

LAW ENFORCEMENT NEWSLETTER

MAY 2018

A MESSAGE FROM BILL CERVONE STATE ATTORNEY

The inexplicable murders of Gilchrist County Deputies Noel Ramirez and Taylor Lindsey have left our entire law enforcement community saddened beyond words and shocked, not just at the evil that others can do but also perhaps at our own vulnerability. When all is said and done, these two men died for no more than doing what they loved to

do: serving their community. Maybe it would be easier to understand this tragedy had it occurred in the context of a shootout with a fleeing felony suspect, a traffic chase, or responding to a tense domestic call. That it did not, and that the appalling national trend of deliberately aimed lethal ambushes on law enforcement officers has reached down into

our circuit, is of no consolation but warns all of us in the starkest of ways as to exactly what wearing the badge means. May Sgt. Ramirez and Dep. Taylor rest in peace, and may their families find some comfort in the overwhelming support shown not just by the Gilchrist County community but also the greater law enforcement community they were a part of. And to paraphrase Sheriff Bobby Schultz, may the rest of us honor them every day by doing what they loved to do, and doing it honorably and well.



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We're on the web:
Www.sao8.org

REMINDER:
LAW ENFORCEMENT
NEWSLETTER NOW ON-LINE

The Law Enforcement Newsletter is now available on-line, including old issues beginning with calendar year 2000. To access the Law Enforcement Newsletter go to the SAO website at <www.sao8.org> and click on the "Law Enforcement Newsletter" box.

SAO STAFF CHANGES

ASA Andrea Muirhead elected to take early retirement and resigned from her position as Division Chief in Levy County on March 29th. Andrea plans to re-locate to western North Carolina where she anticipates finding a teaching position at one of the many colleges in that area.

Andrea has been replaced as Division Chief in Levy County by Glenn Bryan. In turn, Glenn's Alachua County position in the gun prosecution unit will be filled by Dan Owen, and Danny's position in the sex crimes unit will be taken by Stephanie Hines.

ASA Steve Frisco resigned on April 30th to enter private practice.






The SAO Is Now On Twitter

The SAO has established a Twitter feed to better disseminate information to the media and others such as law enforcement agencies. Like us at #8THCIRCUITSAO. For more information contact Deputy Chief Investigator Darry Lloyd at 352-374-3670.

Congratulations To...

ASA Stephanie Klugh, who welcomed her second child, son Henry, on February 21st.



Lawtey Police Department Chief Shane Bennett, who was named Citizen of the Year by the North Florida Regional Chamber of Commerce at a ceremony on February 2nd.

Law Enforcement Memorials

The Alachua County Law Enforcement Memorial will be held at the Veterans Memorial Park on Thursday, May 3rd, at 7 PM. A reception will proceed the ceremony starting at 6 PM.

The Baker County Memorial Ceremony will be held on Thursday, May 10th, at 6:30 PM in Gainesville at the Christian Fellowship Temple in MacClenny.

The Combined Bradford-Union County Memorial was April 24th, hosted this year by the Starke Police Department.



New Laws: Risk Protection Orders

In the aftermath of the horrific Broward County school shooting several weeks ago the Florida legislature quickly passed significant new laws designed to address the threat of school violence. This legislation was literally drafted and acted upon in the dying days of the session and it remains to be seen how implementation will be carried out. The Governor immediately signed the bill, so everything is already in place.

In light of the significance of these changes this issue of the Legal Bulletin is devoted almost entirely to that legislation. Detailed information is included about new provisions for Risk Protection Orders, the responsibility for which falls on law enforcement agencies. The entirety of that part of the bill has been reprinted, along with draft forms to use when necessary. These forms were promulgated by the Florida Supreme Court through the Office of State Courts Administrator. They amount to a suggested interim basis effort to provide some guidance and are likely to be revised as jurisdictions around the state grapple with this new process.

The SAO is available to help with the inevitable problems that will come up in putting appropriate procedures into place. All agencies should carefully study everything involved and develop policies and procedures that suit individual needs.

Any changes in agency email addresses should be reported to our office at clendenin@sao8.org.

For a copy of the complete text of any of the cases mentioned in this or an earlier issue of the Legal Bulletin, please call Chief Investigator Paul Clendenin at the SAO at 352-374-3670.

MEMORANDUM

TO: PK Jameson, State Courts Administrator

FROM: Blan Teagle, Deputy State Courts Administrator
Alysson Bradley, Senior Attorney II
Nathan Moon, Senior Attorney I

DATE: March 16, 2018

SUBJECT: Risk Protection Order Conference Call Bullet Points

The following bullet points address issues in follow-up to the March 15, 2018 conference call with the informal working group regarding draft template forms created pursuant to the Marjory Stoneman Douglas High School Public Safety Act, chapter 2018-3, Laws of Florida. These might be useful to you in your discussions with the Chief Justice about the documents we are also transmitting to you at this time.

