a firearm.

33 DOMESTIC VIOLENCE CENTRAL REGISTRY

34 The bill further requires the Administrative Office of the Courts  
35 to include in the Domestic Violence Central Registry all persons  
36 who have had extreme risk protective orders entered against them,  
37 and all persons who have been charged with a violation of an  
38 extreme risk protective order. These records are to be kept  
39 confidential and released only to authorized entities which also are  
40 required to keep confidential the information and are prohibited  
41 from disseminating it for any reason other than as authorized by  
42 law.

43 AMENDATORY SECTIONS

44 N.J.S.A.2C:29-9 is amended to provide that a person subject to  
45 an extreme risk protective order who violates the order commits a  
46 crime of the fourth degree. Fourth degree crimes are punishable by  
47 a term of imprisonment of up to 18 months, a fine of up to \$10,000,  
48 or both.

1 N.J.S.A.2C:39-7 is amended to provide that the subject of an  
2 extreme risk protective order who purchases, acquires, owns,  
3 possesses, or controls a firearm or ammunition commits a crime of  
4 the third degree. Third degree crimes are punishable by a term of  
5 imprisonment of three to five years, a fine of up to \$15,000, or both.

6 N.J.S.A.2C:58-3 is amended to provide that the subject of an  
7 order also is disqualified from obtaining a firearms purchaser  
8 identification card or permit to purchase a handgun.

9 EFFECTIVE DATE

10 The bill takes effect on the first day of the seventh month next  
11 following enactment and authorizes the Attorney General and the  
12 Administrative Director of the Courts to take anticipatory action.

# SENATE LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### **SENATE, No. 2259**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: APRIL 16, 2018

The Senate Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 2259.

As amended and reported by the committee, this bill, entitled the “Extreme Risk Protective Order Act of 2018,” establishes a process and procedures for obtaining a protective order against persons who pose a significant danger of bodily injury to themselves or others by possessing or purchasing a firearm. The protective order would prohibit the subject from possessing or purchasing a firearm or ammunition and from holding a firearms purchaser identification card (FPIC), permit to purchase a handgun (PPH), and permit to carry a handgun (PCH).

#### TEMPORARY EXTREME RISK PROTECTIVE ORDERS (T-ERPO)

The amended bill authorizes a family or household member or a law enforcement officer to petition for a T-ERPO alleging that a person poses a significant danger of bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm. A petition for a T-ERPO is to be filed in court in accordance with the Rules of Court. The petition is to include an affidavit including the number, types, physical description, and locations of any firearms and ammunition the family member or law enforcement officer believes are controlled or possessed by the person.

The court is to issue the T-ERPO if it finds good cause to believe that the person poses an immediate and present danger of causing bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm. The amended bill sets forth alternate procedures if the petition for a T-ERPO is filed against a law enforcement officer.

In deciding whether to issue a T-ERPO, the court is required to consider whether the person has a history of threats or acts of violence directed toward self or others; a history of use, attempted use, or threatened use of physical force against another; any temporary or final domestic violence restraining order or sexual violence protective order or a violation of a temporary or final domestic violence restraining order or sexual violence protective order; any prior arrests,



pending charges, or convictions for a violent indictable crime or disorderly persons offense, a stalking offense, or domestic violence offense; an offense involving animal cruelty; a history of drug or alcohol abuse; and any recent acquisitions of a firearm, ammunition, or other deadly weapon.

While a T-ERPO is in effect, the person is prohibited from possessing or purchasing firearms or ammunition, as well obtaining or holding a FPIC, PPH, or PCH. Firearms, ammunition, FPICs, PPHs, and PCHs are to be surrendered, and the FPICs, PPHs, and PCHs are revoked.

#### EXTREME RISK PROTECTIVE ORDER (ERPO)

The court is to consider whether a one-year ERPO should be issued during a hearing to be held within 10 days of the filing of the T-ERPO. The court is to consider the same factors considered for a T-ERPO. The ERPO is to be issued if the court finds by a preponderance of the evidence that the person poses a significant danger of bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm. The ERPO may be extended for one year under certain circumstances.

