



Sen. Chuck Weaver

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10100SB0929sam001

LRB101 06492 SLF 59322 a

1 AMENDMENT TO SENATE BILL 929

2 AMENDMENT NO. _____. Amend Senate Bill 929 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Firearms Restraining Order Act is amended
5 by changing Sections 35 and 40 as follows:

6 (430 ILCS 67/35)

7 Sec. 35. Ex parte orders and emergency hearings.

8 (a) A petitioner may request an emergency firearms
9 restraining order by filing an affidavit or verified pleading
10 alleging that the respondent poses an immediate and present
11 danger of causing personal injury to himself, herself, or
12 another by having in his or her custody or control, purchasing,
13 possessing, or receiving a firearm. The petition shall also
14 describe the type and location of any firearm or firearms
15 presently believed by the petitioner to be possessed or
16 controlled by the respondent.

1 (b) If the respondent is alleged to pose an immediate and
2 present danger of causing personal injury to an intimate
3 partner, or an intimate partner is alleged to have been the
4 target of a threat or act of violence by the respondent, the
5 petitioner shall make a good faith effort to provide notice to
6 any and all intimate partners of the respondent. The notice
7 must include that the petitioner intends to petition the court
8 for an emergency firearms restraining order, and, if the
9 petitioner is a law enforcement officer, referral to relevant
10 domestic violence or stalking advocacy or counseling
11 resources, if appropriate. The petitioner ~~Petitioner~~ shall
12 attest to having provided the notice in the filed affidavit or
13 verified pleading. If, after making a good faith effort, the
14 petitioner is unable to provide notice to any or all intimate
15 partners, the affidavit or verified pleading should describe
16 what efforts were made.

17 (c) Every person who files a petition for an emergency
18 firearms restraining order, knowing the information provided
19 to the court at any hearing or in the affidavit or verified
20 pleading to be false, is guilty of perjury under Section 32-2
21 of the Criminal Code of 2012.

22 (d) An emergency firearms restraining order shall be issued
23 on an ex parte basis, that is, without notice to the
24 respondent.

25 (e) An emergency hearing held on an ex parte basis shall be
26 held the same day that the petition is filed or the next day

1 that the court is in session.

2 (f) If a circuit or associate judge finds probable cause to
3 believe that the respondent poses an immediate and present
4 danger of causing personal injury to himself, herself, or
5 another by having in his or her custody or control, purchasing,
6 possessing, or receiving a firearm, the circuit or associate
7 judge shall issue an emergency order.

8 (f-5) If the court issues an emergency firearms restraining
9 order, it shall, upon a finding of probable cause that the
10 respondent possesses firearms, issue a search warrant
11 directing a law enforcement agency to seize the respondent's
12 firearms. The court may, as part of that warrant, direct the
13 law enforcement agency to search the respondent's residence and
14 other places where the court finds there is probable cause to
15 believe he or she is likely to possess the firearms.

16 (g) An emergency firearms restraining order shall require:

17 (1) the respondent to refrain from having in his or her
18 custody or control, purchasing, possessing, or receiving
19 additional firearms for the duration of the order; and

20 (2) the respondent to turn over to the local law
21 enforcement agency any Firearm Owner's Identification Card
22 and concealed carry license in his or her possession. The
23 local law enforcement agency shall immediately mail the
24 card and concealed carry license to the Department of State
25 Police Firearm Services Bureau for safekeeping. The
26 firearm or firearms and Firearm Owner's Identification

1 Card and concealed carry license, if unexpired, shall be
2 returned to the respondent after the firearms restraining
3 order is terminated, ~~or~~ expired, or not granted within 7
4 days.

5 (h) Except as otherwise provided in subsection (h-5) of
6 this Section, upon expiration of the period of safekeeping, if
7 the firearms or Firearm Owner's Identification Card and
8 concealed carry license cannot be returned to the respondent
9 because the respondent cannot be located, fails to respond to
10 requests to retrieve the firearms, or is not lawfully eligible
11 to possess a firearm, upon petition from the local law
12 enforcement agency, the court may order the local law
13 enforcement agency to destroy the firearms, use the firearms
14 for training purposes, or use the firearms for any other
15 application as deemed appropriate by the local law enforcement
16 agency.