1. An affidavit is included in this packet. It was proposed in the context of a petition for a temporary ex parte protection order (TRPO), that a law enforcement officer would submit an affidavit in support of the petition. Subsection 790.401(4), Florida Statutes (2018), provides that a petitioner may request a TRPO by including in the petition *detailed allegations based on personal knowledge* that the respondent poses a significant danger of causing harm or injury. There is a concern that an affidavit of a law enforcement officer attesting to facts provided to him/her by a witness may not constitute *allegations based on personal knowledge*. (For example an affidavit may include statements such as: Affiant has taken the statement of Witness A who stated the respondent has threatened his life. Affiant has been told by Witness A that respondent suffers from a mental health condition.)
2. We provided both a single petition that can be used for the temporary and the final Risk Protection Order, and two discrete petitions to be used for separate purposes. The petition requirements for a Temporary Ex Parte Risk Protection Order and a Risk Protection Order are very similar. Some who participated in the discussion are of the opinion that these should each have their own petition; others believe this can be handled with a single petition covering both order types. We decided to err on the side of providing options at this time. Separate petitions are included in this packet along with a “unified” petition for consideration. The primary differences at issue between the two types of petition are as follows. § 790.401(2)(f), Fla. Stat. for the Petition for Risk Protection Order includes a specific notice requirement. § 790.401(4)(a), Fla. Stat. for the

Risk Protection Order Conference Call Bullet Points

March 16, 2018

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Temporary Ex Parte Risk Protection Order has a requirement for the allegations in the petition to be “based on personal knowledge.” Additionally, § 790.401(4)(c), Fla. Stat. requires the court to find that the danger posed by the respondent is in the “near future.” In practice, providing notice and basing at least part of any petition on personal knowledge affords both safety to petitioners and due process to respondents. This leaves the “near future” risk as the primary difference between the two petitions. The burden of proof differs in each case, but should be addressed in the order.

3. The draft of the Order Granting Temporary Ex Parte Risk Protection Order and Notice of Hearing now contains the statement, “The Court has received evidence *based on personal knowledge...*” It was suggested during the conference call that the “based on personal knowledge” language be stricken from the order. Pursuant to subparagraph 790.401(4)(e)1., Florida Statutes (2018), the TRPO must include “a statement of the grounds asserted for the order” which, it appears, would rely on detailed allegations based on personal knowledge. We have bracketed the language for consideration by the group as to the propriety of its inclusion. We do not want to imply that a court has personal knowledge, but rather that the evidence received was based on such.
4. We have provide two versions of the final risk protection order. The statute requires that upon issuance of a risk protection order, the court must order a “compliance hearing” no later than three business days after the issuance of the order. § 790.401(7)(f), Fla. Stat. (2018). A “risk protection order” is defined to include a TRPO or a final risk protection order (FRPO). § 790.401(1)(c), Fla. Stat. (2018). Therefore, a compliance hearing is necessary after the issuance of either a TRPO or FRPO. A compliance hearing may be cancelled upon a satisfactory showing that the respondent is in compliance. § 790.401(7)(f), Fla. Stat. (2018). This may require two versions of the FRPO—one requiring a compliance hearing within three days, and one stating that a compliance hearing for the FRPO is cancelled, noting that the hearing has already been held (or cancelled) pursuant to the TRPO and that the respondent is in compliance.
5. We did not move the mandatory language to the top as one call participant recommended. Subparagraphs 790.401(3)(g)7., and (4)(e)6., Florida Statutes (2018), contain mandatory language that must be included in every FRPO and TRPO. It was suggested on the conference call that this language, which notifies the subject of the order to surrender firearms and ammunition, should be moved to the top of the order. However, the required paragraphs include statements that the orders are valid until the “date noted above.” This language cannot be altered. Therefore, the dates will need to be above any such statement. There was also a suggestion that the Notice of Hearing should be a separate document from FRPO and the TRPO. We have included these for consideration. However, with regard to the TRPO, the hearing date for the FRPO must be included in

Risk Protection Order Conference Call Bullet Points
March 16, 2018
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the order as the temporary order is only valid until that date pursuant to paragraph 790.401(4)(f), Florida Statutes (2018).

AHB, NJM

**INSTRUCTIONS FOR
PETITION FOR TEMPORARY EX PARTE RISK PROTECTION ORDER
OR RISK PROTECTION ORDER**

When should this form be used?

