

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 83

A bill to provide for the issuance of restraining orders prohibiting certain individuals from possessing or purchasing firearms and ordering the surrender and seizure of a restrained individual's firearms; to provide for the powers and duties of certain state and local governmental officers and entities; to prescribe penalties; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "extreme risk protection
2 order act".

3 Sec. 3. As used in this act:

4 (a) "C.J.I.S. policy council act" means the C.J.I.S. policy
5 council act, 1974 PA 163, MCL 28.211 to 28.215.

6 (b) "Dating relationship" means a relationship that consists

1 of frequent, intimate associations primarily characterized by the
2 expectation of affectional involvement. Dating relationship does
3 not include a casual relationship or an ordinary fraternization
4 between 2 individuals in a business or social context.

5 (c) "Extreme risk protection order" means an order issued by a
6 court under section 7.

7 (d) "Family member" means an individual who is related to the
8 respondent as any of the following:

9 (i) A parent.

10 (ii) A son or daughter.

11 (iii) A sibling.

12 (iv) A grandparent.

13 (v) A grandchild.

14 (vi) An uncle or aunt.

15 (vii) A first cousin.

16 (e) "Guardian" means that term as defined in section 1104 of
17 the estates and protected individuals code, 1998 PA 386, MCL
18 700.1104.

19 (f) "Health care provider" means any of the following:

20 (i) A physician, physician's assistant, nurse practitioner, or
21 certified nurse specialist licensed under article 15 of the public
22 health code, 1978 PA 368, MCL 333.16101 to 333.18838, or a
23 physician, physician's assistant, nurse practitioner, or certified
24 nurse specialist licensed in another state.

25 (ii) A mental health professional as that term is defined in
26 section 100b of the mental health code, 1974 PA 258, MCL 333.1100b,
27 or a mental health professional licensed in another state.

28 (g) "Law enforcement agency" means any of the following:

29 (i) A sheriff's department.

1 (ii) The department of state police.

2 (iii) A police department of a township, village, or
3 incorporated city.

4 (iv) The public safety department of an institution of higher
5 education created under or described in article VIII of the state
6 constitution of 1963.

7 (v) The public safety department of a community or junior
8 college.

9 (vi) The public safety department or office of a private
10 college.

11 (h) "Law enforcement officer" means a law enforcement officer
12 as that term is defined in section 2 of the Michigan commission on
13 law enforcement standards act, 1965 PA 203, MCL 28.602.

14 (i) "Petitioner" means the individual who requests an extreme
15 risk protection order in an action under section 5.

16 (j) "Possession or control" includes, but is not limited to,
17 actual possession or constructive possession by which the
18 individual has the right to control the firearm, even though the
19 firearm is in a different location than the individual. Possession
20 or control does not require the individual to own the firearm.

21 (k) "Respondent" means the individual against whom an extreme
22 risk protection order is requested in an action under section 5.

23 (l) "Restrained individual" means the individual against whom
24 an extreme risk protection order has been issued and is in effect.

25 Sec. 5. (1) An individual described in subsection (2) may file
26 an action in the family division of the circuit court requesting
27 the court to enter an extreme risk protection order.

28 (2) Any of the following may file an action under this
29 section:

1 (a) The spouse of the respondent.

2 (b) A former spouse of the respondent.

3 (c) An individual who has a child in common with the
4 respondent.

5 (d) An individual who has or has had a dating relationship
6 with the respondent.

7 (e) An individual who resides or has resided in the same
8 household with the respondent.

9 (f) A family member.

10 (g) A guardian of the respondent.

11 (h) A law enforcement officer.

12 (i) A health care provider, if filing and maintaining the
13 action does not violate requirements of the health insurance
14 portability and accountability act of 1996, Public Law 104-191, or
15 regulations promulgated under that act, 45 CFR parts 160 and 164,
16 or physician-patient confidentiality.

17 (3) An individual who files an action under this section shall
18 do so by filing a summons and complaint on forms approved by the
19 state court administrative office as directed by the supreme court.
20 The complaint must state facts that show that issuance of an
21 extreme risk protection order is necessary because the respondent
22 can reasonably be expected within the near future to intentionally
23 or unintentionally seriously physically injure himself, herself, or
24 another individual by possessing a firearm, and has engaged in an
25 act or acts or made significant threats that are substantially
26 supportive of the expectation.

