

PROGRAM BILL #27

Legislative Bill Drafting Commission
12062-04-8

S. -----
Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

CIVPRLA

(Establishes extreme risk protection orders as a court-issued order of protection prohibiting a person from purchasing, possessing or attempting to purchase or possess a firearm, rifle or shotgun)

CPLR. extreme risk protection

AN ACT

to amend the civil practice law and rules and the penal law, in relation to establishing extreme risk protection orders as court-issued orders of protection prohibiting a person from purchasing, possessing or attempting to purchase or possess a firearm, rifle or shotgun

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship of this proposal:

s15 Addabbo	s03 Croci	s27 Hoylman	s37 Mayer	s10 Sanders
s52 Akshar	s50 DeFrancisco	s60 Jacobs	s25 Montgomery	s23 Savino
s31 Alcantara	s18 Dilan	s09 Kaminsky	s40 Murphy	s32 Sepulveda
s46 Amedore	s17 Felder	s26 Kavanagh	s58 O'Mara	s41 Serino
s11 Avella	s02 Flanagan	s63 Kennedy	s62 Ortt	s29 Serrano
s36 Bailey	s55 Funke	s34 Klein	s21 Parker	s51 Seward
s30 Benjamin	s59 Gallivan	s28 Krueger	s13 Peralta	s16 Stavisky
s42 Bonacic	s12 Gianaris	s24 Lanza	s19 Persaud	s35 Stewart-
s04 Boyle	s22 Golden	s39 Larkin	s07 Phillips	Cousins
s44 Breslin	s47 Griffo	s01 LaValle	s61 Ranzenhofer	s49 Tedisco
s08 Brooks	s20 Hamilton	s45 Little	s48 Ritchie	s53 Valesky
s38 Carlucci	s06 Hannon	s05 Marcellino	s33 Rivera	s57 Young
s14 Comrie	s54 Helming	s43 Marchione	s56 Robach	

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the multi-sponsorship of this proposal:

a049 Abbate	a053 Davila	a029 Hyndman	a144 Norris	a036 Simotas
a092 Abinanti	a072 De La Rosa	a097 Jaffee	a130 Oaks	a099 Skoufis
a084 Arroyo	a034 DenDekker	a011 Jean-Pierre	a069 O'Donnell	a005 Smith
a107 Ashby	a070 Dickens	a116 Jenne	a051 Ortiz	a022 Solages
a035 Aubry	a054 Dilan	a135 Johns	a091 Otis	a114 Stee
a120 Barclay	a081 Dinowitz	a115 Jones	a132 Palmesano	a110 Steck
a030 Barnwell	a147 DiPietro	a077 Joyner	a002 Palumbo	a010 Stern
a106 Barrett	a016 D'Urso	a040 Kim	a088 Paulin	a127 Stirpe
a060 Barron	a004 Englebright	a131 Kolb	a009 Pellegrino	a102 Tague
a082 Benedetto	a074 Epstein	a105 Lalor	a141 Peoples-	a071 Taylor
a042 Bichotte	a133 Errigo	a013 Lavine	Stokes	a001 Thiele
a079 Blake	a039 Espinal	a134 Lawrence	a058 Perry	a061 Titone
a117 Blankenbush	a109 Fahy	a050 Lentol	a023 Pheffer	a031 Titus
a142 Bohlen	a080 Fernandez	a125 Lifton	Amato	a033 Vanel
a098 Brabenec	a126 Finch	a123 Lupardo	a086 Pichardo	a055 Walker
a026 Braunstein	a008 Fitzpatrick	a121 Magee	a089 Pretlow	a143 Wallace
a119 Brindisi	a124 Friend	a129 Magnarelli	a073 Quart	a112 Walsh
a138 Bronson	a095 Galef	a064 Malliotakis	a019 Ra	a146 Walter
a093 Buchwald	a137 Gant	a108 McDonald	a012 Raia	a041 Weinstein
a118 Butler	a007 Garbarino	a014 McDonough	a006 Ramos	a024 Weprin
a094 Byrne	a148 Giglio	a017 Mikulin	a043 Richardson	a059 Williams
a103 Cahill	a066 Glick	a101 Miller, B.	a078 Rivera	a113 Woerner
a044 Carroll	a150 Goodell	a038 Miller, M.G.	a068 Rodriguez	a056 Wright
a062 Castorina	a075 Gottfried	a020 Miller, M.L.	a027 Rosenthal, D.	a096 Zebrowski
a047 Colton	a100 Gunther	a015 Montesano	a067 Rosenthal, L.	a046
a032 Cook	a139 Hawley	a136 Morelle	a025 Rozic	a087
a085 Crespo	a083 Heastie	a145 Morinello	a149 Ryan	a090
a122 Crouch	a028 Hevesi	a057 Mosley	a111 Santabarbara	a104
a021 Curran	a048 Hikind	a003 Murray	a140 Schimminger	
a063 Cusick	a018 Hooper	a065 Niou	a076 Seawright	
a045 Cymbrowitz	a128 Hunter	a037 Nolan	a052 Simon	