This form should be used to obtain an order that will require a person who is at high risk of harming himself/herself or others to immediately surrender all firearms and ammunition in his/her custody, control, or possession and any license to carry a concealed weapon or firearm.

Who may file this form?

A petition must be filed by a law enforcement officer or law enforcement agency.

Where should this form be filed?

A petition must be filed in the county where the petitioner's law enforcement office is located or the county where the respondent resides.

What must be shown?

The petition and accompanying affidavit must allege specific statements, actions, or facts based on personal knowledge that give rise to a reasonable fear of significant dangerous acts by the Respondent, and that Respondent poses a significant danger of injury to himself/herself or others by having in his/her control, or by purchasing, possessing, or receiving, a firearm or ammunition.

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

_____,
Petitioner (Law Enforcement
Officer/Agency)

v.

Case No.: _____

Division: _____

_____,
Respondent

**PETITION FOR TEMPORARY EX PARTE RISK PROTECTION ORDER
OR RISK PROTECTION ORDER**

SECTION I. PETITIONER

1. Petitioner's full legal name or name of petitioning agency: _____
2. Petitioner's law enforcement office/agency is located at {street address, city, state and zip code}: _____

SECTION II. RESPONDENT

1. Respondent's full legal name: _____
2. Respondent's current address: {street address, city, state, and zip code}

3. Physical description of Respondent:
Race: _____ Sex: Male ___ Female ___ Date of Birth: _____
Height: _____ Weight: _____ Eye Color: _____ Hair Color: _____
4. Distinguishing marks or scars: _____
5. Vehicle: {make/model} _____ Color: _____ Tag Number: _____
6. Other names Respondent goes by: {aliases or nicknames} _____
7. Respondent's email address: {if known} _____

8. Respondent's Driver's License number: *{if known}* _____

9. Respondent's attorney's name, address, and telephone number: *{if known}* _____

SECTION III. BASIS FOR PETITION

In support of this Petition the undersigned Law Enforcement Officer/Agency alleges:

1. Respondent poses a significant danger of causing personal injury to himself/herself or others by having a firearm or any ammunition in his/her custody or control or by purchasing, possessing, or receiving a firearm or any ammunition.
2. A sworn affidavit alleging specific statements, actions, or facts based on personal knowledge that give rise to a reasonable fear of significant dangerous acts by the Respondent is attached to this petition and incorporated by reference.
3. The attached sworn affidavit includes a list of the quantities, types, and locations of all firearms and ammunition believed to be in the Respondent's ownership, possession, custody, or control.
4. Respondent poses a significant danger of injury to himself/herself or others by having in his/her control, or by purchasing, possessing, or receiving, a firearm or ammunition.
_____ **[Required for Temporary Ex Parte Risk Protection Order]** Respondent poses this significant risk of injury in the near future.
5. Relevant evidence for the Court's consideration is detailed in the attached affidavit and shows that the Respondent:

- _____ was involved in a recent act or threat of violence against himself/herself or others;
- _____ engaged in an act or threat of violence, including but not limited to acts or threats of violence against himself/herself, within the past 12 months;
- _____ is seriously mentally ill or has recurring mental health issues;
- _____ has violated a risk protection order or no contact order issued under sections 741.30, 784.046, or 784.0485, Fla. Stat.;
- _____ is the subject of a previous or existing risk protection order;
- _____ has violated a previous or existing risk protection order;

_____ has been convicted of, had adjudication withheld on, or pled *nolo contendere* in Florida or in any other state to a crime that constitutes domestic violence as defined in s. 741.28, Fla. Stat.;

_____ has used, or threatened to use, against himself/herself or others, any weapons;

_____ has unlawfully or recklessly used, displayed or brandished a firearm;

_____ has used or threatened to use on a recurring basis physical force against another person or has stalked another person;

_____ has been arrested for, convicted of, had adjudication withheld, or pled *nolo contendere* to a crime involving violence or a threat of violence in Florida or in any other state;

_____ has abused or is abusing controlled substances or alcohol;

_____ has recently acquired firearms or ammunition;

_____ other (Additional relevant information may be attached).

SECTION IV. NOTICE

_____ Petitioner has made a good faith effort to provide notice to a family or household member of the Respondent and to any known third party who may be at risk of violence in compliance with s. 790.401(2)(f), Fla.Stat.

