



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2932

Introduced 2/16/2023, by Rep. Steven Reick

SYNOPSIS AS INTRODUCED:

430 ILCS 67/40
430 ILCS 67/45
430 ILCS 67/55

Repeals the provisions of Public Act 102-1116 that make amendatory changes to the Firearms Restraining Order Act that provide that a petitioner for a firearms restraining order may request a plenary firearms restraining order of up to one year, but not less than 6 months (restores the 6 months provision). Repeals provisions that the firearms restraining order may be renewed for an additional period of up to one year.

LRB103 28086 RLC 54465 b

1 AN ACT concerning safety.

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

4 Section 5. The Firearms Restraining Order Act is amended
5 by changing Sections 40, 45, and 55 as follows:

6 (430 ILCS 67/40)

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

8 (a) A petitioner may request a 6-month firearms
9 restraining order ~~for up to one year~~ by filing an affidavit or
10 verified pleading alleging that the respondent poses a
11 significant danger of causing personal injury to himself,
12 herself, or another in the near future by having in his or her
13 custody or control, purchasing, possessing, or receiving a
14 firearm, ammunition, and firearm parts that could be assembled
15 to make an operable firearm. The petition shall also describe
16 the number, types, and locations of any firearms, ammunition,
17 and firearm parts that could be assembled to make an operable
18 firearm presently believed by the petitioner to be possessed
19 or controlled by the respondent. ~~The firearms restraining~~
20 ~~order may be renewed for an additional period of up to one year~~
21 ~~in accordance with Section 45 of this Act.~~

22 (b) If the respondent is alleged to pose a significant
23 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 ~~the duration of time~~ that the petitioner intends to petition
6 the court for a 6-month firearms restraining order, and, if
7 the petitioner is a law enforcement officer, referral to
8 relevant domestic violence or stalking advocacy or counseling
9 resources, if appropriate. The petitioner shall attest to
10 having provided the notice in the filed affidavit or verified
11 pleading. If, after making a good faith effort, the petitioner
12 is unable to provide notice to any or all intimate partners,
13 the affidavit or verified pleading should describe what
14 efforts were made.

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

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

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

26 (1) The unlawful and reckless use, display, or

1 brandishing of a firearm, ammunition, and firearm parts
2 that could be assembled to make an operable firearm by the
3 respondent.

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

7 (3) Any prior arrest of the respondent for a felony
8 offense.

9 (4) Evidence of the abuse of controlled substances or
10 alcohol by the respondent.

11 (5) A recent threat of violence or act of violence by
12 the respondent directed toward himself, herself, or
13 another.

14 (6) A violation of an emergency order of protection
15 issued under Section 217 of the Illinois Domestic Violence
16 Act of 1986 or Section 112A-17 of the Code of Criminal
17 Procedure of 1963 or of an order of protection issued
18 under Section 214 of the Illinois Domestic Violence Act of
19 1986 or Section 112A-14 of the Code of Criminal Procedure
20 of 1963.

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

25 (f) At the hearing, the petitioner shall have the burden
26 of proving, by clear and convincing evidence, that the

1 respondent poses a significant danger of personal injury to
2 himself, herself, or another by having in his or her custody or
3 control, purchasing, possessing, or receiving a firearm,
4 ammunition, and firearm parts that could be assembled to make
5 an operable firearm.

6 (g) If the court finds that there is clear and convincing
7 evidence to issue a ~~plenary~~ firearms restraining order, the
8 court shall issue a firearms restraining order that shall be
9 in effect for ~~up to one year, but not less than 6 months,~~ 6
10 months subject to renewal under Section 45 of this Act or
11 termination under that Section.

12 (g-5) If the court issues a ~~plenary~~ 6-month firearms
13 restraining order, it shall, upon a finding of probable cause
14 that the respondent possesses firearms, ammunition, and
15 firearm parts that could be assembled to make an operable
16 firearm, issue a search warrant directing a law enforcement
17 agency to seize the respondent's firearms, ammunition, and
18 firearm parts that could be assembled to make an operable
19 firearm. The court may, as part of that warrant, direct the law
20 enforcement agency to search the respondent's residence and
21 other places where the court finds there is probable cause to
22 believe he or she is likely to possess the firearms,
23 ammunition, and firearm parts that could be assembled to make
24 an operable firearm. A return of the search warrant shall be
25 filed by the law enforcement agency within 4 days thereafter,
26 setting forth the time, date, and location that the search

1 warrant was executed and what items, if any, were seized.