1) Single House Bill (introduced and printed separately in either or both houses). Uni-Bill (introduced simultaneously in both houses and printed as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2 signed copies of bill and 4 copies of memorandum in support (single house); or 4 signed copies of bill and 8 copies of memorandum in support (uni-bill).

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The civil practice law and rules is amended by adding a new
2 article 63-A to read as follows:

3 ARTICLE 63-A

4 EXTREME RISK PROTECTION ORDERS

5 Section 6340. Definitions.

6 6341. Application for an extreme risk protection order.

7 6342. Issuance of a temporary extreme risk protection order.

8 6343. Issuance of a final extreme risk protection order.

9 6344. Surrender and removal of firearms, rifles and shotguns
10 pursuant to an extreme risk protection order.

11 6345. Request for renewal of an extreme risk protection order.

12 6346. Expiration of an extreme risk protection order.

13 6347. Effect of findings and determinations in subsequent
14 proceedings.

15 § 6340. Definitions. For the purposes of this article:

16 1. "Extreme risk protection order" means a court-issued order of
17 protection prohibiting a person from purchasing, possessing or attempt-
18 ing to purchase or possess a firearm, rifle or shotgun.

19 2. "Petitioner" means: (a) a police officer, as defined in section
20 1.20 of the criminal procedure law, or district attorney with jurisdic-
21 tion in the county or city where the person against whom the order is
22 sought resides; (b) a family or household member, as defined in subdivi-
23 sion two of section four hundred fifty-nine-a of the social services
24 law, of the person against whom the order is sought; or (c) a school
25 official, which includes but is not limited to school teacher, school
26 guidance counselor, school psychologist, school social worker, school
27 nurse, school administrator or other school personnel required to hold a
28 teaching or administrative license or certificate, and full or part-time

1 compensated school employee required to hold a temporary coaching
2 license or professional coaching certificate.

3 3. "Respondent" means the person against whom an extreme risk
4 protection order is or may be sought under this article.

5 4. "Possess" shall have the same meaning as defined in subdivision
6 eight of section 10.00 of the penal law.

7 § 6341. Application for an extreme risk protection order. In accord-
8 ance with this article, a petitioner may file a sworn application, and
9 accompanying supporting documentation, setting forth the facts and
10 circumstances justifying the issuance of an extreme risk protection
11 order. Such application and supporting documentation shall be filed in
12 the supreme court in the county in which the respondent resides. The
13 chief administrator of the courts shall adopt forms that may be used for
14 purposes of such applications and the court's consideration of such
15 applications. Such application form shall include inquiry as to whether
16 the petitioner knows, or has reason to believe, that the respondent
17 owns, possesses or has access to a firearm, rifle or shotgun and if so,
18 a request that the petitioner list or describe such firearms, rifles and
19 shotguns, and the respective locations thereof, with as much specificity
20 as possible.

21 § 6342. Issuance of a temporary extreme risk protection order. 1.
22 Upon application of a petitioner pursuant to this article, the court may
23 issue a temporary extreme risk protection order, ex parte or otherwise,
24 to prohibit the respondent from purchasing, possessing or attempting to
25 purchase or possess a firearm, rifle or shotgun, upon a finding that
26 there is probable cause to believe the respondent is likely to engage in
27 conduct that would result in serious harm to himself, herself or others,
28 as defined in paragraph one or two of subdivision (a) of section 9.39 of

1 the mental hygiene law. Such application for a temporary order shall be
2 determined in writing on the same day the application is filed.

