



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3483

Introduced 2/22/2021, by Rep. Denyse Stoneback

SYNOPSIS AS INTRODUCED:

See Index

Amends the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois. Provides that the Department of Public Health, subject to appropriation or other available funding, shall conduct a program to promote awareness of firearms restraining orders to the general public. Provides that beginning July 1, 2022, the program must include the development and dissemination, through print, digital, and broadcast media, of public service announcements that publicize the options victims of domestic violence have to seek help with special emphasis on the firearms restraining order. Amends the Illinois Police Training Act. Provides that the Illinois Law Enforcement Training Standards Board shall develop and approve a standard curriculum for a training program on the Firearms Restraining Order Act. Provides that the Board shall conduct a training program that trains officers on the use of firearms restraining orders, how to identify situations in which a firearms restraining order is appropriate, and how to safely promote the usage of the firearms restraining order in a domestic violence situation. Officers who have successfully completed this program shall be issued a certificate attesting to their attendance. Amends the Firearms Restraining Order Act. Provides that a firearms restraining order includes the seizure of the respondent's ammunition. Provides that "family member of the respondent" includes a former spouse and a person with whom the respondent has or allegedly has a child in common. Provides that a petition for a firearms restraining order may be filed in any county where an incident occurred that involved the respondent posing an immediate and present danger of causing personal injury to the respondent or another by having in his or her custody or control, or purchasing, possessing, or receiving, a firearm or ammunition. Includes printing a petition for a firearms restraining order for which no fees may be charged by the circuit clerk. Provides that the Illinois State Police shall submit a yearly report to the General Assembly concerning the applications and issuance of firearms restraining orders.

LRB102 10141 RLC 15463 b

1 AN ACT concerning firearms.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Department of Public Health Powers and
5 Duties Law of the Civil Administrative Code of Illinois is
6 amended by adding Section 2310-705 as follows:

7 (20 ILCS 2310/2310-705 new)

8 Sec. 2310-705. Firearms restraining order awareness.

9 (a) The Department, subject to appropriation or other
10 available funding, shall conduct a program to promote
11 awareness of firearms restraining orders to the general
12 public. The program may include, but is not limited to:

13 (1) dissemination of information, either online or
14 with an in-person pamphlet, of the options people have to
15 seek assistance using a firearms restraining order and the
16 process in which to file one;

17 (2) production of materials that can be given to
18 health care workers that assist in identifying victims of
19 domestic violence who may benefit from awareness of the
20 Firearms Restraining Order Act and how to safely and
21 discreetly determine if a potential abuser possesses a
22 firearm; and

23 (3) specific information on situations in which a

1 firearms restraining order may be appropriate such as with
2 situations of domestic violence, mental health crisis, or
3 anyone who is at risk of injuring themselves or others.

4 (b) Beginning July 1, 2022, the program must include the
5 development and dissemination, through print, digital, and
6 broadcast media, of public service announcements that
7 publicize the options victims of domestic violence have to
8 seek help with special emphasis on the firearms restraining
9 order.

10 Section 10. The Illinois Police Training Act is amended by
11 adding Section 7.1 as follows:

12 (50 ILCS 705/7.1 new)

13 Sec. 7.1. Firearms restraining order training.

14 (a) The Illinois Law Enforcement Training Standards Board
15 shall develop and approve a standard curriculum for a training
16 program on the Firearms Restraining Order Act. The Board shall
17 conduct a training program that trains officers on the use of
18 firearms restraining orders, how to identify situations in
19 which a firearms restraining order is appropriate, and how to
20 safely promote the usage of the firearms restraining order in
21 a domestic violence situation. Officers who have successfully
22 completed this program shall be issued a certificate attesting
23 to their attendance.

24 (b) Every law enforcement officer shall complete this

1 training once each year.

2 Section 15. The Firearms Restraining Order Act is amended
3 by changing Sections 5, 10, 35, 40, and 45 and by adding
4 Section 85 as follows:

5 (430 ILCS 67/5)

6 Sec. 5. Definitions. As used in this Act:

7 "Family member of the respondent" means a spouse, former
8 spouse, person with whom the respondent has or allegedly has a
9 child in common, parent, child, or step-child of the
10 respondent, any other person related by blood or present
11 marriage to the respondent, or a person who shares a common
12 dwelling with the respondent.

13 "Firearms restraining order" means an order issued by the
14 court, prohibiting and enjoining a named person from having in
15 his or her custody or control, purchasing, possessing, or
16 receiving any firearms or ammunition.

17 "Intimate partner" means a spouse, former spouse, a person
18 with whom the respondent has or allegedly has a child in
19 common, or a person with whom the respondent has or has had a
20 dating or engagement relationship.

