

AN ACT concerning orders of protection.

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

Section 1. Short title. This Act may be cited as the Firearms Restraining Order Act.

Section 5. Definitions. As used in this Act:

"Family member of the respondent" means a spouse, parent, child, or step-child of the respondent, any other person related by blood or present marriage to the respondent, or a person who shares a common dwelling with the respondent.

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

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

"Petitioner" means:

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

(2) a law enforcement officer, who files a petition alleging that the respondent poses a danger of causing

personal injury to himself, herself, or another by having in his or her custody or control, purchasing, possessing, or receiving a firearm.

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

Section 10. Commencement of action; procedure.

(a) Actions for a firearms restraining order are commenced by filing a verified petition for a firearms restraining order in any circuit court.

(b) A petition for a firearms restraining order may be filed in any county where the respondent resides.

(c) No fee shall be charged by the clerk for filing, amending, vacating, certifying, or photocopying petitions or orders; or for issuing alias summons; or for any related filing service. No fee shall be charged by the sheriff or other law enforcement for service by the sheriff or other law enforcement of a petition, rule, motion, or order in an action commenced under this Section.

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

Section 15. Subject matter jurisdiction. Each of the circuit courts shall have the power to issue firearms restraining orders.

Section 20. Jurisdiction over persons. The circuit courts of this State have jurisdiction to bind (1) State residents and (2) non-residents having minimum contacts with this State, to the extent permitted by Section 2-209 of the Code of Civil Procedure.

Section 25. Process. The summons shall be in the form prescribed by Supreme Court Rule 101(d), except that it shall require respondent to answer or appear within 7 days. Attachments to the summons or notice shall include the petition for the firearms restraining order and supporting affidavits, if any, and any emergency firearms restraining order that has been issued. The enforcement of an order under Section 35 shall not be affected by the lack of service, delivery, or notice, provided the requirements of subsection (f) of that Section are otherwise met.

Section 30. Service of notice of hearings. Service of notice of hearings. Except as provided in Section 25, notice of hearings on petitions or motions shall be served in accordance with Supreme Court Rules 11 and 12, unless notice is excused by

Section 35 of this Act, or by the Code of Civil Procedure, Supreme Court Rules, or local rules.

Section 35. Ex parte orders and emergency hearings.

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

(b) If the respondent is alleged to pose an immediate and present danger of causing personal injury to an intimate partner, or an intimate partner is alleged to have been the target of a threat or act of violence by the respondent, petitioner shall make a good faith effort to provide notice to any and all intimate partners of the respondent. The notice must include that the petitioner intends to petition the court for an emergency firearms restraining order, and, if petitioner is a law enforcement officer, referral to relevant domestic violence or stalking advocacy or counseling resources, if appropriate. Petitioner shall attest to having provided the notice in the filed affidavit or verified pleading. If after making a good faith effort petitioner is unable to provide

notice to any or all intimate partners, the affidavit or verified pleading should describe what efforts were made.

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

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

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

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

(f-5) If the court issues an emergency firearms restraining order, it shall, upon a finding of probable cause that the respondent possesses firearms, issue a search warrant directing a law enforcement agency to seize the respondent's firearms. The court may, as part of that warrant, direct the law enforcement agency to search the respondent's residence and other places where the court finds there is probable cause to

believe he or she is likely to possess the firearms.

(g) An emergency firearms restraining order shall require:

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

(2) the respondent to turn over to the local law enforcement agency any Firearm Owner's Identification Card and concealed carry license in his or her possession. The local law enforcement agency shall immediately mail the card and concealed carry license to the Department of State Police Firearm Services Bureau for safekeeping. The firearm or firearms and Firearm Owner's Identification Card and concealed carry license, if unexpired, shall be returned to the respondent after the firearms restraining order is terminated or expired.

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

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

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

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

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

The person petitioning for the return of his or her firearm

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

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

Section 40. Six month orders.

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

(b) If the respondent is alleged to pose a significant

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

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

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

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

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

brandishing of a firearm by the respondent.

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

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

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

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

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

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

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

purchasing, possessing, or receiving a firearm.

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

(g-5) If the court issues a 6-month firearms restraining order, it shall, upon a finding of probable cause that the respondent possesses firearms, issue a search warrant directing a law enforcement agency to seize the respondent's firearms. The court may, as part of that warrant, direct the law enforcement agency to search the respondent's residence and other places where the court finds there is probable cause to believe he or she is likely to possess the firearms.

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

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

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

unexpired shall be returned to the respondent after the firearms restraining order is terminated or expired.

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

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

(i-6) If a person other than the respondent claims title to any firearms surrendered under this Section, he or she may

petition the court, if the petitioner is present in court or has notice of the petition, to have the firearm returned to him or her. If the court determines that person to be the lawful owner of the firearm, the firearm shall be returned to him or her, provided that:

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

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

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

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

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

Section 45. Termination and renewal.

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

(1) The respondent shall have the burden of proving by a preponderance of the evidence that the respondent does not pose a danger of causing personal injury to himself, herself, or another in the near future by having in his or her custody or control, purchasing, possessing, or receiving a firearm.