27 (4) An individual may file an action under this section
28 regardless of whether the respondent owns or possesses a firearm.

29 (5) If the respondent is 1 of the following individuals, and

1 if the petitioner knows the respondent is 1 of the following
2 individuals, the petitioner shall state that in the complaint:

3 (a) An individual who is required to carry a pistol as a
4 condition of the individual's employment and is issued a license to
5 carry a concealed pistol.

6 (b) A police officer licensed or certified under the Michigan
7 commission on law enforcement standards act, 1965 PA 203, MCL
8 28.601 to 28.615.

9 (c) A sheriff.

10 (d) A deputy sheriff.

11 (e) A member of the department of state police.

12 (f) A local corrections officer.

13 (g) An employee of the department of corrections.

14 (h) A federal law enforcement officer who carries a pistol
15 during the normal course of the officer's employment or an officer
16 of the Federal Bureau of Prisons.

17 (6) If the petitioner knows or believes that the respondent
18 owns or possesses firearms, the petitioner shall state that in the
19 complaint and, to the extent possible, identify the firearms,
20 giving their location and any additional information that would
21 help a law enforcement officer to find the firearms.

22 (7) In an action under this section, the address of the
23 petitioner must not be disclosed in any pleading or paper or
24 otherwise. The clerk of the court shall maintain the petitioner's
25 address as confidential in the court file. The clerk shall provide
26 notice of hearing to the petitioner, using the confidential
27 address, for any motion filed by the respondent or any hearing
28 otherwise scheduled by the court.

29 (8) Any of the following is a proper county in which to file

1 an action under this section:

2 (a) If the respondent is an adult, any county in this state,
3 regardless of the residency or location of any party.

4 (b) If the respondent is a minor, either the petitioner's or
5 respondent's county of residence.

6 (c) If the respondent does not reside in this state, in the
7 petitioner's county of residence.

8 Sec. 6. (1) The court in which an action is filed under
9 section 5 shall expedite and give priority to a hearing on the
10 issuance of an extreme risk protection order and to any other
11 hearings required under this act.

12 (2) Except as provided in section 7(2), the respondent must
13 receive notice of a hearing on the issuance of an extreme risk
14 protection order and give the respondent an opportunity to be heard
15 at the hearing.

16 (3) The court may enter an order to change the venue of an
17 action filed under section 5 for any reason allowed under the
18 Michigan court rules, including, but not limited to, the
19 convenience of the parties and witnesses. The court may consider
20 the location of firearms owned or possessed by the respondent in
21 deciding whether to enter an order under this subsection.

22 (4) The court may allow proceedings in an action filed under
23 section 5 to be conducted using video conferencing technology or
24 communication equipment as allowed under Michigan court rules and
25 administrative orders.

26 Sec. 7. (1) In an action under section 5, the court shall
27 issue an extreme risk protection order if the court determines by
28 the preponderance of the evidence that the respondent can
29 reasonably be expected within the near future to intentionally or

1 unintentionally seriously physically injure himself, herself, or
2 another individual by possessing a firearm, and has engaged in an
3 act or acts or made significant threats that are substantially
4 supportive of the expectation. In making its determination under
5 this subsection, the court shall consider all of the following:

6 (a) Any history of use, attempted use, or threatened use of
7 physical force by the respondent against another individual, or
8 against the respondent, regardless of whether the violence or
9 threat of violence involved a firearm.

10 (b) Any evidence of the respondent having a serious mental
11 illness or a serious emotional disturbance, as those terms are
12 defined in section 100d of the mental health code, 1974 PA 258, MCL
13 330.1100d, that makes the respondent dangerous to other individuals
14 or to the respondent.

15 (c) Any of the following orders against the respondent,
16 whether previously entered or existing:

17 (i) An extreme risk protection order.

18 (ii) A personal protection order under section 2950 or 2950a of
19 the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and
20 600.2950a.

21 (iii) A pretrial release order.

22 (iv) A probation order.

23 (v) A parole order.

24 (vi) Any other injunctive order.

25 (d) Any violation by the respondent of a previous or existing
26 extreme risk protection order.

27 (e) Any violation by the respondent of a previous or existing
28 personal protection order issued under section 2950 or 2950a of the
29 revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and

1 600.2950a.