_____ Petitioner will take the following steps to provide notice as required by s. 790.401(2)(f), Fla.Stat. _____

SECTION V. RISK PROTECTION ORDERS

For the foregoing reasons, petitioner requests the Court to enter:

_____ A **TEMPORARY EX PARTE RISK PROTECTION ORDER** in this matter requiring Respondent to:

1. Immediately surrender all firearms and ammunition in his or her custody, control, or possession and any license to carry a concealed weapon or firearm to the *{name of law enforcement agency}*; _____
2. Not have in his/her custody, control, or possession any firearm or ammunition while this order is in effect;

3. Not purchase, possess, receive, or attempt to purchase or receive, a firearm or ammunition while this order is in effect; and
4. Abide by any other lawful relief the Court may order.

Petitioner further requests this Court to schedule a Hearing for a Risk Protection Order to be held within 14 days.

_____ A **RISK PROTECTION ORDER** in this matter requiring Respondent to:

1. Immediately surrender all firearms and ammunition in his or her custody, control, or possession and any license to carry a concealed weapon or firearm to the *{name of law enforcement agency}*; _____
2. Not have in his/her custody, control, or possession any firearm or ammunition while this order is in effect;
3. Not purchase, possess, receive, or attempt to purchase or receive, a firearm or ammunition while this order is in effect; and
4. Abide by any other lawful relief the Court may.

Petitioner requests the Risk Protection Order to remain in effect for a period the Court deems appropriate, up to and including but not exceeding 12 months.

Respectfully submitted this _____ day of _____, _____.

Signature of Petitioner

Law Enforcement Agency

Service Address

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

IN RE: PETITION FOR RISK PROTECTION ORDER
AGAINST *{Name of Respondent}* _____.

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF _____

I, *{full legal name}* _____, in my position as *{job title}* _____ with the *{name of law enforcement office/agency}* _____, swear and affirm that the following facts are true and correct.

1. *{Name of Respondent}* _____ poses a significant danger of causing personal injury to himself/herself or others by having a firearm or any ammunition in his/her custody or control or by purchasing, possessing or receiving a firearm or any ammunition. The following specific statements, actions, or facts give rise to a reasonable fear of significant dangerous acts by the respondent:

_____ Additional pages are attached.

2. {Name of witness} _____ provided the following information based on his/her personal knowledge: _____

_____ Additional pages are attached.

3. Affiant ___ is ___ is not aware of any existing protection order governing the respondent under any applicable statute.

_____ Known protection orders are attached.

4. The quantities, types, and locations of all firearms and ammunition the petitioner believes to be in the respondent's current ownership, possession, custody or control are as follows:

Quantity _____	Type _____	Location _____
Quantity _____	Type _____	Location _____
Quantity _____	Type _____	Location _____
Quantity _____	Type _____	Location _____
Quantity _____	Type _____	Location _____
Quantity _____	Type _____	Location _____

_____ Additional pages are attached.

AFFIANT HEREBY CERTIFIES UNDER PENALTY OF PERJURY THAT THE STATEMENTS AND FACTS IN THIS AFFIDAVIT AND IN ANY ATTACHMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Dated: _____ Signature of Affiant: _____

Sworn to or affirmed and signed before me on _____ by _____
who _____ is personally known to me or _____ presented _____, as
identification.

Notary Public, State of Florida
My commission expires: _____

DRAFT

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

Petitioner, (Law Enforcement
Officer/Agency)

Case Number: _____
Division: _____

v.

Respondent.

NOTICE OF HEARING

To: Petitioner, Petitioner's Address, Petitioner's Email Address
Respondent, Respondent's Address, Respondent's Email Address

**YOU ARE HEREBY NOTIFIED THAT PURSUANT TO s. 790.401(3)(a), FLORIDA
STATUTES, A HEARING ON A PETITION FOR A RISK PROTECTION ORDER
HAS BEEN SCHEDULED BEFORE THIS COURT ON:**

(Date) _____, at (time) _____ A.M./P.M., in Courtroom_____, located
at (location of courthouse).

**If the petition is granted, you will be required to surrender immediately to the local
law enforcement agency all firearms and any ammunition that you own in your
custody, control, or possession and any license to carry a concealed weapon or
firearm issued to you under s. 790.06, Florida Statutes. Thereafter, you will be
prohibited from having in your custody or control, and prohibited from purchasing,
possessing, receiving, or attempting to purchase or receive, a firearm or ammunition
while this order is in effect.**

DONE AND ORDERED in _____, at

_____ County, this _____ day of _____, 20 ____.

Judge (name of judge)

Copies furnished to:
Petitioner
Respondent

REQUESTS FOR ACCOMODATIONS BY PERSONS WITH DISABILITIES. If you are a person with a disability who needs accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Court Administration, (Address and Phone Number), immediately upon receiving this notice.