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

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

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

(2) In determining whether to renew a firearms

restraining order issued under this Act, the court shall consider evidence of the facts identified in subsection (e) of Section 40 of this Act and any other evidence of an increased risk for violence.

(3) At the hearing, the petitioner shall have the burden of proving, by clear and convincing evidence that the respondent continues to pose a danger of causing personal injury to himself, herself, or another in the near future by having in his or her custody or control, purchasing, possessing, or receiving a firearm.

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

Section 50. Notice of orders.

(a) Entry and issuance. Upon issuance of any firearms restraining order, the clerk shall immediately, or on the next court day if an emergency firearms restraining order is issued in accordance with Section 35 of this Act (emergency firearms restraining order), (i) enter the order on the record and file it in accordance with the circuit court procedures and (ii) provide a file stamped copy of the order to respondent, if present, and to petitioner.

(b) Filing with sheriff. The clerk of the issuing judge

shall, or the petitioner may, on the same day that a firearms restraining order is issued, file a certified copy of that order with the sheriff or other law enforcement officials charged with maintaining Department of State Police records or charged with serving the order upon respondent. If the order was issued in accordance with Section 35 of this Act (emergency firearms restraining order), the clerk shall on the next court day, file a certified copy of the order with the sheriff or other law enforcement officials charged with maintaining Department of State Police records.

(c) Service by sheriff. Unless respondent was present in court when the order was issued, the sheriff or other law enforcement official shall promptly serve that order upon respondent and file proof of the service, in the manner provided for service of process in civil proceedings. Instead of serving the order upon the respondent, however, the sheriff, other law enforcement official, or other persons defined in Section 112A-22.10 of the Criminal Code of 1963 may serve the respondent with a short form notification as provided in that Section. If process has not yet been served upon the respondent, it shall be served with the order or short form notification if the service is made by the sheriff, or other law enforcement official.

(d) Any order renewing or terminating any firearms restraining order shall be promptly recorded, issued, and served as provided in this Section.

Section 55. Data maintenance by law enforcement agencies.

(a) All sheriffs shall furnish to the Department of State Police, daily, in the form and detail the Department requires, copies of any recorded firearms restraining order issued by the court, and any foreign orders of protection filed by the clerk of the court, and transmitted to the sheriff by the clerk of the court under Section 50. Each firearms restraining order shall be entered in the Law Enforcement Agencies Data System (LEADS) on the same day it is issued by the court. If an emergency firearms restraining order was issued in accordance with Section 35 of this Act, the order shall be entered in the Law Enforcement Agencies Data System (LEADS) as soon as possible after receipt from the clerk.

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

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

Section 60. Filing of a firearms restraining order issued by another state.

(a) A person who has sought a firearms restraining order or similar order issued by the court of another state, tribe, or United States territory may file a certified copy of the firearms restraining order with the clerk of the court in a judicial circuit in which the person believes that enforcement may be necessary.

(b) The clerk shall:

(1) treat the foreign firearms restraining order in the same manner as a judgment of the circuit court for any county of this State in accordance with the provisions of the Uniform Enforcement of Foreign Judgments Act, except that the clerk shall not mail notice of the filing of the foreign order to the respondent named in the order; and

(2) on the same day that a foreign firearms restraining order is filed, file a certified copy of that order with the sheriff or other law enforcement officials charged with maintaining Department of State Police records as set forth in Section 55 of this Act.

(c) Neither residence in this State nor filing of a foreign firearms restraining order shall be required for enforcement of the order by this State. Failure to file the foreign order shall not be an impediment to its treatment in all respects as an Illinois firearms restraining order.

(d) The clerk shall not charge a fee to file a foreign order of protection under this Section.

Section 65. Enforcement; sanctions for violation of order. A respondent who knowingly violates a firearms restraining order is guilty of a Class A misdemeanor. Prosecution for a violation of a firearms restraining order shall not bar concurrent prosecution for any other crime, including any crime that may have been committed at the time of the violation of the firearms restraining order.

Section 70. Non-preclusion of remedies. Nothing in this Act shall preclude a petitioner or law-enforcement officer from removing weapons under other authority, or filing criminal charges when probable cause exists.

Section 75. Limited law enforcement liability. Any act of omission or commission by any law enforcement officer acting in good faith in rendering emergency assistance or otherwise enforcing this Act shall not impose civil liability upon the law enforcement officer or his or her supervisor or employer, unless the act is a result of willful or wanton misconduct.

Section 80. Expungement or sealing of order. If the court denies issuance of a firearms restraining order against the respondent, all records of the proceeding shall be immediately

expunged from the court records. If the firearms restraining order is granted, all records of the proceeding shall, 3 years after the expiration of the order, be sealed.

Section 135. The Firearm Owners Identification Card Act is amended by changing Section 8.2 and adding Section 8.3 as follows:

(430 ILCS 65/8.2)

Sec. 8.2. Firearm Owner's Identification Card denial or revocation. The Department of State Police shall deny an application or shall revoke and seize a Firearm Owner's Identification Card previously issued under this Act if the Department finds that the applicant or person to whom such card was issued is or was at the time of issuance subject to an existing order of protection or firearms restraining order.