#### SURRENDER PROVISIONS

A person against whom a T-ERPO or ERPO is issued is required to surrender to the local law enforcement agency or to surrender or sell to a federally licensed dealer all firearms and ammunition in the person's custody or control, or which the person owns or possesses, and to surrender to law enforcement any FPICs, PPHs, and PCHs the person holds. The person can petition for the return of the firearms or ammunition within three months, but not less than 30 days of expiration of the order, with certain exceptions. The person also may sell the firearms or ammunition to a licensed dealer. A law enforcement agency holding a surrendered firearm or ammunition a year after the order expires is authorized to destroy the firearm or ammunition in accordance with agency policies.

A person has one opportunity to terminate a T-ERPO or ERPO. The person is required to prove at a hearing, by a preponderance of the evidence, that he or she no longer poses a significant danger of causing bodily injury to self or another by having custody or control of, owning, possessing, purchasing, or receiving a firearm.

#### PENALTIES

A person who violates a condition of a T-ERPO or ERPO is to be arrested for contempt of court.

A person who violates a T-ERPO or ERPO is guilty of a fourth degree crime, which is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both. A person subject to a T-ERPO or ERPO who purchases, acquires, owns, possesses, or controls a firearm or ammunition commits a crime of the third degree, which is

punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both. The person also is disqualified from obtaining a FPIC, PPH, or PCH.

#### ELECTRONIC CENTRAL REGISTRY

Finally, the amended bill requires the Administrative Office of the Courts (AOC) to include in an electronic central registry created and maintained by the AOC all persons who have had an ERPO entered against them, and all persons who have been charged with a violation of a T-ERPO or ERPO.

As amended and reported by the committee, Senate Bill No. 2259 is identical to Assembly Bill No. 1217 (ACS/1R), which was also amended and reported by the committee on this same date.

#### COMMITTEE AMENDMENTS:

The committee amended the bill to:

- (1) require the AOC to prescribe the form of the petition;
- (2) remove the provision allowing a person to file a petition for a T-ERPO in any State, county, or municipal law enforcement agency;
- (3) specify that a State, county, or municipal law enforcement agency is to advise the person filing the petition of the appropriate procedure;
- (4) clarify that filing a petition under the bill does not preclude a person from applying for a restraining order pursuant to the “Prevention of Domestic Violence Act of 1991”;
- (5) require the county prosecutor or a designee to produce in an expedited manner any available evidence;
- (6) require the court to consider whether the respondent is the subject of a temporary or final domestic violence restraining order or has violated a temporary or final domestic violence restraining order; as reported out of Assembly Appropriations the court was required to consider whether the respondent had any recent violation of a domestic violence restraining order;
- (7) require the court to consider whether the respondent is the subject of any temporary or final sexual violence protective orders or has violated a temporary or final sexual violence protective order; as reported out of Assembly Appropriations, the court was required to consider any recent violation of a sexual violence protective order;
- (8) require the court to consider whether the respondent has any prior arrests, pending charges, or convictions for a violent indictable crime or disorderly persons offense; as introduced, the court was required to consider whether

- the respondent has ever been convicted of a violent disorderly persons or petty disorderly persons offense;
- (9) require the court to consider whether the respondent has any recent acquisitions of a firearm, ammunition, or other deadly weapon; as reported out of Assembly Appropriations, the court was permitted to consider this factor;
  - (10) remove the provision containing other factors that the court may consider in determining whether to issue an order;
  - (11) establish alternate procedures when a petition for a T-ERPO is to be filed against a law enforcement officer;
  - (12) require the county prosecutor to forward a copy of the T-ERPO to the appropriate law enforcement agency; as introduced, the court was required to forward it to the law enforcement agency;
  - (13) clarify that an ERPO expires one year following the date of entry of the order, unless the ERPO is extended by the court in accordance with the amended bill's provisions;
  - (14) require a petition for an extension of an ERPO to be filed at least three months, but not less than 30 days before the expiration of the current protective order;
  - (15) require the respondent to file a receipt of surrender of firearms with the county prosecutor; as reported out of Assembly Appropriations the bill required the receipt to be filed with the law enforcement agency that served the protective order;
  - (16) clarify that the bill does not prohibit revocation and seizure of a person's firearms purchaser identification card, permit to purchase a handgun, permit to carry a handgun, and weapons as provided under current law;
  - (17) require the AOC to include in an electronic central registry created and maintained by the AOC all persons who have had an ERPO entered against them and all persons who have been charged with a violation of a T-ERPO or ERPO; as reported out of the Assembly Appropriations Committee the bill required the AOC to include these persons in the Domestic Violence Central Registry;
  - (18) provide that the records in the registry are only to be released to certain persons for specific purposes;
  - (19) provide that a respondent's information, other than information regarding a violation of an T-ERPO or an ERPO is to be removed from the registry upon expiration of the ERPO; and
  - (20) make other clarifying and technical changes.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR SENATE, No. 2259

# STATE OF NEW JERSEY

DATED: JUNE 4, 2018

The Senate Budget and Appropriations Committee reports favorably a Senate Committee Substitute for Senate Bill No. 2259.