2 (f) Any previous conviction of, criminal charges pending
3 against, or previous or pending juvenile delinquency petitions
4 against the respondent for the commission or attempted commission
5 of any of the following offenses:

6 (i) A misdemeanor violation of section 81 of the Michigan penal
7 code, 1931 PA 328, MCL 750.81.

8 (ii) A violation of section 411h or 411i of the Michigan penal
9 code, 1931 PA 328, MCL 750.411h and 750.411i, or a similar offense
10 in another jurisdiction.

11 (iii) An offense that has assault as an element.

12 (iv) An offense that has an element including a threat to
13 person or property.

14 (v) An offense that is a crime committed against the person or
15 property of a spouse or intimate partner, as that term is defined
16 in section 2950k of the revised judicature act of 1961, 1961 PA
17 236, MCL 600.2950k.

18 (vi) An offense involving cruelty or abuse of animals.

19 (vii) A serious misdemeanor, as that term is defined in section
20 61 of the William Van Regenmorter crime victim's rights act, 1985
21 PA 87, MCL 780.811.

22 (g) Any evidence of recent unlawful use of controlled
23 substances by the respondent.

24 (h) Any recent abuse of alcohol.

25 (i) Any previous unlawful possession, use, display, or
26 brandishing of a deadly weapon by the respondent.

27 (j) Any evidence of an acquisition or attempted acquisition
28 within the previous 180 days by the respondent of a deadly weapon
29 or ammunition.

1 (k) Any additional information the court finds to be reliable,
2 including a statement by the respondent, or relevant information
3 from family and household members concerning the respondent.

4 (l) Any other facts that the court believes are relevant.

5 (2) The court in an action under section 5 may issue an
6 extreme risk protection order without written or oral notice to the
7 respondent if the court determines by clear and convincing evidence
8 from specific facts shown by a verified complaint, written motion,
9 or affidavit that immediate and irreparable injury, loss, or damage
10 will result from the delay required to effectuate notice or that
11 the notice will itself precipitate adverse action before an extreme
12 risk protection order can be issued. If the petitioner requests the
13 court to issue an extreme risk protection order under this
14 subsection, the court shall make its determination on the request
15 not later than 1 business day.

16 (3) If a court issues an extreme risk protection order under
17 subsection (2), including an order described in subsection (4), the
18 court shall, if requested by the restrained individual, conduct a
19 hearing on the order under subsection (1) in accordance with
20 Michigan court rules as follows:

21 (a) Unless subdivision (b) applies, not later than 14 days
22 after the order is served on the restrained individual or after the
23 restrained individual receives actual notice of the order.

24 (b) If the restrained individual is an individual described in
25 section 5(5), not later than 5 days after the order is served on
26 the restrained individual or after the restrained individual
27 receives actual notice of the order.

28 (4) A petitioner who is a law enforcement officer may request
29 an immediate emergency extreme risk protection order under

1 subsection (2) if the officer is responding to a complaint
2 involving the respondent and the respondent can reasonably be
3 expected within the near future to intentionally or unintentionally
4 seriously physically injure the respondent or another individual by
5 possessing a firearm. The law enforcement officer may request an
6 extreme risk protection order under this subsection verbally over
7 the telephone and the judge or magistrate on duty within that
8 jurisdiction may issue the extreme risk protection order. Within 1
9 business day after an extreme risk protection order is entered
10 under this subsection, the petitioner shall file with the court a
11 sworn written petition detailing the facts and circumstances
12 presented to the court. The issuing court, if other than the
13 circuit court, shall provide a copy of the petition to the circuit
14 court.

15 (5) An individual restrained under an extreme risk protection
16 order may file a motion to modify or rescind the order at any time
17 and request a hearing under supreme court rules. The restrained
18 individual may file 1 motion to modify or rescind the order during
19 the first 6 months and 1 motion during the second 6 months that the
20 order is in effect under section 9(1)(k), and 1 motion to modify or
21 rescind an extended order during the first 6 months and 1 motion
22 during the second 6 months that the extended order is in effect
23 under section 17 or 19. If the restrained individual files more
24 than 1 motion during a time described in this subsection, the court
25 shall review the motion before a hearing on the motion is held and
26 may summarily dismiss the motion without a response from the
27 petitioner and without a hearing.

28 (6) At a hearing on a motion under subsection (5), the
29 restrained individual must prove by a preponderance of the evidence

1 that the restrained individual no longer poses a risk to seriously
2 physically injure another individual or the restrained individual
3 by possessing a firearm.