2 (h) A ~~plenary~~ 6-month firearms restraining order shall
3 require:

4 (1) the respondent to refrain from having in his or
5 her custody or control, purchasing, possessing, or
6 receiving additional firearms, ammunition, and firearm
7 parts that could be assembled to make an operable firearm
8 for the duration of the order under Section 8.2 of the
9 Firearm Owners Identification Card Act; and

10 (2) the respondent to comply with Section 9.5 of the
11 Firearm Owners Identification Card Act and subsection (g)
12 of Section 70 of the Firearm Concealed Carry Act.

13 (i) Except as otherwise provided in subsection (i-5) of
14 this Section, upon expiration of the period of safekeeping, if
15 the firearms, ammunition, and firearm parts that could be
16 assembled to make an operable firearm or Firearm Owner's
17 Identification Card cannot be returned to the respondent
18 because the respondent cannot be located, fails to respond to
19 requests to retrieve the firearms, ammunition, and firearm
20 parts that could be assembled to make an operable firearm, or
21 is not lawfully eligible to possess a firearm, ammunition, and
22 firearm parts that could be assembled to make an operable
23 firearm, upon petition from the local law enforcement agency,
24 the court may order the local law enforcement agency to
25 destroy the firearms, ammunition, and firearm parts that could
26 be assembled to make an operable firearm, use the firearms,

1 ammunition, and firearm parts that could be assembled to make
2 an operable firearm for training purposes, or use the
3 firearms, ammunition, and firearm parts that could be
4 assembled to make an operable firearm for any other
5 application as deemed appropriate by the local law enforcement
6 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,
11 ammunition, and firearm parts that could be assembled to make
12 an operable firearm to a person who is lawfully able to possess
13 the firearm, ammunition, and firearm parts that could be
14 assembled to make an operable firearm if the person does not
15 reside at the same address as the respondent. Notice of the
16 petition shall be served upon the person protected by the
17 emergency firearms restraining order. While the order is in
18 effect, the transferee who receives the respondent's firearms,
19 ammunition, and firearm parts that could be assembled to make
20 an operable firearm must swear or affirm by affidavit that he
21 or she shall not transfer the firearm, ammunition, and firearm
22 parts that could be assembled to make an operable firearm to
23 the respondent or to anyone residing in the same residence as
24 the respondent.

25 (i-6) If a person other than the respondent claims title
26 to any firearms, ammunition, and firearm parts that could be

1 assembled to make an operable firearm surrendered under this
2 Section, he or she may petition the court, if the petitioner is
3 present in court or has notice of the petition, to have the
4 firearm, ammunition, and firearm parts that could be assembled
5 to make an operable firearm returned to him or her. If the
6 court determines that person to be the lawful owner of the
7 firearm, ammunition, and firearm parts that could be assembled
8 to make an operable firearm, the firearm, ammunition, and
9 firearm parts that could be assembled to make an operable
10 firearm shall be returned to him or her, provided that:

11 (1) the firearm, ammunition, and firearm parts that
12 could be assembled to make an operable firearm are removed
13 from the respondent's custody, control, or possession and
14 the lawful owner agrees to store the firearm, ammunition,
15 and firearm parts that could be assembled to make an
16 operable firearm in a manner such that the respondent does
17 not have access to or control of the firearm, ammunition,
18 and firearm parts that could be assembled to make an
19 operable firearm; and

20 (2) the firearm, ammunition, and firearm parts that
21 could be assembled to make an operable firearm are not
22 otherwise unlawfully possessed by the owner.

23 The person petitioning for the return of his or her
24 firearm, ammunition, and firearm parts that could be assembled
25 to make an operable firearm must swear or affirm by affidavit
26 that he or she: (i) is the lawful owner of the firearm,

1 ammunition, and firearm parts that could be assembled to make
2 an operable firearm; (ii) shall not transfer the firearm,
3 ammunition, and firearm parts that could be assembled to make
4 an operable firearm to the respondent; and (iii) will store
5 the firearm, ammunition, and firearm parts that could be
6 assembled to make an operable firearm in a manner that the
7 respondent does not have access to or control of the firearm,
8 ammunition, and firearm parts that could be assembled to make
9 an operable firearm.