DRAFT

**INSTRUCTIONS FOR
PETITION FOR RISK PROTECTION ORDER**

When should this form be used?

This form should be used to obtain a hearing and a long-term order that will require a person who is at high risk of harming himself/herself or others to immediately surrender all firearms and ammunition in his/her custody, control, or possession and any license to carry a concealed weapon or firearm.

Who may file this form?

A petition must be filed by a law enforcement officer or law enforcement agency.

Where should this form be filed?

A petition must be filed in the county where the petitioner's law enforcement office is located or the county where the respondent resides.

What must be shown?

The petition and accompanying affidavit must allege specific statements, actions, or facts based on personal knowledge that give rise to a reasonable fear of significant dangerous acts by the Respondent, and that Respondent poses a significant danger of injury to himself/herself or others by having in his/her control, or by purchasing, possessing, or receiving, a firearm or ammunition.

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

_____,
Petitioner (Law Enforcement
Officer/Agency)

v.

Case No.: _____

Division: _____

_____,
Respondent

PETITION FOR RISK PROTECTION ORDER

SECTION I. PETITIONER

1. Petitioner's full legal name or name of petitioning agency: _____
2. Petitioner's law enforcement office/agency is located at {street address, city, state and zip code}: _____

SECTION II. RESPONDENT

1. Respondent's full legal name: _____
2. Respondent's current address: {street address, city, state, and zip code} _____
3. Physical description of Respondent:
Race: _____ Sex: Male _____ Female _____ Date of Birth: _____
Height: _____ Weight: _____ Eye Color: _____ Hair Color: _____
4. Distinguishing marks or scars: _____
5. Vehicle: {make/model} _____ Color: _____ Tag Number: _____
6. Other names Respondent goes by: {aliases or nicknames} _____
7. Respondent's email address: {if known} _____
8. Respondent's Driver's License number: {if known} _____

9. Respondent's attorney's name, address, and telephone number: *{if known}* _____

SECTION III. BASIS FOR PETITION

In support of this Petition the undersigned Law Enforcement Officer/Agency alleges:

1. Respondent poses a significant danger of causing personal injury to himself/herself or others by having a firearm or any ammunition in his/her custody or control or by purchasing, possessing, or receiving a firearm or any ammunition.
2. A sworn affidavit alleging specific statements, actions, or facts based on personal knowledge that give rise to a reasonable fear of significant dangerous acts by the Respondent is attached to this petition and incorporated by reference.
3. The attached sworn affidavit includes a list of the quantities, types, and locations of all firearms and ammunition believed to be in the Respondent's ownership, possession, custody, or control.
4. Respondent poses a significant danger of injury to himself/herself or others by having in his/her control, or by purchasing, possessing, or receiving, a firearm or ammunition.
5. Relevant evidence for the Court's consideration is detailed in the attached affidavit and shows that the Respondent:

_____ was involved in a recent act or threat of violence against himself/herself or others;
_____ engaged in an act or threat of violence, including but not limited to acts or threats of violence against himself/herself, within the past 12 months;
_____ is seriously mentally ill or has recurring mental health issues;
_____ has violated a risk protection order or no contact order issued under sections 741.30, 784.046, or 784.0485, Fla. Stat.;;
_____ is the subject of a previous or existing risk protection order;
_____ has violated a previous or existing risk protection order;

_____ has been convicted of, had adjudication withheld on, or pled *nolo contendere* in Florida or in any other state to a crime that constitutes domestic violence as defined in s. 741.28, Fla. Stat.;

_____ has used, or threatened to use, against himself/herself or others, any weapons;

_____ has unlawfully or recklessly used, displayed or brandished a firearm;

_____ has used or threatened to use on a recurring basis physical force against another person or has stalked another person;

_____ has been arrested for, convicted of, had adjudication withheld, or pled *nolo contendere* to a crime involving violence or a threat of violence in Florida or in any other state;

_____ has abused or is abusing controlled substances or alcohol;

_____ has recently acquired firearms or ammunition;

_____ other (Additional relevant information may be attached).

SECTION IV. NOTICE

_____ Petitioner has made a good faith effort to provide notice to a family or household member of the Respondent and to any known third party who may be at risk of violence in compliance with s. 790.401(2)(f), Fla.Stat.