3 2. In determining whether grounds for a temporary extreme risk
4 protection order exist, the court shall consider any relevant factors
5 including, but not limited to, the following acts of the respondent:

6 (a) a threat or act of violence or use of physical force directed
7 toward self, the petitioner, or another person;

8 (b) a violation or alleged violation of an order of protection;

9 (c) any pending charge or conviction for an offense involving the use
10 of a weapon;

11 (d) the reckless use, display or brandishing of a firearm, rifle or
12 shotgun;

13 (e) any history of a violation of an extreme risk protection order;

14 (f) evidence of recent or ongoing abuse of controlled substances or
15 alcohol; or

16 (g) evidence of recent acquisition of a firearm, rifle, shotgun or
17 other deadly weapon or dangerous instrument, or any ammunition therefor.

18 In considering the factors under this subdivision, the court shall
19 consider the time that has elapsed since the occurrence of such act or
20 acts and the age of the person at the time of the occurrence of such act
21 or acts.

22 For the purposes of this subdivision, "recent" means within the six
23 months prior to the date the petition was filed.

24 3. The application of the petitioner and supporting documentation, if
25 any, shall set forth the factual basis for the request and probable
26 cause for issuance of a temporary order. The court may conduct an exam-
27 ination under oath of the petitioner and any witness the petitioner may
28 produce.

1 4. A temporary extreme risk protection order, if warranted, shall
2 issue in writing, and shall include:

3 (a) a statement of the grounds found for the issuance of the order;

4 (b) the date and time the order expires;

5 (c) the address of the court that issued the order;

6 (d) a statement to the respondent: (i) directing that the respondent
7 may not purchase, possess or attempt to purchase or possess a firearm,
8 rifle or shotgun while the order is in effect and that any firearm,
9 rifle or shotgun possessed by such respondent shall be promptly surren-
10 dered to any authorized law enforcement official in the same manner as
11 set forth in subdivision five of section 530.14 of the criminal proce-
12 dure law;

13 (ii) informing the respondent that the court will hold a hearing no
14 sooner than three nor more than six business days after service of the
15 temporary order, to determine whether a final extreme risk protection
16 order will be issued and the date, time and location of such hearing,
17 provided that the respondent shall be entitled to more than six days
18 upon request in order to prepare for the hearing; and (iii) informing
19 the respondent the he or she may seek the advice of an attorney and that
20 an attorney should be consulted promptly; and

21 (e) a form to be completed and executed by the respondent at the time
22 of service of the temporary extreme risk protection order which elicits
23 a list of all firearms, rifles and shotguns possessed by the respondent
24 and the particular location of each firearm, rifle or shotgun listed.

25 5. If the application for a temporary extreme risk protection order is
26 not granted, the court shall notify the petitioner and, unless the
27 application is voluntarily withdrawn by the petitioner, nonetheless
28 schedule a hearing on the application for a final extreme risk

1 protection order. Such hearing shall be scheduled to be held promptly,
2 but in any event no later than ten business days after the date on which
3 such application is served on the respondent, provided, however, that
4 the respondent may request, and the court may grant, additional time to
5 allow the respondent to prepare for the hearing. A notice of such hear-
6 ing shall be prepared by the court and shall include the date and time
7 of the hearing, the address of the court, and the subject of the hear-
8 ing.

9 6. (a) The court shall, in the manner specified in paragraph (b) of
10 this subdivision, arrange for prompt service of a copy of the temporary
11 extreme risk protection order, if any, the application therefor and, if
12 separately applied for or if a temporary extreme risk protection order
13 was not granted, the application for an extreme risk protection order,
14 any notice of hearing prepared by the court, along with any associated
15 papers including the petition and any supporting documentation,
16 provided, that the court may redact the address and contact information
17 of the petitioner from such application and papers where the court finds
18 that disclosure of such address or other contact information would pose
19 an unreasonable risk to the health or safety of the petitioner.

20 (b) The court shall provide copies of such documents to the appropri-
21 ate law enforcement agency serving the jurisdiction of the respondent's
22 residence with a direction that such documents be promptly served, at no
23 cost to the petitioner, on the respondent; provided, however, that the
24 petitioner may voluntarily arrange for service of copies of such order
25 and associated papers through a third party, such as a licensed process
26 server.