21 "Petitioner" means:

22 (1) a family member of the respondent as defined in
23 this Act; or

24 (2) a law enforcement officer who files a petition

1 alleging that the respondent poses a danger of causing
2 personal injury to himself, herself, or another by having
3 in his or her custody or control, purchasing, possessing,
4 or receiving a firearm or ammunition.

5 "Respondent" means the person alleged in the petition to
6 pose a danger of causing personal injury to himself, herself,
7 or another by having in his or her custody or control,
8 purchasing, possessing, or receiving a firearm or ammunition.

9 (Source: P.A. 100-607, eff. 1-1-19; 101-81, eff. 7-12-19.)

10 (430 ILCS 67/10)

11 Sec. 10. Commencement of action; procedure.

12 (a) An action for a firearms restraining order is
13 commenced by filing a verified petition for a firearms
14 restraining order in any circuit court.

15 (b) A petition for a firearms restraining order may be
16 filed in: (1) any county where the respondent resides or (2)
17 any county where an incident occurred that involved the
18 respondent posing an immediate and present danger of causing
19 personal injury to the respondent or another by having in his
20 or her custody or control, or purchasing, possessing, or
21 receiving, a firearm or ammunition.

22 (c) No fee shall be charged by the clerk for filing,
23 amending, vacating, certifying, printing, or photocopying
24 petitions or orders; or for issuing alias summons; or for any
25 related filing service. No fee shall be charged by the sheriff

1 or other law enforcement for service by the sheriff or other
2 law enforcement of a petition, rule, motion, or order in an
3 action commenced under this Section.

4 (d) The court shall provide, through the office of the
5 clerk of the court, simplified forms and clerical assistance
6 to help with the writing and filing of a petition under this
7 Section by any person not represented by counsel. In addition,
8 that assistance may be provided by the State's Attorney.

9 (Source: P.A. 100-607, eff. 1-1-19; 101-81, eff. 7-12-19.)

10 (430 ILCS 67/35)

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

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

21 (b) If the respondent is alleged to pose an immediate and
22 present danger of causing personal injury to an intimate
23 partner, or an intimate partner is alleged to have been the
24 target of a threat or act of violence by the respondent, the
25 petitioner shall make a good faith effort to provide notice to

1 any and all intimate partners of the respondent. The notice
2 must include that the petitioner intends to petition the court
3 for an emergency firearms restraining order, and, if the
4 petitioner is a law enforcement officer, referral to relevant
5 domestic violence or stalking advocacy or counseling
6 resources, if appropriate. The petitioner shall attest to
7 having provided the notice in the filed affidavit or verified
8 pleading. If, after making a good faith effort, the petitioner
9 is unable to provide notice to any or all intimate partners,
10 the affidavit or verified pleading should describe what
11 efforts were made.

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

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

20 (e) An emergency hearing held on an ex parte basis shall be
21 held the same day that the petition is filed or the next day
22 that the court is in session.

23 (f) If a circuit or associate judge finds probable cause
24 to believe that the respondent poses an immediate and present
25 danger of causing personal injury to himself, herself, or
26 another by having in his or her custody or control,

1 purchasing, possessing, or receiving a firearm or ammunition,
2 the circuit or associate judge shall issue an emergency order.

3 (f-5) If the court issues an emergency firearms
4 restraining order, it shall, upon a finding of probable cause
5 that the respondent possesses firearms or ammunition, issue a
6 search warrant directing a law enforcement agency to seize the
7 respondent's firearms and ammunition. The court may, as part
8 of that warrant, direct the law enforcement agency to search
9 the respondent's residence and other places where the court
10 finds there is probable cause to believe he or she is likely to
11 possess the firearms or ammunition. A return of the search
12 warrant shall be filed by the law enforcement agency within 4
13 days thereafter, setting forth the time, date, and location
14 that the search warrant was executed and what items, if any,
15 were seized.

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

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

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

1 firearm or firearms and ammunition and Firearm Owner's
2 Identification Card and concealed carry license, if
3 unexpired, shall be returned to the respondent after the
4 firearms restraining order is terminated or expired.

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 and ammunition or Firearm Owner's Identification
8 Card and concealed carry license cannot be returned to the
9 respondent because the respondent cannot be located, fails to
10 respond to requests to retrieve the firearms, or is not
11 lawfully eligible to possess a firearm or ammunition, upon
12 petition from the local law enforcement agency, the court may
13 order the local law enforcement agency to destroy the firearms
14 and ammunition, use the firearms and ammunition for training
15 purposes, or use the firearms and ammunition for any other
16 application as deemed appropriate by the local law enforcement
17 agency.