This substitute bill, entitled the “Extreme Risk Protective Order Act of 2018,” establishes a process and procedures for obtaining a protective order against persons who pose a significant danger of bodily injury to themselves or others by possessing or purchasing a firearm. The protective order would prohibit the subject from possessing or purchasing a firearm or ammunition and from holding a firearms purchaser identification card (FPIC), permit to purchase a handgun (PPH), and permit to carry a handgun (PCH).

#### TEMPORARY EXTREME RISK PROTECTIVE ORDER (T-ERPO)

The committee substitute authorizes a family or household member or a law enforcement officer to petition for a T-ERPO alleging that a person poses a significant danger of bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm. A petition for a T-ERPO is to be filed in court in accordance with the Rules of Court. The petition is to include an affidavit setting forth the facts tending to establish the grounds of the petition, or the reason for believing that they exist, and, *to the extent available*, provide the number, types, physical description, and locations of any firearms and ammunition currently believed by the petitioner to be controlled or possessed by the respondent.

The court is to issue the T-ERPO if it finds good cause to believe that the person poses an immediate and present danger of causing bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm. The committee substitute sets forth alternate procedures if the petition for a T-ERPO is filed against a law enforcement officer.

In deciding whether to issue a T-ERPO, the court is required to consider whether the person has a history of threats or acts of violence directed toward self or others; a history of use, attempted use, or threatened use of physical force against another; any temporary or final domestic violence restraining order or sexual violence protective order, or a violation of a temporary or final domestic violence

restraining order or sexual violence protective order; any prior arrests, pending charges, or convictions for a violent indictable crime or disorderly persons offense, a stalking offense, or domestic violence offense; an offense involving animal cruelty; a history of animal cruelty or drug or alcohol abuse; and any recent acquisitions of a firearm, ammunition, or other deadly weapon.

While a T-ERPO is in effect, the person is prohibited from possessing or purchasing firearms or ammunition, as well obtaining or holding a FPIC, PPH, or PCH. Firearms, ammunition, FPICs, PPHs, and PCHs are to be surrendered, and the FPICs, PPHs, and PCHs are revoked.

#### FINAL EXTREME RISK PROTECTIVE ORDER (F-ERPO)

The court is to consider whether a F-ERPO should be issued during a hearing to be held within 10 days of the filing of the T-ERPO. The court is to consider the same factors considered for a T-ERPO. The F-ERPO is to be issued if the court finds by a preponderance of the evidence that the person poses a significant danger of bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm.

Upon request of the petitioner or respondent, at any time following the issuance of the F-ERPO and after notice and a hearing, the court may terminate the F-ERPO. The court is to consider the same factors during the hearing that were considered for the T-ERPO, as well as any other relevant evidence, including whether the respondent has received, or is receiving, mental health treatment. If the respondent petitioned to terminate the F-ERPO, the respondent bears the burden at the hearing of proving by a preponderance of the evidence that he or she no longer poses a significant danger of causing bodily injury to himself or herself or to others by having custody or control of, owning, possessing, purchasing, or receiving a firearm.

#### SURRENDER PROVISIONS

A person against whom a T-ERPO or F-ERPO is issued is required to surrender to the local law enforcement agency or surrender or sell to a federally licensed dealer all firearms and ammunition in the person's custody or control, or which the person owns or possesses, and to surrender to law enforcement any FPICs, PPHs, and PCHs the person holds. The person can petition for the return of the firearms or ammunition after the F-ERPO terminated. The agency is to return the firearms or ammunition within 30 days of the petition, unless the firearm has been reported stolen or the respondent is prohibited by law from possessing a firearm. The person also may sell surrendered firearms or ammunition to a licensed dealer. A law enforcement agency holding a surrendered firearm or ammunition a year after the

order is terminated is authorized to destroy the firearm or ammunition in accordance with agency policies.

#### PENALTIES

A person who violates a condition of a T-ERPO or F-ERPO is to be arrested for contempt of court.