27 7. (a) The court shall notify the division of state police, any other
28 law enforcement agency with jurisdiction, all applicable licensing offi-

1 cers, and the division of criminal justice services of the issuance of a
2 temporary extreme risk protection order and provide a copy of such order
3 no later than the next business day after issuing the order to such
4 persons or agencies. The court also shall promptly notify such persons
5 and agencies and provide a copy of any order amending or revoking such
6 protection order or restoring the respondent's ability to own or possess
7 firearms, rifles or shotguns no later than the next business day after
8 issuing the order to restore such right to the respondent. The court
9 also shall report such demographic data as required by the state divi-
10 sion of criminal justice services at the time such order is transmitted
11 thereto. Any notice or report submitted pursuant to this subdivision
12 shall be in an electronic format, in a manner prescribed by the division
13 of criminal justice services.

14 (b) Upon receiving notice of the issuance of a temporary extreme risk
15 protection order, the division of criminal justice services shall imme-
16 diately report the existence of such order to the federal bureau of
17 investigation to allow the bureau to identify persons prohibited from
18 purchasing firearms, rifles or shotguns. The division shall also imme-
19 diately report to the bureau the expiration of any such protection
20 order, any court order amending or revoking such protection order or
21 restoring the respondent's ability to purchase a firearm, rifle or shot-
22 gun.

23 8. A law enforcement officer serving a temporary extreme risk
24 protection order shall request that the respondent immediately surrender
25 to the officer all firearms, rifles and shotguns in the respondent's
26 possession and the officer shall conduct any search permitted by law for
27 such firearms. The law enforcement officer shall take possession of all
28 firearms, rifles and shotguns that are surrendered, that are in plain

1 sight, or that are discovered pursuant to a lawful search. As part of
2 the order, the court may also direct a police officer to search for
3 firearms, rifles and shotguns in the respondent's possession in a manner
4 consistent with the procedures of article six hundred ninety of the
5 criminal procedure law.

6 9. Upon issuance of a temporary extreme risk protection order, or upon
7 setting a hearing for a final extreme risk protection order where a
8 temporary order is denied or not requested, the court shall direct the
9 law enforcement agency having jurisdiction to conduct a background
10 investigation and report to the court and, subject to any appropriate
11 redactions to protect any person, each party regarding whether the
12 respondent:

13 (a) has any prior criminal conviction for an offense involving domes-
14 tic violence, use of a weapon, or other violence;

15 (b) has any criminal charge or violation currently pending against him
16 or her;

17 (c) is currently on parole or probation;

18 (d) possesses any registered firearms, rifles or shotguns; and

19 (e) has been, or is, subject to any order of protection or has
20 violated or allegedly violated any order of protection.

21 § 6343. Issuance of a final extreme risk protection order. 1. In
22 accordance with this article, no sooner than three business days nor
23 later than six business days after service of a temporary extreme risk
24 protection order and, alternatively, no later than ten business days
25 after service of an application under this article where no temporary
26 extreme risk protection order has been issued, the supreme court shall
27 hold a hearing to determine whether to issue a final extreme risk
28 protection order and, when applicable, whether a firearm, rifle or shot-

1 gun surrendered by, or removed from, the respondent should be returned
2 to the respondent. The respondent shall be entitled to more than six
3 business days if a temporary extreme risk protection order has been
4 issued and the respondent requests a reasonable period of additional
5 time to prepare for the hearing. Where no temporary order has been
6 issued, the respondent may request, and the court may grant, additional
7 time beyond the ten days to allow the respondent to prepare for the
8 hearing.

9 2. At the hearing pursuant to subdivision one of this section, the
10 petitioner shall have the burden of proving, by clear and convincing
11 evidence, that the respondent is likely to engage in conduct that would
12 result in serious harm to himself, herself or others, as defined in
13 paragraph one or two of subdivision (a) of section 9.39 of the mental
14 hygiene law. The court may consider the petition and any evidence
15 submitted by the petitioner, any evidence submitted by the respondent,
16 any testimony presented, and the report of the relevant law enforcement
17 agency submitted pursuant to subdivision nine of section sixty-three
18 hundred forty-two of this article. The court shall also consider the
19 factors set forth in subdivision two of section sixty-three hundred
20 forty-two of this article.