4 (7) If a court issues or refuses to issue an extreme risk
5 protection order under this section, the court shall immediately
6 state in writing the specific reasons for issuing or refusing to
7 issue the order. If a hearing is held, the court shall also
8 immediately state on the record the specific reasons for issuing or
9 refusing to issue the order.

10 (8) If a court issues an extreme risk protection order under
11 this section, the court shall also determine whether the respondent
12 must immediately surrender the respondent's firearms or surrender
13 the firearms within a 24-hour period. If the court orders the
14 firearms immediately surrendered, it shall also issue an
15 anticipatory search warrant, subject to and contingent on the
16 failure or refusal of the restrained individual, following the
17 service of the order, to immediately comply with the order and
18 immediately surrender to a law enforcement officer any firearm or
19 concealed pistol license in the individual's possession or control,
20 authorizing a law enforcement agency to search the location or
21 locations where the firearm, or firearms, or concealed pistol
22 license is believed to be and to seize any firearm or concealed
23 pistol license discovered during the search in compliance with 1966
24 PA 189, MCL 780.651 to 780.659. Unless the petitioner is a law
25 enforcement officer or health care provider, there is a presumption
26 that the respondent will have 24 hours to surrender the firearms.

27 (9) If a court decides to issue an extreme risk protection
28 order under this section, the court may, in its discretion, allow
29 the restrained individual to surrender any firearms to a licensed

1 firearm dealer on the list prepared under section 18.

2 Sec. 9. (1) If the court determines under section 7 that an
3 extreme risk protection order should be issued, the court shall
4 include all of the following provisions in the order:

5 (a) That the restrained individual shall not purchase or
6 possess a firearm. That if the individual has been issued a license
7 under section 2 of 1927 PA 372, MCL 28.422, that the individual has
8 not used and that is not yet void, the individual shall not use it
9 and shall surrender it to the law enforcement agency designated
10 under subdivision (g).

11 (b) That the restrained individual shall not apply for a
12 concealed pistol license and, if the restrained individual has been
13 issued a license to carry a concealed pistol, the license will be
14 suspended or revoked under section 8 of 1927 PA 372, MCL 28.428,
15 once the order is entered into the law enforcement information
16 network and that the individual shall surrender the license as
17 required by section 8 of 1927 PA 372, MCL 28.428.

18 (c) That the restrained individual shall, within 24 hours or,
19 at the court's discretion, immediately after being served with the
20 order, surrender any firearms in the individual's possession or
21 control to the law enforcement agency designated under subdivision
22 (g) or, if allowed as ordered by the court, to a licensed firearm
23 dealer on the list prepared under section 18.

24 (d) If the petitioner has identified any firearms under
25 section 5(6), a specific description of the firearms to be
26 surrendered or seized.

27 (e) If the order is issued under section 7(2), a statement
28 that, if requested by the restrained individual, a hearing will be
29 held within 14 days or 5 days, as applicable under section 7(3),

1 after the restrained individual is served with or receives actual
2 notice of the order and that the restrained individual may appear
3 at the hearing and request the court to modify or rescind the
4 order.

5 (f) A statement that the restrained individual may file a
6 motion to modify or rescind the order as allowed under this act and
7 that motion forms and filing instructions are available from the
8 clerk of the court.

9 (g) A designation of the law enforcement agency that is
10 responsible for forwarding the order to the Federal Bureau of
11 Investigation under section 15(1). The law enforcement agency
12 designated under this subdivision must be an agency within whose
13 jurisdiction the restrained individual resides.

14 (h) Directions to a local entering authority or the law
15 enforcement agency designated under subdivision (g) to enter the
16 order into the law enforcement information network.

17 (i) A statement that violation of the order will subject the
18 restrained individual to immediate arrest, the contempt powers of
19 the court, an automatic extension of the order, and criminal
20 penalties, including imprisonment for up to 1 year for an initial
21 violation and up to 5 years for a subsequent violation.

22 (j) A statement that the restrained individual has a right to
23 seek the advice of an attorney.

24 (k) An expiration date that is 1 year after the date of
25 issuance.