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

1 transferee who receives the respondent's firearms and
2 ammunition must swear or affirm by affidavit that he or she
3 shall not transfer the firearm and ammunition to the
4 respondent or to anyone residing in the same residence as the
5 respondent.

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

14 (1) the firearm and ammunition are ~~is~~ removed from the
15 respondent's custody, control, or possession and the
16 lawful owner agrees to store the firearm and ammunition in
17 a manner such that the respondent does not have access to
18 or control of the firearm and ammunition; and

19 (2) the firearm and ammunition ~~is~~ not otherwise
20 unlawfully possessed by the owner.

21 The person petitioning for the return of his or her
22 firearm and ammunition must swear or affirm by affidavit that
23 he or she: (i) is the lawful owner of the firearm and
24 ammunition; (ii) shall not transfer the firearm and ammunition
25 to the respondent; and (iii) will store the firearm and
26 ammunition in a manner that the respondent does not have

1 access to or control of the firearm and ammunition.

2 (i) In accordance with subsection (e) of this Section, the
3 court shall schedule a full hearing as soon as possible, but no
4 longer than 14 days from the issuance of an ex parte firearms
5 restraining order, to determine if a 6-month firearms
6 restraining order shall be issued. The court may extend an ex
7 parte order as needed, but not to exceed 14 days, to effectuate
8 service of the order or if necessary to continue protection.
9 The court may extend the order for a greater length of time by
10 mutual agreement of the parties.

11 (Source: P.A. 100-607, eff. 1-1-19; 101-81, eff. 7-12-19.)

12 (430 ILCS 67/40)

13 Sec. 40. Six-month orders.

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

24 (b) If the respondent is alleged to pose a significant
25 danger of causing personal injury to an intimate partner, or

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

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

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

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

25 (1) The unlawful and reckless use, display, or
26 brandishing of a firearm and ammunition by the respondent.

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

4 (3) Any prior arrest of the respondent for a felony
5 offense.

6 (4) Evidence of the abuse of controlled substances or
7 alcohol by the respondent.

8 (5) A recent threat of violence or act of violence by
9 the respondent directed toward himself, herself, or
10 another.

11 (6) A violation of an emergency order of protection
12 issued under Section 217 of the Illinois Domestic Violence
13 Act of 1986 or Section 112A-17 of the Code of Criminal
14 Procedure of 1963 or of an order of protection issued
15 under Section 214 of the Illinois Domestic Violence Act of
16 1986 or Section 112A-14 of the Code of Criminal Procedure
17 of 1963.

18 (7) A pattern of violent acts or violent threats,
19 including, but not limited to, threats of violence or acts
20 of violence by the respondent directed toward himself,
21 herself, or another.

22 (f) At the hearing, the petitioner shall have the burden
23 of proving, by clear and convincing evidence, that the
24 respondent poses a significant danger of personal injury to
25 himself, herself, or another by having in his or her custody or
26 control, purchasing, possessing, or receiving a firearm and

1 ammunition.

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

7 (g-5) If the court issues a 6-month firearms restraining
8 order, it shall, upon a finding of probable cause that the
9 respondent possesses firearms and ammunition, issue a search
10 warrant directing a law enforcement agency to seize the
11 respondent's firearms and ammunition. The court may, as part
12 of that warrant, direct the law enforcement agency to search
13 the respondent's residence and other places where the court
14 finds there is probable cause to believe he or she is likely to
15 possess the firearms and ammunition. A return of the search
16 warrant shall be filed by the law enforcement agency within 4
17 days thereafter, setting forth the time, date, and location
18 that the search warrant was executed and what items, if any,
19 were seized.

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

21 (1) the respondent to refrain from having in his or
22 her custody or control, purchasing, possessing, or
23 receiving additional firearms and ammunition for the
24 duration of the order; and

25 (2) the respondent to turn over to the local law
26 enforcement agency any firearm and ammunition or Firearm

1 Owner's Identification Card and concealed carry license in
2 his or her possession. The local law enforcement agency
3 shall immediately mail the card and concealed carry
4 license to the Department of State Police Firearm Services
5 Bureau for safekeeping. The firearm or firearms and
6 ammunition and Firearm Owner's Identification Card and
7 concealed carry license, if unexpired, shall be returned
8 to the respondent after the firearms restraining order is
9 terminated or expired.

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

23 (i-5) A respondent whose Firearm Owner's Identification
24 Card has been revoked or suspended may petition the court, if
25 the petitioner is present in court or has notice of the
26 respondent's petition, to transfer the respondent's firearm

1 and ammunition to a person who is lawfully able to possess the
2 firearm and ammunition if the person does not reside at the
3 same address as the respondent. Notice of the petition shall
4 be served upon the person protected by the emergency firearms
5 restraining order. While the order is in effect, the
6 transferee who receives the respondent's firearms and
7 ammunition must swear or affirm by affidavit that he or she
8 shall not transfer the firearm and ammunition to the
9 respondent or to anyone residing in the same residence as the
10 respondent.