A person who violates a T-ERPO or F-ERPO is guilty of a fourth degree crime, which is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both. A person subject to a T-ERPO or F-ERPO who purchases, acquires, owns, possesses, or controls a firearm or ammunition commits a crime of the third degree, which is punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both. The person also is disqualified from obtaining a FPIC, PPH, or PCH.

#### ELECTRONIC CENTRAL REGISTRY

Finally, the committee substitute requires the Administrative Office of the Courts (AOC) to include in an electronic central registry created and maintained by the AOC all persons who have had an ERPO entered against them, and all persons who have been charged with a violation of a T-ERPO or F-ERPO.

As reported by the committee, this Senate Committee Substitute for Senate Bill No. 2259(1R) is identical to Assembly Bill No. 1217 (ACS/2R), which was amended and reported by the committee on this same date.

#### FISCAL IMPACT:

The Office of Legislative Services (OLS) states that since there is not enough information with which to determine the number of petitions that would be filed with the court for temporary extreme risk protective orders (T-ERPO) or final extreme risk protective orders (F-ERPO), it cannot determine the cost to be incurred by the Judiciary for hearing these petitions. The OLS also notes that the Administrative Office of the Courts (AOC) would incur indeterminate costs to create and maintain an electronic central registry of all persons who have had a F-ERPO entered against them, and all persons who have been charged with a violation of a T-ERPO or ERPO.

In addition, the OLS notes that local law enforcement agencies may incur indeterminate costs to store or destroy after one year those firearms or ammunition surrendered by individuals against whom T-ERPO or F-ERPO are issued.

The OLS states that the committee substitute classifies certain violations of the provisions as third or fourth degree crimes. Offenders convicted of third or fourth degree crimes are subject to terms of imprisonment of up to 18 months (fourth degree) or 3 to 5 years (third degree). However, convictions for third and fourth degree offenses generally carry with them the presumption of non-incarceration for

first time offenders. Any costs incurred by the Department of Corrections to house these offenders, if incarcerated, would be indeterminate.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## SENATE, No. 2259 STATE OF NEW JERSEY 218th LEGISLATURE

DATED: MAY 7, 2018

### SUMMARY

**Synopsis:** “Extreme Risk Protective Order Act of 2018.”

**Type of Impact:** General Fund expenditure

**Agencies Affected:** The Judiciary, Department of Corrections, Department of Law and Public Safety

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>		Indeterminate	

- The Office of Legislative Services (OLS) states that since there is not enough information with which to determine the number of petitions that would be filed with the court for temporary extreme risk protective orders or extreme risk protective orders, it cannot determine the cost to be incurred by the Judiciary for hearing these petitions. The OLS also notes that the Administrative Office of the Courts (AOC) would incur indeterminate costs to create and maintain an electronic central registry of all persons who have had an extreme risk protective order (ERPO) entered against them, and all persons who have been charged with a violation of a temporary extreme risk protective order (T-ERPO) or ERPO.
- In addition, the OLS notes that local law enforcement agencies may incur indeterminate costs to store or destroy after one year those firearms or ammunition surrendered by individuals against whom temporary extreme risk protective orders or extreme risk protective orders are issued.
- The OLS states that the bill classifies certain violations of the provisions as third or fourth degree crimes. Offenders convicted of third or fourth degree crimes are subject to terms of imprisonment of up to 18 months (fourth degree) or up to 5 years (third degree). However, convictions for third and fourth degree offenses carry with them the presumption of non-incarceration for first time offenders. Any costs incurred by the Department of Corrections to house these offenders, if incarcerated, would be indeterminate.



- The bill, entitled the “Extreme Risk Protective Order Act of 2018,” establishes a process and procedures for obtaining a protective order against persons who pose a significant danger of bodily injury to themselves or others by possessing or purchasing a firearm. The order would prohibit the subject of the order from possessing or purchasing a firearm or ammunition and from holding a firearms purchaser identification card, permit to purchase a handgun, and permit to carry a handgun.

## **BILL DESCRIPTION**

The amended bill, entitled the “Extreme Risk Protective Order Act of 2018,” establishes a process and procedures for obtaining a protective order against persons who pose a significant danger of bodily injury to themselves or others by possessing or purchasing a firearm. The protective order would prohibit the subject from possessing or purchasing a firearm or ammunition and from holding a firearms purchaser identification card (FPIC), permit to purchase a handgun (PPH), and permit to carry a handgun (PCH).