26 (l) If the court has ordered the restrained individual to
27 surrender the individual's firearms immediately, a statement that
28 the law enforcement agency designated under subdivision (g) must
29 proceed to seize the restrained individual's firearms after the

1 restrained individual is served with or receives actual notice of
2 the extreme risk protection order, after giving the restrained
3 individual an opportunity to surrender the individual's firearms.

4 (2) An extreme risk protection order is effective and
5 enforceable immediately after it is issued by the court. The order
6 may be enforced anywhere in this state by a law enforcement agency
7 that receives a true copy of the order, is shown a copy of it, or
8 has verified its existence on the law enforcement information
9 network as provided by the C.J.I.S. policy council act or on an
10 information network maintained by the Federal Bureau of
11 Investigation.

12 Sec. 10. (1) Not later than 1 business day after the
13 restrained individual has received a copy of the extreme risk
14 protection order, or the restrained individual has actual notice of
15 the order, the restrained individual shall do either of the
16 following:

17 (a) File with the court that issued the order 1 or more
18 documents or other evidence verifying that all firearms previously
19 in the individual's possession or control were surrendered to or
20 seized by the local law enforcement agency designated under section
21 9(1)(g) and that any concealed pistol license was surrendered to
22 the county clerk as required by the order and section 8 of 1927 PA
23 372, MCL 28.428, and verify to the court that at the time of the
24 verification the individual does not have any firearms or a
25 concealed pistol license in the individual's possession or control.

26 (b) File with the court that issued the order 1 or more
27 documents or other evidence verifying that both of the following
28 are true:

29 (i) At the time the order was issued, the individual did not

1 have a firearm or a concealed pistol license in the individual's
2 possession or control.

3 (ii) At the time of the verification, the individual does not
4 have a firearm or a concealed pistol license in the individual's
5 possession or control.

6 (2) If a restrained individual has not satisfied the
7 requirements of subsection (1)(a) or (b) within 1 business day
8 after the extreme risk protection order was served or the
9 restrained individual received actual notice of the order, the
10 clerk of the court that issued the order shall inform the local law
11 enforcement agency designated under section 9(1)(g) of that fact.

12 (3) A local law enforcement agency that receives a
13 notification under subsection (2) shall make a good-faith effort to
14 determine whether there is evidence that the restrained individual
15 has failed to surrender a firearm or concealed pistol license in
16 the restrained individual's possession or control as required.

17 (4) The court shall schedule a compliance hearing to be held
18 not later than 5 days after an extreme risk protection order is
19 served on the restrained individual or after the restrained
20 individual receives actual notice of the order. If the restrained
21 individual has satisfied the requirements of subsection (1)(a) or
22 (b) before the hearing, the court may cancel the hearing. If the
23 restrained individual has failed to comply with the requirements of
24 subsection (1)(a) or (b) or fails to appear at the compliance
25 hearing, the court shall issue a bench warrant and issue a search
26 warrant under 1966 PA 189, MCL 780.651 to 780.659, to seize any
27 firearms and may hold the restrained individual in contempt.

28 (5) At any time while an extreme risk protection order is in
29 effect, the prosecuting attorney for the county in which the order

1 was issued or a law enforcement officer may file an affidavit with
2 the court that issued the order alleging that the restrained
3 individual has a firearm or a concealed pistol license in the
4 individual's possession or control. If an affidavit is filed under
5 this subsection, the court shall determine whether probable cause
6 exists to believe that the restrained individual has a firearm or
7 concealed pistol license in the individual's possession or control.
8 If the court finds that probable cause exists, the court may issue
9 an arrest warrant or order a hearing. The court shall also issue a
10 search warrant under 1966 PA 189, MCL 780.651 to 780.659,
11 describing the firearm or firearms or the concealed pistol license
12 believed to be in the restrained individual's possession or control
13 and authorizing a designated law enforcement agency to search the
14 location or locations where the firearm or firearms or concealed
15 pistol license is believed to be and to seize any firearm or
16 concealed pistol license discovered by the search.

17 Sec. 11. (1) The clerk of a court that issues an extreme risk
18 protection order shall do all of the following immediately after
19 issuance and without requiring a proof of service on the restrained
20 individual:

21 (a) Provide a true copy of the order to the law enforcement
22 agency designated under section 9(1)(g).

23 (b) Provide the petitioner with at least 2 true copies of the
24 order.