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

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

19 (Source: P.A. 101-81, eff. 7-12-19; 102-237, eff. 1-1-22;
20 102-345, eff. 6-1-22; 102-538, eff. 8-20-21; 102-813, eff.
21 5-13-22; 102-1116, eff. 1-10-23.)

22 (430 ILCS 67/45)

23 Sec. 45. Termination and renewal.

24 (a) A person subject to a firearms restraining order
25 issued under this Act may submit one written request at any

1 time during the effective period of the order for a hearing to
2 terminate the order.

3 (1) The respondent shall have the burden of proving by
4 a preponderance of the evidence that the respondent does
5 not pose a danger of causing personal injury to himself,
6 herself, or another in the near future by having in his or
7 her custody or control, purchasing, possessing, or
8 receiving a firearm, ammunition, and firearm parts that
9 could be assembled to make an operable firearm.

10 (2) If the court finds after the hearing that the
11 respondent has met his or her burden, the court shall
12 terminate the order.

13 (b) A petitioner may request a renewal of a firearms
14 restraining order at any time within the 3 months before the
15 expiration of a firearms restraining order.

16 (1) A court shall, after notice and a hearing, renew a
17 firearms restraining order issued under this part if the
18 petitioner proves, by clear and convincing evidence, that
19 the respondent continues to pose a danger of causing
20 personal injury to himself, herself, or another in the
21 near future by having in his or her custody or control,
22 purchasing, possessing, or receiving a firearm,
23 ammunition, and firearm parts that could be assembled to
24 make an operable firearm.

25 (2) In determining whether to renew a firearms
26 restraining order issued under this Act, the court shall

1 consider evidence of the facts identified in subsection
2 (e) of Section 40 of this Act and any other evidence of an
3 increased risk for violence.

4 (3) At the hearing, the petitioner shall have the
5 burden of proving by clear and convincing evidence that
6 the respondent continues to pose a danger of causing
7 personal injury to himself, herself, or another in the
8 near future by having in his or her custody or control,
9 purchasing, possessing, or receiving a firearm,
10 ammunition, and firearm parts that could be assembled to
11 make an operable firearm.

12 (4) The renewal of a firearms restraining order issued
13 under this Section shall be in effect for ~~up to one year~~
14 ~~and may be renewed for an additional period of up to one~~
15 ~~year~~ 6 months, subject to termination by further order of
16 the court at a hearing held under this Section and further
17 renewal by further order of the court under this Section.

18 (Source: P.A. 101-81, eff. 7-12-19; 102-345, eff. 6-1-22;
19 102-1116, eff. 1-10-23.)

20 (430 ILCS 67/55)

21 Sec. 55. Data maintenance by law enforcement agencies.

22 (a) All sheriffs shall furnish to the Illinois State
23 Police, daily, in the form and detail the Illinois State
24 Police requires, copies of any recorded firearms restraining
25 orders issued by the court, and any foreign orders of

1 protection filed by the clerk of the court, and transmitted to
2 the sheriff by the clerk of the court under Section 50. Each
3 firearms restraining order shall be entered in the Law
4 Enforcement Agencies Data System (LEADS) on the same day it is
5 issued by the court. If an emergency firearms restraining
6 order was issued in accordance with Section 35 of this Act, the
7 order shall be entered in the Law Enforcement Agencies Data
8 System (LEADS) as soon as possible after receipt from the
9 clerk.

10 (b) The Illinois State Police shall maintain a complete
11 and systematic record and index of all valid and recorded
12 firearms restraining orders issued or filed under this Act.
13 The data shall be used to inform all dispatchers and law
14 enforcement officers at the scene of a violation of a firearms
15 restraining order of the effective dates and terms of any
16 recorded order of protection.

17 (c) The data, records, and transmittals required under
18 this Section shall pertain to any valid emergency or ~~plenary~~
19 6-month firearms restraining order, whether issued in a civil
20 or criminal proceeding or authorized under the laws of another
21 state, tribe, or United States territory.

22 (Source: P.A. 101-81, eff. 7-12-19; 102-538, eff. 8-20-21;
23 102-1116, eff. 1-10-23.)