### **TEMPORARY EXTREME RISK PROTECTIVE ORDERS (T-ERPO)**

The bill authorizes a family or household member or a law enforcement officer to petition for a T-ERPO alleging that a person poses a significant danger of bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm. A petition for a T-ERPO is to be filed in court in accordance with the Rules of Court. The petition is to include an affidavit including the number, types, physical description, and locations of any firearms and ammunition the family member or law enforcement officer believes are controlled or possessed by the person.

The court is to issue the T-ERPO if it finds good cause to believe that the person poses an immediate and present danger of causing bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm. The bill sets forth alternate procedures if the petition for a T-ERPO is filed against a law enforcement officer.

In deciding whether to issue a T-ERPO, the court is required to consider whether the person has a history of threats or acts of violence directed toward self or others; a history of use, attempted use, or threatened use of physical force against another; any temporary or final domestic violence restraining order or sexual violence protective order or a violation of a temporary or final domestic violence restraining order or sexual violence protective order; any prior arrests, pending charges, or convictions for a violent indictable crime or disorderly persons offense, a stalking offense, or domestic violence offense; an offense involving animal cruelty; a history of drug or alcohol abuse; and any recent acquisitions of a firearm, ammunition, or other deadly weapon.

While a T-ERPO is in effect, the person is prohibited from possessing or purchasing firearms or ammunition, as well obtaining or holding a FPIC, PPH, or PCH. Firearms, ammunition, FPICs, PPHs, and PCHs are to be surrendered, and the FPICs, PPHs, and PCHs are revoked.

### **EXTREME RISK PROTECTIVE ORDER (ERPO)**

The court is to consider whether a one-year ERPO should be issued during a hearing to be held within 10 days of the filing of the T-ERPO. The court is to consider the same factors considered for a T-ERPO. The ERPO is to be issued if the court finds by a preponderance of the evidence that the person poses a significant danger of bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm. The ERPO may be extended for one year under certain circumstances.

#### SURRENDER PROVISIONS

A person against whom a T-ERPO or ERPO is issued is required to surrender to the local law enforcement agency or to surrender or sell to a federally licensed dealer all firearms and ammunition in the person's custody or control, or which the person owns or possesses, and to surrender to law enforcement any FPICs, PPHs, and PCHs the person holds. The person can petition for the return of the firearms or ammunition within three months, but not less than 30 days of expiration of the order, with certain exceptions. The person also may sell the firearms or ammunition to a licensed dealer. A law enforcement agency holding a surrendered firearm or ammunition a year after the order expires is authorized to destroy the firearm or ammunition in accordance with agency policies.

A person has one opportunity to terminate a T-ERPO or ERPO. The person is required to prove at a hearing, by a preponderance of the evidence, that he or she no longer poses a significant danger of causing bodily injury to self or another by having custody or control of, owning, possessing, purchasing, or receiving a firearm.

#### PENALTIES

A person who violates a condition of a T-ERPO or ERPO is to be arrested for contempt of court.

A person who violates a T-ERPO or ERPO is guilty of a fourth degree crime, which is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both. A person subject to a T-ERPO or ERPO who purchases, acquires, owns, possesses, or controls a firearm or ammunition commits a crime of the third degree, which is punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both. The person also is disqualified from obtaining a FPIC, PPH, or PCH.

#### ELECTRONIC CENTRAL REGISTRY

Finally, the bill requires the AOC to include in an electronic central registry created and maintained by the AOC all persons who have had an ERPO entered against them, and all persons who have been charged with a violation of a T-ERPO or ERPO.

## **FISCAL ANALYSIS**

#### ***EXECUTIVE BRANCH***

None received.

#### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS states that since there is not enough information with which to determine the number of petitions that would be filed with the court for temporary extreme risk protective orders or extreme risk protective orders, it cannot determine the cost to be incurred by the Judiciary for hearing these petitions. A petitioner who is a family or household member is not to be required to serve any order on a respondent and law enforcement agencies are not to charge a fee or seek reimbursement for costs to serve an order.

The OLS also notes that the AOC would incur indeterminate costs to create and maintain an electronic central registry of all persons who have had an ERPO entered against them, and all persons who have been charged with a violation of a T-ERPO or ERPO. In addition, local law

enforcement agencies may incur indeterminate costs to store or destroy after one year those firearms or ammunition surrendered by individuals against whom temporary extreme risk protective orders or extreme risk protective orders are issued.