25 (c) If the restrained individual is identified in the
26 complaint as an individual described in section 5(5), notify the
27 individual's employer, if known, of the existence of the order. It
28 is the intent of the legislature that the restrained individual's
29 employer work with the restrained individual's union or bargaining

1 representative under this subdivision to avoid the restrained
2 individual losing the individual's employment or compensation and
3 benefits while the extreme risk protection order is in effect.

4 (d) Notify the department of state police and the clerk of the
5 restrained individual's county of residence of the existence of the
6 order for purposes of performing their duties under 1927 PA 372,
7 MCL 28.421 to 28.435.

8 (e) Inform the petitioner that the petitioner may take a true
9 copy of the order to the law enforcement agency designated under
10 section 9(1)(g) to be immediately provided to the Federal Bureau of
11 Investigation and, unless a local entering authority is designated
12 under section 9(1)(h), into the law enforcement information
13 network.

14 (2) The clerk of the court that issued the extreme risk
15 protection order shall immediately notify the law enforcement
16 agency designated under section 9(1)(g) if any of the following
17 occur:

18 (a) The clerk receives proof that the restrained individual
19 has been served.

20 (b) The order is rescinded, modified, or extended.

21 (c) The order expires without being extended.

22 (3) A local entering authority designated under section
23 9(1)(h) shall enter the order into the law enforcement information
24 network as provided by the C.J.I.S. policy council act.

25 Sec. 13. (1) Except as provided in subsection (2), an extreme
26 risk protection order must be served on the restrained individual
27 in person, by registered or certified mail, return receipt
28 requested, by delivery to the last known address of the restrained
29 individual, or by any other means allowed under Michigan court

1 rules as decided by the court.

2 (2) If the court has ordered the immediate surrender of the
3 individual's firearms, the order must be served personally by a law
4 enforcement officer. If the restrained individual has not been
5 served, a law enforcement officer who knows that the order exists
6 may, at any time, serve the restrained individual with a true copy
7 of the order or advise the restrained individual of the existence
8 of the order, the specific conduct enjoined, the penalties for
9 violating the order, and where the restrained individual may obtain
10 a copy of the order.

11 (3) The individual who serves an extreme risk protection order
12 or the law enforcement officer who gives oral notice of the order
13 shall file proof of service or proof of oral notice with the clerk
14 of the court that issued the order and the petitioner.

15 Sec. 15. (1) A law enforcement agency designated in an extreme
16 risk protection order under section 9(1)(g) that receives a true
17 copy of the order shall immediately and without requiring proof of
18 service do both of the following:

19 (a) Unless a local entering authority is designated under
20 section 9(1)(h), enter the order into the law enforcement
21 information network as provided by the C.J.I.S. policy council act.

22 (b) Report the entry of the order to the Criminal Justice
23 Information Services Division of the Federal Bureau of
24 Investigation for purposes of the national crime information
25 center.

26 (2) A law enforcement agency that receives information under
27 section 11(2) shall enter the information into the law enforcement
28 information network as provided by the C.J.I.S. policy council act
29 and report the information to the Federal Bureau of Investigation

1 as described in subsection (1)(b).

2 (3) If an extreme risk protection order has not been served on
3 the restrained individual, a law enforcement agency or officer
4 responding to a call alleging a violation of the order shall serve
5 the restrained individual with a true copy of the order or advise
6 the restrained individual of the existence of the order, the
7 specific conduct enjoined, the penalties for violating the order,
8 and where the restrained individual may obtain a copy of the order.
9 Subject to subsection (4), the law enforcement officer shall
10 enforce the order and immediately enter or cause to be entered into
11 the law enforcement information network and reported to the Federal
12 Bureau of Investigation that the restrained individual has actual
13 notice of the order. The law enforcement officer also shall comply
14 with section 13(3).

15 (4) In the circumstances described in subsection (3), the law
16 enforcement officer shall give the restrained individual an
17 opportunity to comply with the extreme risk protection order before
18 the law enforcement officer makes a custodial arrest for violation
19 of the order. The failure by the restrained individual to comply
20 with the order is grounds for an immediate custodial arrest. This
21 subsection does not preclude an arrest under section 15 or 15a of
22 chapter IV of the code of criminal procedure, 1927 PA 175, MCL
23 764.15 and 764.15a.

24 (5) The law enforcement agency ordered to seize a firearm
25 under this act shall do all of the following:

26 (a) Seize a firearm identified in an order issued under this
27 act from any place or from any individual who has possession or
28 control of the firearm.