21 3. (a) After the hearing pursuant to subdivision one of this section,
22 the court shall issue a written order granting or denying the extreme
23 risk protection order and setting forth the reasons for such determi-
24 nation. If the extreme risk protection order is granted, the court shall
25 direct service of such order in the manner and in accordance with the
26 protections for the petitioner set forth in subdivision six of section
27 sixty-three hundred forty-two of this article.

1 (b) Upon issuance of an extreme risk protection order: (i) any
2 firearm, rifle or shotgun removed pursuant to a temporary extreme risk
3 protection order or such extreme risk protection order shall be retained
4 by the law enforcement agency having jurisdiction for the duration of
5 the order, unless ownership of the firearm, rifle or shotgun is legally
6 transferred by the respondent to another individual permitted by law to
7 own and possess such firearm, rifle or shotgun; (ii) the supreme court
8 shall temporarily suspend any existing firearm license possessed by the
9 respondent and order the respondent temporarily ineligible for such a
10 license; (iii) the respondent shall be prohibited from purchasing or
11 possessing, or attempting to purchase or possess, a firearm, rifle or
12 shotgun; and (iv) the court shall direct the respondent to surrender any
13 firearm, rifle or shotgun in his or her possession in the same manner as
14 set forth in subdivision five of section 530.14 of the criminal proce-
15 sure law.

16 (c) An extreme risk protection order issued in accordance with this
17 section shall extend, as specified by the court, for a period of up to
18 one year from the date of the issuance of such order; provided, however,
19 that if such order was immediately preceded by the issuance of a tempo-
20 rary extreme risk protection order, then the duration of the extreme
21 risk protection order shall be measured from the date of issuance of
22 such temporary extreme risk protection order.

23 (d) A law enforcement officer serving a final extreme risk protection
24 order shall request that the respondent immediately surrender to the
25 officer all firearms, rifles and shotguns in the respondent's possession
26 and the officer shall conduct any search permitted by law for such
27 firearms. The law enforcement officer shall take possession of all
28 firearms, rifles and shotguns that are surrendered, that are in plain

1 sight, or that are discovered pursuant to a lawful search. As part of
2 the order, the court may also direct a police officer to search for
3 firearms, rifles and shotguns in a respondent's possession consistent
4 with the procedures of article six hundred ninety of the criminal proce-
5 dure law.

6 4. (a) The court shall notify the division of state police, any other
7 law enforcement agency with jurisdiction, all applicable licensing offi-
8 cers, and the division of criminal justice services of the issuance of a
9 final extreme risk protection order and provide a copy of such order to
10 such persons and agencies no later than the next business day after
11 issuing the order. The court also shall promptly notify such persons and
12 agencies and provide a copy of any order amending or revoking such
13 protection order or restoring the respondent's ability to own or possess
14 firearms, rifles or shotguns no later than the next business day after
15 issuing the order to restore such right to the respondent. Any notice or
16 report submitted pursuant to this subdivision shall be in an electronic
17 format, in a manner prescribed by the division of criminal justice
18 services.

19 (b) Upon receiving notice of the issuance of a final extreme risk
20 protection order, the division of criminal justice services shall imme-
21 diately report the existence of such order to the federal bureau of
22 investigation to allow the bureau to identify persons prohibited from
23 purchasing firearms, rifles or shotguns. The division shall also imme-
24 diately report to the bureau the expiration of such protection order and
25 any court order amending or revoking such protection order or restoring
26 the respondent's ability to purchase a firearm, rifle or shotgun.

27 5. (a) If, in accordance with a temporary extreme risk protection
28 order, a firearm, rifle or shotgun has been surrendered by or removed

1 from the respondent, and the supreme court subsequently finds that the
2 petitioner has not met the required standard of proof, the court's find-
3 ing shall include a written order, issued to all parties, directing that
4 any firearm, rifle or shotgun surrendered or removed pursuant to such
5 temporary order shall be returned to the respondent, upon a written
6 finding that there is no legal impediment to the respondent's possession
7 of such firearm, rifle or shotgun.