The OLS also notes that the bill classifies certain violations of the provisions as third or fourth degree crimes. Offenders convicted of third or fourth degree crimes are subject to terms of up to 18 months (fourth degree) or up to 5 years (third degree). However, convictions for third and fourth degree offenses carry with them the presumption of non-incarceration for first time offenders. Any costs incurred by the Department of Corrections to house these offenders, if incarcerated, would be indeterminate.

*Section: Judiciary*

*Analyst: Anne Raughley  
Principal Fiscal Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE COMMITTEE SUBSTITUTE FOR**  
**SENATE, No. 2259**  
**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

DATED: JUNE 12, 2018

**SUMMARY**

**Synopsis:** “Extreme Risk Protective Order Act of 2018.”

**Type of Impact:** General Fund expenditure

**Agencies Affected:** The Judiciary, Department of Corrections, Department of Law and Public Safety

**Office of Legislative Services Estimate**

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate		

- The Office of Legislative Services (OLS) states that since there is not enough information with which to determine the number of petitions that would be filed with the court for temporary extreme risk protective orders or extreme risk protective orders, it cannot determine the cost to be incurred by the Judiciary for hearing these petitions. The OLS also notes that the Administrative Office of the Courts (AOC) would incur indeterminate costs to create and maintain an electronic central registry of all persons who have had an extreme risk protective order (ERPO) entered against them, and all persons who have been charged with a violation of a temporary extreme risk protective order (T-ERPO) or ERPO.
- In addition, the OLS notes that local law enforcement agencies may incur indeterminate costs to store or destroy after one year those firearms or ammunition surrendered by individuals against whom temporary extreme risk protective orders or extreme risk protective orders are issued.
- The OLS states that the committee substitute classifies certain violations of the provisions as third or fourth degree crimes. Offenders convicted of third or fourth degree crimes are subject to terms of imprisonment of up to 18 months (fourth degree) or 3 to 5 years (third degree). However, convictions for third and fourth degree offenses generally carry with them the presumption of non-incarceration for first time offenders. Any costs incurred by the Department of Corrections to house these offenders, if incarcerated, would be indeterminate.



- The committee substitute, entitled the “Extreme Risk Protective Order Act of 2018,” establishes a process and procedures for obtaining a protective order against persons who pose a significant danger of bodily injury to themselves or others by possessing or purchasing a firearm. The order would prohibit the subject of the order from possessing or purchasing a firearm or ammunition and from holding a firearms purchaser identification card, permit to purchase a handgun, and permit to carry a handgun.

## **BILL DESCRIPTION**

This substitute bill, entitled the “Extreme Risk Protective Order Act of 2018,” establishes a process and procedures for obtaining a protective order against persons who pose a significant danger of bodily injury to themselves or others by possessing or purchasing a firearm. The protective order would prohibit the subject from possessing or purchasing a firearm or ammunition and from holding a firearms purchaser identification card (FPIC), permit to purchase a handgun (PPH), and permit to carry a handgun (PCH).

### TEMPORARY EXTREME RISK PROTECTIVE ORDER (T-ERPO)

The committee substitute authorizes a family or household member or a law enforcement officer to petition for a T-ERPO alleging that a person poses a significant danger of bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm. A petition for a T-ERPO is to be filed in court in accordance with the Rules of Court. The petition is to include an affidavit setting forth the facts tending to establish the grounds of the petition, or the reason for believing that they exist, and, *to the extent available*, provide the number, types, physical description, and locations of any firearms and ammunition currently believed by the petitioner to be controlled or possessed by the respondent.

The court is to issue the T-ERPO if it finds good cause to believe that the person poses an immediate and present danger of causing bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm. The committee substitute sets forth alternate procedures if the petition for a T-ERPO is filed against a law enforcement officer.

In deciding whether to issue a T-ERPO, the court is required to consider whether the person has a history of threats or acts of violence directed toward self or others; a history of use, attempted use, or threatened use of physical force against another; any temporary or final domestic violence restraining order or sexual violence protective order, or a violation of a temporary or final domestic violence restraining order or sexual violence protective order; any prior arrests, pending charges, or convictions for a violent indictable crime or disorderly persons offense, a stalking offense, or domestic violence offense; an offense involving animal cruelty; a history of animal cruelty or drug or alcohol abuse; and any recent acquisitions of a firearm, ammunition, or other deadly weapon.