29 (b) Seize any other firearms discovered that are owned by or

1 in the possession or control of the restrained individual or if
2 allowed under other applicable law.

3 (6) A law enforcement officer who seizes a firearm under this
4 act shall give a tabulation of firearms seized as is required under
5 section 5 of 1966 PA 189, MCL 780.655, to the individual from whom
6 the firearms were taken. If no individual is present at the time of
7 seizure, the officer shall leave the tabulation in the place where
8 the officer found the firearms that were seized.

9 (7) The law enforcement agency that seizes a firearm under
10 this act shall retain and store the firearm subject to order of the
11 court that issued the extreme risk protection order under which the
12 firearm was seized. In addition to any other order that the court
13 determines is appropriate, the court shall order that the
14 restrained individual may reclaim the firearm when the extreme risk
15 protection order expires or is terminated, unless the restrained
16 individual is prohibited for another reason from owning or
17 possessing a firearm, or order that the firearm be transferred to a
18 licensed firearm dealer if the restrained individual sells or
19 transfers ownership of the firearm to the dealer. Before allowing
20 the restrained individual to reclaim a firearm under this
21 subsection, and to determine whether the restrained individual is
22 prohibited from owning or possessing a firearm for another reason,
23 the law enforcement agency shall conduct a verification under the
24 law enforcement information network and the national instant
25 criminal background check system in the same manner as required
26 under section 5b(6) of 1927 PA 372, MCL 28.425b.

27 (8) A law enforcement agency from whom a restrained individual
28 reclaims a firearm under subsection (7) shall enter into the law
29 enforcement information network and notify the Federal Bureau of

1 Investigation that the court has ordered the firearm returned on
2 expiration of the extreme risk protection order.

3 (9) A law enforcement agency that seizes and stores a firearm
4 under this act is not liable for damage to or a change in condition
5 of the firearm unless the damage or change in condition resulted
6 from a failure to exercise reasonable care in the seizure,
7 transportation, or storage of the firearm.

8 (10) If a restrained individual fails to reclaim a firearm
9 under subsection (7) within 90 days after the extreme risk
10 protection order expires or is ordered terminated, the law
11 enforcement agency storing the firearm shall do 1 of the following:

12 (a) Proceed as for a firearm subject to disposal under
13 sections 239 and 239a of the Michigan penal code, 1931 PA 328, MCL
14 750.239 and 750.239a.

15 (b) Follow the procedures for property under 1987 PA 273, MCL
16 434.21 to 434.29.

17 (11) Subject to subsection (7) or (8), if any individual other
18 than the restrained individual claims title to a firearm seized
19 under this act, the firearm must be returned to the claimant if the
20 court determines that the claimant is the lawful owner.

21 Sec. 17. The petitioner may move the court to issue, or the
22 court on its own motion may issue, 1 or more extended extreme risk
23 protection orders, each effective for 1 year after the expiration
24 of the preceding order. The court shall only issue an extended
25 order under this section if the preponderance of the evidence shows
26 that the restrained individual can reasonably be expected within
27 the near future to intentionally or unintentionally seriously
28 physically injure himself, herself, or another individual by
29 possessing a firearm, and has engaged in an act or acts or made

1 significant threats that are substantially supportive of the
2 expectation. The petitioner or the court, as applicable, shall give
3 the restrained individual written notice of a hearing on a motion
4 to extend the order.

5 Sec. 18. Each circuit court shall prepare a list of trusted
6 licensed firearm dealers located in the jurisdiction of the circuit
7 court. In preparing this list, the court may obtain a list of
8 currently licensed firearm dealers in the court's jurisdiction from
9 the United States Bureau of Alcohol, Tobacco, Firearms, and
10 Explosives.

11 Sec. 19. (1) An individual who refuses or fails to comply with
12 an extreme risk protection order is guilty and subject to penalties
13 as follows, which may be imposed in addition to a penalty imposed
14 for another criminal offense arising from the same conduct:

15 (a) For a first offense under this subsection, guilty of a
16 felony punishable by imprisonment for not more than 1 year or a
17 fine of not more than \$1,000.00, or both.

18 (b) For a second offense under this subsection, guilty of a
19 felony punishable by imprisonment for not more than 4 years or a
20 fine of not more than \$2,000.00, or both.