17 (h-5) A respondent whose Firearm Owner's Identification
18 Card has been revoked or suspended may petition the court, if
19 the petitioner is present in court or has notice of the
20 respondent's petition, to transfer the respondent's firearm to
21 a person who is lawfully able to possess the firearm if the
22 person does not reside at the same address as the respondent.
23 Notice of the petition shall be served upon the person
24 protected by the emergency firearms restraining order. While
25 the order is in effect, the transferee who receives the
26 respondent's firearms must swear or affirm by affidavit that he

1 or she shall not transfer the firearm to the respondent or to
2 anyone residing in the same residence as the respondent.

3 (h-6) If a person other than the respondent claims title to
4 any firearms surrendered under this Section, he or she may
5 petition the court, if the petitioner is present in court or
6 has notice of the petition, to have the firearm returned to him
7 or her. If the court determines that person to be the lawful
8 owner of the firearm, the firearm shall be returned to him or
9 her, provided that:

10 (1) the firearm is removed from the respondent's
11 custody, control, or possession and the lawful owner agrees
12 to store the firearm in a manner such that the respondent
13 does not have access to or control of the firearm; and

14 (2) the firearm is not otherwise unlawfully possessed
15 by the owner.

16 The person petitioning for the return of his or her firearm
17 must swear or affirm by affidavit that he or she: (i) is the
18 lawful owner of the firearm; (ii) shall not transfer the
19 firearm to the respondent; and (iii) will store the firearm in
20 a manner that the respondent does not have access to or control
21 of the firearm.

22 (i) In accordance with subsection (e) of this Section, the
23 court shall schedule a full hearing as soon as possible, but no
24 longer than 14 days from the issuance of an ex parte firearms
25 restraining order, to determine if a 6-month firearms
26 restraining order shall be issued. The court may extend an ex

1 parte order as needed, but not to exceed 14 days, to effectuate
2 service of the order or if necessary to continue protection.
3 The court may extend the order for a greater length of time by
4 mutual agreement of the parties.

5 (Source: P.A. 100-607, eff. 1-1-19; revised 10-2-18.)

6 (430 ILCS 67/40)

7 Sec. 40. Six-month ~~Six-month~~ orders.

8 (a) A petitioner may request a 6-month firearms restraining
9 order by filing an affidavit or verified pleading alleging that
10 the respondent poses a significant danger of causing personal
11 injury to himself, herself, or another in the near future by
12 having in his or her custody or control, purchasing,
13 possessing, or receiving a firearm. The petition shall also
14 describe the number, types, and locations of any firearms
15 presently believed by the petitioner to be possessed or
16 controlled by the respondent.

17 (b) If the respondent is alleged to pose a significant
18 danger of causing personal injury to an intimate partner, or an
19 intimate partner is alleged to have been the target of a threat
20 or act of violence by the respondent, the petitioner shall make
21 a good faith effort to provide notice to any and all intimate
22 partners of the respondent. The notice must include that the
23 petitioner intends to petition the court for a 6-month firearms
24 restraining order, and, if the petitioner is a law enforcement
25 officer, referral to relevant domestic violence or stalking

1 advocacy or counseling resources, if appropriate. The
2 petitioner ~~Petitioner~~ shall attest to having provided the
3 notice in the filed affidavit or verified pleading. If, after
4 making a good faith effort, the petitioner is unable to provide
5 notice to any or all intimate partners, the affidavit or
6 verified pleading should describe what efforts were made.

7 (c) Every person who files a petition for a 6-month
8 firearms restraining order, knowing the information provided
9 to the court at any hearing or in the affidavit or verified
10 pleading to be false, is guilty of perjury under Section 32-2
11 of the Criminal Code of 2012.

12 (d) Upon receipt of a petition for a 6-month firearms
13 restraining order, the court shall order a hearing within 30
14 days.

15 (e) In determining whether to issue a firearms restraining
16 order under this Section, the court shall consider evidence
17 including, but not limited to, the following:

18 (1) The unlawful and reckless use, display, or
19 brandishing of a firearm by the respondent.

20 (2) The history of use, attempted use, or threatened
21 use of physical force by the respondent against another
22 person.

23 (3) Any prior arrest of the respondent for a felony
24 offense.

25 (4) Evidence of the abuse of controlled substances or
26 alcohol by the respondent.

1 (5) A recent threat of violence or act of violence by
2 the respondent directed toward himself, herself, or
3 another.

4 (6) A violation of an emergency order of protection
5 issued under Section 217 of the Illinois Domestic Violence
6 Act of 1986 or Section 112A-17 of the Code of Criminal
7 Procedure of 1963 or of an order of protection issued under
8 Section 214 of the Illinois Domestic Violence Act of 1986
9 or Section 112A-14 of the Code of Criminal Procedure of
10 1963.