While a T-ERPO is in effect, the person is prohibited from possessing or purchasing firearms or ammunition, as well obtaining or holding a FPIC, PPH, or PCH. Firearms, ammunition, FPICs, PPHs, and PCHs are to be surrendered, and the FPICs, PPHs, and PCHs are revoked.

### FINAL EXTREME RISK PROTECTIVE ORDER (F-ERPO)

The court is to consider whether an F-ERPO should be issued during a hearing to be held within 10 days of the filing of the T-ERPO. The court is to consider the same factors considered for a T-ERPO. The F-ERPO is to be issued if the court finds by a preponderance of the evidence that the person poses a significant danger of bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm.

Upon request of the petitioner or respondent, at any time following the issuance of the F-ERPO and after notice and a hearing, the court may terminate the F-ERPO. The court is to consider the same factors during the hearing that were considered for the T-ERPO, as well as any other relevant evidence, including whether the respondent has received, or is receiving, mental health treatment. If the respondent petitioned to terminate the F-ERPO, the respondent bears the burden at the hearing of proving by a preponderance of the evidence that he or she no longer poses a significant danger of causing bodily injury to himself or herself or to others by having custody or control of, owning, possessing, purchasing, or receiving a firearm.

#### SURRENDER PROVISIONS

A person against whom a T-ERPO or F-ERPO is issued is required to surrender to the local law enforcement agency or surrender or sell to a federally licensed dealer all firearms and ammunition in the person's custody or control, or which the person owns or possesses, and to surrender to law enforcement any FPICs, PPHs, and PCHs the person holds. The person can petition for the return of the firearms or ammunition after the F-ERPO terminated. The agency is to return the firearms or ammunition within 30 days of the petition, unless the firearm has been reported stolen or the respondent is prohibited by law from possessing a firearm. The person also may sell surrendered firearms or ammunition to a licensed dealer. A law enforcement agency holding a surrendered firearm or ammunition a year after the order is terminated is authorized to destroy the firearm or ammunition in accordance with agency policies.

#### PENALTIES

A person who violates a condition of a T-ERPO or F-ERPO is to be arrested for contempt of court.

A person who violates a T-ERPO or F-ERPO is guilty of a fourth degree crime, which is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both. A person subject to a T-ERPO or F-ERPO who purchases, acquires, owns, possesses, or controls a firearm or ammunition commits a crime of the third degree, which is punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both. The person also is disqualified from obtaining a FPIC, PPH, or PCH.

#### ELECTRONIC CENTRAL REGISTRY

Finally, the committee substitute requires the Administrative Office of the Courts (AOC) to include in an electronic central registry created and maintained by the AOC all persons who have had an ERPO entered against them, and all persons who have been charged with a violation of a T-ERPO or F-ERPO.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS states that since there is not enough information with which to determine the number of petitions that would be filed with the court for temporary extreme risk protective

orders or extreme risk protective orders, it cannot determine the cost to be incurred by the Judiciary for hearing these petitions. A petitioner who is a family or household member is not to be required to serve any order on a respondent and law enforcement agencies are not to charge a fee or seek reimbursement for the cost of service of an order.

The OLS also notes that the AOC would incur indeterminate costs to create and maintain an electronic central registry of all persons who have had an ERPO entered against them, and all persons who have been charged with a violation of a T-ERPO or ERPO. In addition, local law enforcement agencies may incur indeterminate costs to store or destroy after one year those firearms or ammunition surrendered by individuals against whom temporary extreme risk protective orders or extreme risk protective orders are issued.

The OLS also notes that the bill classifies certain violations of the provisions as third or fourth degree crimes. Offenders convicted of third or fourth degree crimes are subject to terms of up to 18 months (fourth degree) or 3 to 5 years (third degree). However, convictions for third and fourth degree offenses carry generally with them the presumption of non-incarceration for first time offenders. Any costs incurred by the Department of Corrections to house these offenders, if incarcerated, would be indeterminate.

*Section:           Judiciary*

*Analyst:         Anne Raughley*  
*Principal Fiscal Analyst*

*Approved:       Frank W. Haines III*  
*Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).



## Newark, N.J.

# Governor Murphy Toughens New Jersey's Gun Laws by Signing Safety Measures to Protect Children and Families

06/13/2018

**TRENTON** - Governor Phil Murphy today signed a package of common-sense gun safety bills that make New Jersey among the states with the strongest and most formidable gun laws in the nation. More than 2,000 shootings occur annually in New Jersey, with around 500 firearm-related deaths each year. Firearm-related violence costs the state's economy approximately \$1.2 billion annually, and directly costs taxpayers nearly \$275 million.