_____ Petitioner will take the following steps to provide notice as required by s. 790.401(2)(f), Fla.Stat. _____

SECTION V. RISK PROTECTION ORDER

For the foregoing reasons, petitioner requests the Court to enter a RISK PROTECTION ORDER in this matter requiring Respondent to:

1. Immediately surrender all firearms and ammunition in his or her custody, control, or possession and any license to carry a concealed weapon or firearm to the *{name of law enforcement agency}*; _____
2. Not have in his/her custody, control, or possession any firearm or ammunition while this order is in effect;
3. Not purchase, possess, receive, or attempt to purchase or receive, a firearm or ammunition while this order is in effect; and

4. Abide by any other lawful relief the Court may.

Petitioner requests the Risk Protection Order to remain in effect for a period the Court deems appropriate, up to and including but not exceeding 12 months.

Respectfully submitted this _____ day of _____, _____.

Signature of Petitioner

Law Enforcement Agency

Service Address

DRAFT

**INSTRUCTIONS FOR
PETITION FOR TEMPORARY EX PARTE RISK PROTECTION ORDER**

When should this form be used?

This form should be used to quickly obtain a temporary order that will require a person who is at high risk of harming himself/herself or others to immediately surrender all firearms and ammunition in his/her custody, control, or possession and any license to carry a concealed weapon or firearm. This is only a temporary order and a subsequent hearing and order will be necessary to keep court-ordered conditions against the Respondent in effect.

Who may file this form?

A petition must be filed by a law enforcement officer or law enforcement agency.

Where should this form be filed?

A petition must be filed in the county where the petitioner's law enforcement office is located or the county where the respondent resides.

What must be shown?

The petition and accompanying affidavit must allege specific statements, actions, or facts based on personal knowledge that give rise to a reasonable fear of significant dangerous acts by the Respondent in the near future, and that Respondent poses a significant danger of injury to himself/herself or others by having in his/her control, or by purchasing, possessing, or receiving, a firearm or ammunition.

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

_____,
Petitioner (Law Enforcement
Officer/Agency)

v.

Case No.: _____
Division: _____

_____,
Respondent

PETITION FOR TEMPORARY EX PARTE RISK PROTECTION ORDER

SECTION I. PETITIONER

1. Petitioner's full legal name or name of petitioning agency: _____
2. Petitioner's law enforcement office/agency is located at *{street address, city, state and zip code}*: _____

SECTION II. RESPONDENT

1. Respondent's full legal name: _____
2. Respondent's current address: *{street address, city, state, and zip code}*

3. Physical description of Respondent:
Race: _____ Sex: Male _____ Female _____ Date of Birth: _____
Height: _____ Weight: _____ Eye Color: _____ Hair Color: _____
4. Distinguishing marks or scars: _____
5. Vehicle: *{make/model}* _____ Color: _____ Tag Number: _____
6. Other names Respondent goes by: *{aliases or nicknames}* _____
7. Respondent's email address: *{if known}* _____
8. Respondent's Driver's License number: *{if known}* _____

9. Respondent's attorney's name, address, and telephone number: *{if known}* _____

SECTION III. BASIS FOR PETITION

In support of this Petition the undersigned Law Enforcement Officer/Agency alleges:

1. Respondent poses a significant danger of causing personal injury to himself/herself or others by having a firearm or any ammunition in his/her custody or control or by purchasing, possessing, or receiving a firearm or any ammunition.
2. A sworn affidavit alleging specific statements, actions, or facts based on personal knowledge that give rise to a reasonable fear of significant dangerous acts by the Respondent is attached to this petition and incorporated by reference.
3. The attached sworn affidavit includes a list of the quantities, types, and locations of all firearms and ammunition believed to be in the Respondent's ownership, possession, custody, or control.
4. Respondent poses a significant danger of injury to himself/herself or others in the near future by having in his/her control, or by purchasing, possessing, or receiving, a firearm or ammunition.
5. Relevant evidence for the Court's consideration is detailed in the attached affidavit and shows that the Respondent:

_____ was involved in a recent act or threat of violence against himself/herself or others;
_____ engaged in an act or threat of violence, including but not limited to acts or threats of violence against himself/herself, within the past 12 months;
_____ is seriously mentally ill or has recurring mental health issues;
_____ has violated a risk protection order or no contact order issued under sections 741.30, 784.046, or 784.0485, Fla. Stat.;

- _____ is the subject of a previous or existing risk protection order;
- _____ has violated a previous or existing risk protection order;
- _____ has been convicted of, had adjudication withheld on, or pled *nolo contendere* in Florida or in any other state to a crime that constitutes domestic violence as defined in s. 741.28, Fla. Stat.;
- _____ has used, or threatened to use, against himself/herself or others, any weapons;
- _____ has unlawfully or recklessly used, displayed or brandished a firearm;
- _____ has used or threatened to use on a recurring basis physical force against another person or has stalked another person;
- _____ has been arrested for, convicted of, had adjudication withheld, or pled *nolo contendere* to a crime involving violence or a threat of violence in Florida or in any other state;
- _____ has abused or is abusing controlled substances or alcohol;
- _____ has recently acquired firearms or ammunition;
- _____ other (additional relevant information may be attached).