8 (b) If any other person demonstrates that he or she is the lawful
9 owner of any firearm, rifle or shotgun surrendered or removed pursuant
10 to a protection order issued in accordance with this article, and
11 provided that the court has made a written finding that there is no
12 legal impediment to the person's possession of a surrendered or removed
13 firearm, rifle or shotgun, the court shall direct that such firearm,
14 rifle or shotgun be returned to such lawful owner and inform such person
15 of the obligation to safely store such firearm, rifle, or shotgun in
16 accordance with section 265.45 of the penal law.

17 6. The respondent shall be notified on the record and in writing by
18 the court that he or she may submit one written request, at any time
19 during the effective period of an extreme risk protection order, for a
20 hearing setting aside any portion of such order. The request shall be
21 submitted in substantially the same form and manner as prescribed by the
22 chief administrator of the courts. Upon such request, the court shall
23 promptly hold a hearing, in accordance with this article, after provid-
24 ing reasonable notice to the petitioner. The respondent shall bear the
25 burden to prove, by clear and convincing evidence, any change of circum-
26 stances that may justify a change to the order.

27 § 6344. Surrender and removal of firearms, rifles and shotguns pursu-
28 ant to an extreme risk protection order. 1. When a law enforcement offi-

1 cer takes any firearm, rifle or shotgun pursuant to a temporary extreme
2 risk protection order or a final extreme risk protection order, the
3 officer shall give to the person from whom such firearm, rifle or shot-
4 gun is taken a receipt or voucher for the property taken, describing the
5 property in detail. In the absence of a person, the officer shall leave
6 the receipt or voucher in the place where the property was found, mail a
7 copy of the receipt or voucher, retaining proof of mailing, to the last
8 known address of the respondent and, if different, the owner of the
9 firearm, rifle or shotgun, and file a copy of such receipt or voucher
10 with the court. All firearms, rifles and shotguns in the possession of a
11 law enforcement official pursuant to this article shall be subject to
12 the provisions of applicable law, including but not limited to subdivi-
13 sion six of section 400.05 of the penal law; provided, however, that any
14 such firearm, rifle or shotgun shall be retained and not disposed of by
15 the law enforcement agency for at least two years unless legally trans-
16 ferred by the respondent to an individual permitted by law to own and
17 possess such firearm, rifle or shotgun.

18 2. If the location to be searched during the execution of a temporary
19 extreme risk protection order or extreme risk protection order is joint-
20 ly occupied by two or more parties, and a firearm, rifle or shotgun
21 located during the execution of such order is owned by a person other
22 than the respondent, the court shall, upon a written finding that there
23 is no legal impediment to the person other than the respondent's
24 possession of such firearm, rifle or shotgun, order the return of such
25 firearm, rifle or shotgun to such lawful owner and inform such person of
26 their obligation to safely store their firearm, rifle, or shotgun in
27 accordance with section 265.45 of the penal law.

1 § 6345. Request for renewal of an extreme risk protection order. 1.
2 If a petitioner believes a person subject to an extreme risk protection
3 order continues to be likely to engage in conduct that would result in
4 serious harm to himself, herself, or others, as defined in paragraph one
5 or two of subdivision (a) of section 9.39 of the mental hygiene law,
6 such petitioner may, at any time within sixty days prior to the expira-
7 tion of such existing extreme risk protection order, initiate a request
8 for a renewal of such order, setting forth the facts and circumstances
9 necessitating the request. The chief administrator of the courts shall
10 adopt forms that may be used for purposes of such applications and the
11 court's consideration of such applications. The court may issue a tempo-
12 rary extreme risk protection order in accordance with section sixty-
13 three hundred forty-two of this article, during the period that a
14 request for renewal of an extreme risk protection order is under consid-
15 eration pursuant to this section.

16 2. A hearing held pursuant to this section shall be conducted in the
17 supreme court, in accordance with section sixty-three hundred forty-
18 three of this article, to determine if a request for renewal of the
19 order shall be granted. The respondent shall be served with written
20 notice of an application for renewal a reasonable time before the hear-
21 ing, and shall be afforded an opportunity to fully participate in the
22 hearing. The court shall direct service of such application and the
23 accompanying papers in the manner and in accordance with the protections
24 for the petitioner set forth in subdivision six of section sixty-three
25 hundred forty-two of this article.