11 (7) A pattern of violent acts or violent threats,
12 including, but not limited to, threats of violence or acts
13 of violence by the respondent directed toward himself,
14 herself, or another.

15 (f) At the hearing, the petitioner shall have the burden of
16 proving, by clear and convincing evidence, that the respondent
17 poses a significant danger of personal injury to himself,
18 herself, or another by having in his or her custody or control,
19 purchasing, possessing, or receiving a firearm.

20 (g) If the court finds that there is clear and convincing
21 evidence to issue a firearms restraining order, the court shall
22 issue a firearms restraining order that shall be in effect for
23 6 months subject to renewal under Section 45 of this Act or
24 termination under that Section.

25 (g-5) If the court issues a 6-month firearms restraining
26 order, it shall, upon a finding of probable cause that the

1 respondent possesses firearms, issue a search warrant
2 directing a law enforcement agency to seize the respondent's
3 firearms. The court may, as part of that warrant, direct the
4 law enforcement agency to search the respondent's residence and
5 other places where the court finds there is probable cause to
6 believe he or she is likely to possess the firearms.

7 (h) A 6-month firearms restraining order shall require:

8 (1) the respondent to refrain from having in his or her
9 custody or control, purchasing, possessing, or receiving
10 additional firearms for the duration of the order; and

11 (2) the respondent to turn over to the local law
12 enforcement agency any firearm or Firearm Owner's
13 Identification Card and concealed carry license in his or
14 her possession. The local law enforcement agency shall
15 immediately mail the card and concealed carry license to
16 the Department of State Police Firearm Services Bureau for
17 safekeeping. The firearm or firearms and Firearm Owner's
18 Identification Card and concealed carry license, if
19 unexpired, shall be returned to the respondent after the
20 firearms restraining order is terminated, ~~or~~ expired, or
21 not granted within 7 days.

22 (i) Except as otherwise provided in subsection (i-5) of
23 this Section, upon expiration of the period of safekeeping, if
24 the firearms or Firearm Owner's Identification Card cannot be
25 returned to the respondent because the respondent cannot be
26 located, fails to respond to requests to retrieve the firearms,

1 or is not lawfully eligible to possess a firearm, upon petition
2 from the local law enforcement agency, the court may order the
3 local law enforcement agency to destroy the firearms, use the
4 firearms for training purposes, or use the firearms for any
5 other application as deemed appropriate by the local law
6 enforcement agency.

7 (i-5) A respondent whose Firearm Owner's Identification
8 Card has been revoked or suspended may petition the court, if
9 the petitioner is present in court or has notice of the
10 respondent's petition, to transfer the respondent's firearm to
11 a person who is lawfully able to possess the firearm if the
12 person does not reside at the same address as the respondent.
13 Notice of the petition shall be served upon the person
14 protected by the emergency firearms restraining order. While
15 the order is in effect, the transferee who receives the
16 respondent's firearms must swear or affirm by affidavit that he
17 or she shall not transfer the firearm to the respondent or to
18 anyone ~~any one~~ residing in the same residence as the
19 respondent.

20 (i-6) If a person other than the respondent claims title to
21 any firearms surrendered under this Section, he or she may
22 petition the court, if the petitioner is present in court or
23 has notice of the petition, to have the firearm returned to him
24 or her. If the court determines that person to be the lawful
25 owner of the firearm, the firearm shall be returned to him or
26 her, provided that:

1 (1) the firearm is removed from the respondent's
2 custody, control, or possession and the lawful owner agrees
3 to store the firearm in a manner such that the respondent
4 does not have access to or control of the firearm; and

5 (2) the firearm is not otherwise unlawfully possessed
6 by the owner.

7 The person petitioning for the return of his or her firearm
8 must swear or affirm by affidavit that he or she: (i) is the
9 lawful owner of the firearm; (ii) shall not transfer the
10 firearm to the respondent; and (iii) will store the firearm in
11 a manner that the respondent does not have access to or control
12 of the firearm.

13 (j) If the court does not issue a firearms restraining
14 order at the hearing, the court shall dissolve any emergency
15 firearms restraining order then in effect.

16 (k) When the court issues a firearms restraining order
17 under this Section, the court shall inform the respondent that
18 he or she is entitled to one hearing during the period of the
19 order to request a termination of the order, under Section 45
20 of this Act, and shall provide the respondent with a form to
21 request a hearing.

22 (Source: P.A. 100-607, eff. 1-1-19; revised 10-2-18.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law."