"Today, I'm proud to sign this series of common-sense gun safety bills into law to protect our children and families from the reckless dangers of gun violence, something the federal government has failed to do on behalf of its residents," **said Governor Murphy**. "By setting these higher standards for gun safety, New Jersey continues to bolster its reputation as a national leader on this critical social and public health issue."

The six bills include:

**A1181**, which allows mental health practitioners and law enforcement officials to keep firearms away from mental health and therapy patients who seek to harm themselves or others. The bill amends current law to require that licensed mental health practitioners exercise their duty to warn and protect by alerting law enforcement if a patient has threatened to and intends to commit imminent, serious physical violence against themselves or others. If law enforcement determines that the patient is incapable under statute of possessing a firearm, then any firearm ID card or purchasing or carrying permit is voided and subject to revocation by the Superior Court.

Sponsors include Assembly members Patricia Egan Jones, Gabriela M. Mosquera, Shavonda E. Sumter, JoAnn Downey, Arthur Barclay and Paul D. Moriarty.

**A1217**, known as the Extreme Risk Protective Order Act of 2018, authorizes New Jersey courts to issue gun violence protective orders to individuals who pose a significant risk of personal injury to themselves or others by possessing or owning a firearm. The protective orders prohibit the person who the order is filed against from securing or possessing any permit or license allowing firearm possession during the protective-order period. The bill also makes it a fourth-degree crime for a person to purposely or knowingly violate any provision of an extreme risk protective order.

Sponsors include Assembly members John F. McKeon, Louis D. Greenwald, Mila M. Jasey, Tim Eustace, Andrew Zwicker, Carol A. Murphy and Paul D. Moriarty.

**A2757** strengthens the safety of firearm transfers by requiring background checks on individuals who are purchasing from or being transferred firearms by private dealers. The bill amends current law to require any person who is not a licensed firearm retail dealer and who privately sells or transfers a firearm to another person to conduct the transaction through a licensed retail dealer. Licensed dealers are required to conduct a background check of



the person acquiring the firearm before the transaction occurs. In addition, the legislation exempts sales and transfers between members of an immediate family; law enforcement; licensed collectors of antique firearms; or a temporary transfer from being conducted through a licensed dealer and subject to a background check.

Sponsors include Assembly members Louis D. Greenwald, Jamel C. Holley, Paul D. Moriarity and Senator Linda R. Greenstein.

**A2758** amends the requirements necessary to show a justifiable need to carry a hand gun in public. This bill changes the serious threat threshold established by the previous administration by expressly defining justifiable need to require a showing of specific threats or previous attacks that demonstrate a special danger to the applicant's life and that cannot be avoided other than by issuance of a permit to carry a handgun. The bill's requirement to show specific threats tightens the qualifications for firearm carrying.

Sponsors include Assembly members Louis D. Greenwald, Jamel C. Holley, Paul D. Moriarity and Senator Linda R. Greenstein.

**A2759** adds armor piercing ammunition to the list of ammunition that is prohibited in New Jersey. The bill was written to prevent civilians from legally possessing ammunition that is designed and constructed to penetrate 48 layers of Kevlar and clarifies that possession or manufacture of this ammunition is a fourth-degree crime.

Sponsors include Assembly members Louis D. Greenwald, Carol A. Murphy, Annette Quijano, Jamel C. Holley, and Paul D. Moriarity and Senators Fred H. Madden, Jr. and Linda R. Greenstein.

**A2761** reduces the maximum capacity of ammunition magazines from 15 to 10 rounds. The exception is for current law enforcement who are on-duty or traveling to or from duty and retired law enforcement. Individuals who legally own a firearm with an unmodifiable fixed magazine capacity of up to 15 rounds or legally own a firearm that only accepts an unmodifiable detachable magazine of up to 15 rounds prior to the effective date of the bill must register the firearm with their local law enforcement agency. The bill makes it a fourth-degree crime for a person to knowingly possess a large capacity ammunition magazine unless a firearm such a magazine is registered as required.

Sponsors include Assembly members Louis D. Greenwald, Annette Quijano, Gordon M. Johnson, Jamel C. Holley, and Paul D. Moriarity.

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## Governor Phil Murphy

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