26 § 6346. Expiration of an extreme risk protection order. 1. A
27 protection order issued pursuant to this article, and all records of any
28 proceedings conducted pursuant to this article, shall be sealed upon

1 expiration of such order and the clerk of the court wherein such
2 proceedings were conducted shall immediately notify the commissioner of
3 the division of criminal justice services, the heads of all appropriate
4 police departments, applicable licensing officers, and all other appro-
5 prate law enforcement agencies that the order has expired and that the
6 record of such protection order shall be sealed and not be made avail-
7 able to any person or public or private entity, except that such records
8 shall be made available to:

9 (a) the respondent or the respondent's designated agent;

10 (b) courts in the unified court system;

11 (c) police forces and departments having responsibility for enforce-
12 ment of the general criminal laws of the state;

13 (d) any state or local officer or agency with responsibility for the
14 issuance of licenses to possess a firearm, rifle or shotgun, when the
15 respondent has made application for such a license; and

16 (e) any prospective employer of a police officer or peace officer as
17 those terms are defined in subdivisions thirty-three and thirty-four of
18 section 1.20 of the criminal procedure law, in relation to an applica-
19 tion for employment as a police officer or peace officer; provided,
20 however, that every person who is an applicant for the position of
21 police officer or peace officer shall be furnished with a copy of all
22 records obtained under this subparagraph and afforded an opportunity to
23 make an explanation thereto.

24 2. Upon expiration of a protection order issued pursuant to this arti-
25 cle and upon written application of the respondent who is the subject of
26 such order, with notice and opportunity to be heard to the petitioner
27 and every licensing officer responsible for issuance of a firearm
28 license to the subject of the order pursuant to article four hundred of

1 the penal law, and upon a written finding that there is no legal imped-
2 iment to the respondent's possession of a surrendered firearm, rifle or
3 shotgun, the court shall order the return of a firearm, rifle or shotgun
4 not otherwise disposed of in accordance with subdivision one of section
5 sixty-three hundred forty-four of this article. When issuing such order
6 in connection with any firearm subject to a license requirement under
7 article four hundred of the penal law, if the licensing officer informs
8 the court that he or she will seek to revoke the license, the order
9 shall be stayed by the court until the conclusion of any license revoca-
10 tion proceeding.

11 § 6347. Effect of findings and determinations in subsequent
12 proceedings. Notwithstanding any contrary claim based on common law or
13 a provision of any other law, no finding or determination made pursuant
14 to this article shall be interpreted as binding, or having collateral
15 estoppel or similar effect, in any other action or proceeding, or with
16 respect to any other determination or finding, in any court, forum or
17 administrative proceeding.

18 § 2. Section 265.45 of the penal law, as amended by section 3 of part
19 FF of chapter 57 of the laws of 2013, is amended to read as follows:

20 § 265.45 Safe storage of rifles, shotguns, and firearms.

21 No person who owns or is custodian of a rifle, shotgun or firearm who
22 resides with an individual who such person knows or has reason to know
23 is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(g)
24 (1), (4), (8) or (9), or pursuant to a temporary or final extreme risk
25 protection order issued under article sixty-three-A of the civil prac-
26 tice law and rules, shall store or otherwise leave such rifle, shotgun
27 or firearm out of his or her immediate possession or control without
28 having first securely locked such rifle, shotgun or firearm in an appro-

1 priate safe storage depository or rendered it incapable of being fired
2 by use of a gun locking device appropriate to that weapon. For purposes
3 of this section "safe storage depository" shall mean a safe or other
4 secure container which, when locked, is incapable of being opened with-
5 out the key, combination or other unlocking mechanism and is capable of
6 preventing an unauthorized person from obtaining access to and
7 possession of the weapon contained therein. With respect to a person who
8 is prohibited from possessing a firearm pursuant to 18 USC § 922(g)(9),
9 for purposes of this section, this section applies only if such person
10 has been convicted of a crime included in subdivision one of section
11 370.15 of the criminal procedure law and such gun is possessed within
12 five years from the later of the date of conviction or completion of
13 sentence. Nothing in this section shall be deemed to affect, impair or
14 supersede any special or local act relating to the safe storage of
15 rifles, shotguns or firearms which impose additional requirements on the
16 owner or custodian of such weapons.

17 A violation of this section shall constitute a class A misdemeanor.

18 § 3. This act shall take effect on the one hundred eightieth day after
19 it shall have become a law.