(Source: P.A. 96-701, eff. 1-1-10.)

(430 ILCS 65/8.3 new)

Sec. 8.3. Suspension of Firearm Owner's Identification Card. The Department of State Police may, by rule in a manner consistent with the Department's rules concerning revocation, provide for the suspension of the Firearm Owner's Identification Card of a person whose Firearm Owner's Identification Card is subject to revocation and seizure under this Act for the duration of the disqualification if the

disqualification is not a permanent grounds for revocation of a Firearm Owner's Identification Card under this Act.

Section 140. The Firearm Concealed Carry Act is amended by changing Section 70 as follows:

(430 ILCS 66/70)

Sec. 70. Violations.

(a) A license issued or renewed under this Act shall be revoked if, at any time, the licensee is found to be ineligible for a license under this Act or the licensee no longer meets the eligibility requirements of the Firearm Owners Identification Card Act.

(b) A license shall be suspended if an order of protection, including an emergency order of protection, plenary order of protection, or interim order of protection under Article 112A of the Code of Criminal Procedure of 1963 or under the Illinois Domestic Violence Act of 1986, or if a firearms restraining order, including an emergency firearms restraining order, under the Firearms Restraining Order Act, is issued against a licensee for the duration of the order, or if the Department is made aware of a similar order issued against the licensee in any other jurisdiction. If an order of protection is issued against a licensee, the licensee shall surrender the license, as applicable, to the court at the time the order is entered or to the law enforcement agency or entity serving process at the

time the licensee is served the order. The court, law enforcement agency, or entity responsible for serving the order of protection shall notify the Department within 7 days and transmit the license to the Department.

(c) A license is invalid upon expiration of the license, unless the licensee has submitted an application to renew the license, and the applicant is otherwise eligible to possess a license under this Act.

(d) A licensee shall not carry a concealed firearm while under the influence of alcohol, other drug or drugs, intoxicating compound or combination of compounds, or any combination thereof, under the standards set forth in subsection (a) of Section 11-501 of the Illinois Vehicle Code.

A licensee in violation of this subsection (d) shall be guilty of a Class A misdemeanor for a first or second violation and a Class 4 felony for a third violation. The Department may suspend a license for up to 6 months for a second violation and shall permanently revoke a license for a third violation.

(e) Except as otherwise provided, a licensee in violation of this Act shall be guilty of a Class B misdemeanor. A second or subsequent violation is a Class A misdemeanor. The Department may suspend a license for up to 6 months for a second violation and shall permanently revoke a license for 3 or more violations of Section 65 of this Act. Any person convicted of a violation under this Section shall pay a \$150 fee to be deposited into the Mental Health Reporting Fund, plus

any applicable court costs or fees.

(f) A licensee convicted or found guilty of a violation of this Act who has a valid license and is otherwise eligible to carry a concealed firearm shall only be subject to the penalties under this Section and shall not be subject to the penalties under Section 21-6, paragraph (4), (8), or (10) of subsection (a) of Section 24-1, or subparagraph (A-5) or (B-5) of paragraph (3) of subsection (a) of Section 24-1.6 of the Criminal Code of 2012. Except as otherwise provided in this subsection, nothing in this subsection prohibits the licensee from being subjected to penalties for violations other than those specified in this Act.

(g) A licensee whose license is revoked, suspended, or denied shall, within 48 hours of receiving notice of the revocation, suspension, or denial, surrender his or her concealed carry license to the local law enforcement agency where the person resides. The local law enforcement agency shall provide the licensee a receipt and transmit the concealed carry license to the Department of State Police. If the licensee whose concealed carry license has been revoked, suspended, or denied fails to comply with the requirements of this subsection, the law enforcement agency where the person resides may petition the circuit court to issue a warrant to search for and seize the concealed carry license in the possession and under the custody or control of the licensee whose concealed carry license has been revoked, suspended, or

denied. The observation of a concealed carry license in the possession of a person whose license has been revoked, suspended, or denied constitutes a sufficient basis for the arrest of that person for violation of this subsection. A violation of this subsection is a Class A misdemeanor.

(h) A license issued or renewed under this Act shall be revoked if, at any time, the licensee is found ineligible for a Firearm Owner's Identification Card, or the licensee no longer possesses a valid Firearm Owner's Identification Card. A licensee whose license is revoked under this subsection (h) shall surrender his or her concealed carry license as provided for in subsection (g) of this Section.

This subsection shall not apply to a person who has filed an application with the State Police for renewal of a Firearm Owner's Identification Card and who is not otherwise ineligible to obtain a Firearm Owner's Identification Card.

(i) A certified firearms instructor who knowingly provides or offers to provide a false certification that an applicant has completed firearms training as required under this Act is guilty of a Class A misdemeanor. A person guilty of a violation of this subsection (i) is not eligible for court supervision. The Department shall permanently revoke the firearms instructor certification of a person convicted under this subsection (i).

(Source: P.A. 98-63, eff. 7-9-13; 98-756, eff. 7-16-14; 98-899, eff. 8-15-14.)