SECTION IV. NOTICE

- _____ Petitioner has made a good faith effort to provide notice to a family or household member of the Respondent and to any known third party who may be at risk of violence in compliance with s. 790.401(2)(f), Fla.Stat.
- _____ Petitioner will take the following steps to provide notice as required by s. 790.401(2)(f), Fla.Stat. _____

SECTION V. TEMPORARY EX PARTE RISK PROTECTION ORDER

For the foregoing reasons, petitioner requests the Court to enter a TEMPORARY EX PARTE RISK PROTECTION ORDER in this matter requiring Respondent to:

1. Immediately surrender all firearms and ammunition in his or her custody, control, or possession and any license to carry a concealed weapon or firearm to the *{name of law enforcement agency}*; _____
2. Not have in his/her custody, control, or possession any firearm or ammunition while this order is in effect;

- 3. Not purchase, possess, receive, or attempt to purchase or receive, a firearm or ammunition while this order is in effect; and
- 4. Abide by any other lawful relief the Court may order.

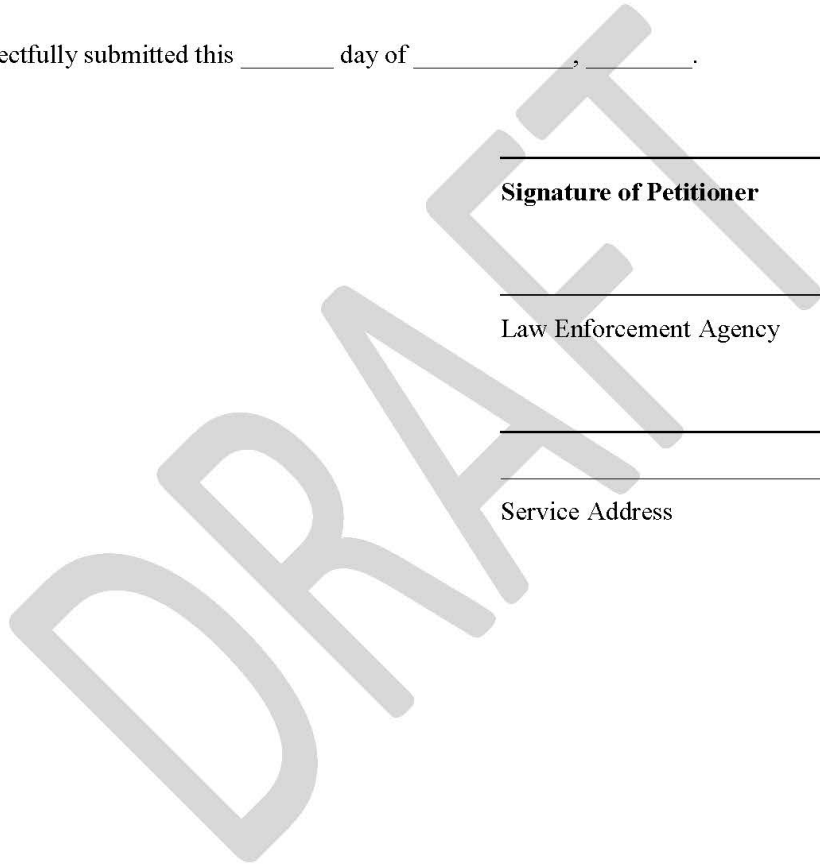
Petitioner further requests this Court to schedule a Hearing for a Risk Protection Order to be held within 14 days.

Respectfully submitted this _____ day of _____.

Signature of Petitioner

Law Enforcement Agency

Service Address



IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

Petitioner (Law Enforcement Officer/Agency),

v.

Case Number: _____

Division: _____

Respondent.

_____ /

ORDER GRANTING TEMPORARY EX PARTE RISK PROTECTION

THIS CAUSE came before the Court upon [a hearing on] Petitioner’s Petition for [Temporary Ex Parte] Risk Protection Order. The Court having reviewed the Petition, considered all relevant evidence presented, and being otherwise fully advised in the premises, the Petition is hereby **GRANTED**. The Court finds there is reasonable cause to believe the Respondent poses a significant danger of causing personal injury to himself/herself or others in the near future by having in his/her custody or control any firearm or ammunition, or by purchasing, possessing, or receiving, a firearm or ammunition.

