

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, or impedes the
45 effectuation of a judicial order or the exercise of jurisdiction over
46 any person, thing, or controversy by a court, administrative body, 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.

42 **TEMPORARY EXTREME RISK PROTECTIVE ORDER**

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

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.