11 (i-6) If a person other than the respondent claims title
12 to any firearms and ammunition surrendered under this Section,
13 he or she may petition the court, if the petitioner is present
14 in court or has notice of the petition, to have the firearm and
15 ammunition returned to him or her. If the court determines
16 that person to be the lawful owner of the firearm and
17 ammunition, the firearm and ammunition shall be returned to
18 him or her, provided that:

19 (1) the firearm and ammunition are ~~is~~ removed from the
20 respondent's custody, control, or possession and the
21 lawful owner agrees to store the firearm and ammunition in
22 a manner such that the respondent does not have access to
23 or control of the firearm and ammunition; and

24 (2) the firearm and ammunition are ~~is~~ not otherwise
25 unlawfully possessed by the owner.

26 The person petitioning for the return of his or her

1 firearm and ammunition must swear or affirm by affidavit that
2 he or she: (i) is the lawful owner of the firearm and
3 ammunition; (ii) shall not transfer the firearm and ammunition
4 to the respondent; and (iii) will store the firearm and
5 ammunition in a manner that the respondent does not have
6 access to or control of the firearm and ammunition.

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

10 (k) When the court issues a firearms restraining order
11 under this Section, the court shall inform the respondent that
12 he or she is entitled to one hearing during the period of the
13 order to request a termination of the order, under Section 45
14 of this Act, and shall provide the respondent with a form to
15 request a hearing.

16 (Source: P.A. 100-607, eff. 1-1-19; 101-81, eff. 7-12-19.)

17 (430 ILCS 67/45)

18 Sec. 45. Termination and renewal.

19 (a) A person subject to a firearms restraining order
20 issued under this Act may submit one written request at any
21 time during the effective period of the order for a hearing to
22 terminate the order.

23 (1) The respondent shall have the burden of proving by
24 a preponderance of the evidence that the respondent does
25 not pose a danger of causing personal injury to himself,

1 herself, or another in the near future by having in his or
2 her custody or control, purchasing, possessing, or
3 receiving a firearm and ammunition.

4 (2) If the court finds after the hearing that the
5 respondent has met his or her burden, the court shall
6 terminate the order.

7 (b) A petitioner may request a renewal of a firearms
8 restraining order at any time within the 3 months before the
9 expiration of a firearms restraining order.

10 (1) A court shall, after notice and a hearing, renew a
11 firearms restraining order issued under this part if the
12 petitioner proves, by clear and convincing evidence, that
13 the respondent continues to pose a danger of causing
14 personal injury to himself, herself, or another in the
15 near future by having in his or her custody or control,
16 purchasing, possessing, or receiving a firearm and
17 ammunition.

18 (2) In determining whether to renew a firearms
19 restraining order issued under this Act, the court shall
20 consider evidence of the facts identified in subsection
21 (e) of Section 40 of this Act and any other evidence of an
22 increased risk for violence.

23 (3) At the hearing, the petitioner shall have the
24 burden of proving by clear and convincing evidence that
25 the respondent continues to pose a danger of causing
26 personal injury to himself, herself, or another in the

1 near future by having in his or her custody or control,
2 purchasing, possessing, or receiving a firearm and
3 ammunition.

4 (4) The renewal of a firearms restraining order issued
5 under this Section shall be in effect for 6 months,
6 subject to termination by further order of the court at a
7 hearing held under this Section and further renewal by
8 further order of the court under this Section.

9 (Source: P.A. 100-607, eff. 1-1-19; 101-81, eff. 7-12-19.)

10 (430 ILCS 67/85 new)

11 Sec. 85. Report to the General Assembly. The Illinois
12 State Police shall submit a yearly report to the General
13 Assembly. This report shall include, but is not limited to,
14 the following information:

15 (1) the number of petitions for firearms restraining
16 orders filed;

17 (2) the number of petitions for firearms restraining
18 orders granted;

19 (3) category of petitioner (number of cases filed
20 totaled by type of family member and type of law
21 enforcement agency);

22 (4) the total number of firearms seized; and

23 (5) common reasons given for petitioning for firearms
24 restraining orders.

1 INDEX

2 Statutes amended in order of appearance

3 20 ILCS 2310/2310-705 new

4 50 ILCS 705/7.1 new

5 430 ILCS 67/5

6 430 ILCS 67/10

7 430 ILCS 67/35

8 430 ILCS 67/40

9 430 ILCS 67/45

10 430 ILCS 67/85 new