21 (c) For a third or subsequent offense under this subsection,
22 guilty of a felony punishable by imprisonment for not more than 5
23 years or a fine of not more than \$20,000.00, or both.

24 (2) If a court or a jury finds that the restrained individual
25 has refused or failed to comply with an extreme risk protection
26 order, the court that issued the order shall issue an extended
27 extreme risk protection order effective for 1 year after the
28 expiration of the preceding order.

29 (3) The court may also enforce an extreme risk protection

1 order by charging the restrained individual with contempt of court
2 under chapter 17 of the revised judicature act of 1961, 1961 PA
3 236, MCL 600.1701 to 600.1745.

4 (4) A petitioner who knowingly and intentionally makes a false
5 statement to the court in the complaint or in support of the
6 complaint under this act is guilty and subject to penalties as
7 follows:

8 (a) For a first offense under this subsection, guilty of a
9 misdemeanor punishable by imprisonment for not more than 93 days or
10 a fine of not more than \$500.00, or both.

11 (b) For a second offense under this subsection, guilty of a
12 felony punishable by imprisonment for not more than 4 years or a
13 fine of not more than \$2,000.00, or both.

14 (c) For a third or subsequent offense under this subsection,
15 guilty of a felony punishable by imprisonment for not more than 5
16 years or a fine of not more than \$20,000.00, or both.

17 (5) An individual who knowingly places a firearm in the
18 possession of an individual who is restrained under an extreme risk
19 protection order is guilty of a felony punishable by imprisonment
20 for not more than 1 year or a fine of not more than \$1,000.000, or
21 both.

22 Sec. 20. This act does not do either of the following:

23 (a) Limit the ability of the petitioner to request relief
24 under section 2950 or 2950a of the revised judicature act of 1961,
25 1961 PA 236, MCL 600.2950 and 600.2950a.

26 (b) Limit the ability of an individual to file a petition
27 under section 434 of the mental health code, 1974 PA 258, MCL
28 330.1434.

29 Sec. 21. (1) The state court administrative office, acting at

1 the direction of the supreme court, shall prepare an annual report
2 on and relating to the application of this act by the courts.

3 (2) The report required by this section must contain all of
4 the following:

5 (a) The number of actions filed for extreme risk protection
6 orders.

7 (b) The number of requests made for extreme risk protection
8 orders to be issued without notice under section 7(2).

9 (c) The number of extreme risk protection orders issued and
10 the number denied.

11 (d) The number of extreme risk protection orders issued
12 without notice under section 7(2) and the number denied.

13 (e) The number of extreme risk protection orders that are
14 rescinded.

15 (f) The number of extreme risk protection orders entered
16 without notice under section 7(2) that are rescinded.

17 (g) The number of extreme risk protection orders that are
18 renewed.

19 (h) To the extent ascertainable from available state court
20 data, the number of individuals who are restrained under an
21 emergency risk protection order who, within 30 days after entry of
22 the order, are charged with a criminal offense, giving the nature
23 of the criminal offense, whether it was an offense for the
24 violation of the emergency risk protection order, and the
25 disposition or status of the offense.

26 (i) To the extent ascertainable from available state court
27 data, the number of petitioners who were prosecuted for knowingly
28 and intentionally making a false statement to the court in a
29 complaint or in support of the complaint under this act.

1 (j) To the extent ascertainable from available state court
2 data, the number of individuals who were prosecuted for knowingly
3 placing a firearm or ammunition in the possession of a restrained
4 individual.

5 (k) Demographic data regarding the individuals who are
6 petitioners and respondents in actions for extreme risk protection
7 orders.

8 (3) The state court administrative office, acting under the
9 direction of the supreme court, shall publish a report prepared
10 under this section annually and provide the report to the
11 legislature and the legislative committees with jurisdiction over
12 judicial matters.

13 (4) The state court administrative office shall make the data
14 used to prepare the report under this section available annually to
15 individuals, including, but not limited to, the Institute for
16 Firearm Injury and other researchers affiliated with institutions
17 of higher education, who are conducting academic or policy
18 research, including, but not limited to, any disproportionate or
19 discriminatory impact of this act on members of protected classes.

20 Enacting section 1. This act does not take effect unless all
21 of the following bills of the 102nd Legislature are enacted into
22 law:

23 (a) House Bill No. 4146.

24 (b) House Bill No. 4147.