The Court has received evidence [based on personal knowledge] [and initialed those facts found] that:

_____ The Respondent engaged in a recent act or threat of violence against himself or herself, or others;

_____ The Respondent engaged in an act or threat of violence, including but not limited to acts or threats of violence against himself or herself, within the past 12 months;

_____ The Respondent is seriously mentally ill or has recurring mental health issues;

_____ The Respondent has violated a risk protection order or no contact order issued under sections 741.30, 784.046, or 784.0485, Florida Statutes;

- _____ The Respondent is the subject of a previous or existing risk protection order;
- _____ The Respondent has violated a previous or existing risk protection order;
- _____ The Respondent has been convicted of, had adjudication withheld on, or pled *nolo contendere* to a crime that constitutes domestic violence as defined in section 741.28, Florida Statutes, or in any other state;
- _____ The Respondent has used, or threatened to use, against himself or herself or others, a weapon;
- _____ The Respondent has unlawfully or recklessly used, displayed or brandished a firearm;
- _____ The Respondent has used or threatened to use on a recurring basis physical force against another person, or has stalked another person;
- _____ The Respondent has been arrested for, convicted of, had adjudication withheld, or pled *nolo contendere* to a crime involving violence or a threat of violence in Florida or in another state;
- _____ The Respondent, based on corroborated evidence, has abused or is abusing controlled substances or alcohol;
- _____ The Respondent has recently acquired firearms or ammunition;

In addition, the Court has:

- _____ Considered all relevant information from family and household members concerning the Respondent;
- _____ Received witness testimony while the witness was under oath concerning the present matter; and
- _____ Considered other relevant evidence as follows: _____

Respondent owns, has, and/or is known to have guns or other weapons, including:

RESPONDENT IS HEREBY ORDERED TO SURRENDER ALL FIREARMS AND AMMUNITION THAT HE/SHE HAS IN HIS/HER CUSTODY, CONTROL OR POSSESSION.

[OPTIONAL LANGUAGE: Petitioner and Respondent are **ORDERED** to appear for a hearing on ____ at A.M./P.M. in Courtroom ____, to present proof of surrender. A law enforcement officer taking possession of any firearm or ammunition owned by the Respondent, or a license to carry a concealed weapon or firearm held by the Respondent shall issue a receipt identifying all firearms and the quantity and type of ammunition that have been surrendered. Law enforcement shall file the original receipt with the Court. The Court may cancel the hearing upon a satisfactory showing that the Respondent is in compliance with the order.]

The Final Risk Protection Order Hearing is hereby scheduled in Courtroom _____, in the court facility located at: _____ on ____, 20____, at _____ A.M./P.M. This hearing shall be held to determine if a final risk protection order should be issued.

To the subject of this protection order: This order is valid until the date noted above. You are required to surrender all firearms and ammunition that you own in your custody, control, or possession. You may not have in your custody or control, or purchase, possess, receive, or attempt to purchase or receive, a firearm or ammunition while this order is in effect. You must surrender immediately to the (insert name of local law enforcement agency) all firearms and ammunition in your custody, control, or possession and any license to carry a concealed weapon or firearm issued to you under section 790.06, Florida Statutes. A hearing will be held on the date

and at the time noted above to determine if a risk protection order should be issued. Failure to appear at that hearing may result in a court issuing an order against you which is valid for 1 year. You may seek the advice of an attorney as to any matter connected with this order.

Respondent and/or his/her attorney may file any responsive pleadings in this cause with the Clerk of the Circuit Court located at _____, and must submit a copy to the Honorable _____ located at _____.

A violation of this order constitutes a third degree felony punishable by up to 5 years in prison and a \$5,000 fine. Respondent has the sole responsibility to refrain from violating this order's provisions. Only a court can change the order and only upon written request.

DONE and ORDERED in Chambers, _____, _____ County, Florida, this _____, day of _____, 20_____.

Judge

Copies furnished to:
Petitioner
Respondent
Florida Department of Agriculture and Consumer Services

I CERTIFY the foregoing is a true copy of the original as it appears on file in the office of the clerk of the circuit court of [name of county], Florida, and that I have furnished copies of this order as indicated above.

CLERK OF THE CIRCUIT COURT
By:

[Name of deputy clerk]
[SEAL]

ACKNOWLEDGMENT

I, *[name of petitioner]*, acknowledge receipt of a certified copy of this Order Granting Temporary Ex Parte Risk Protection.

[Name of petitioner]

ACKNOWLEDGMENT

I, *[name of respondent]*, acknowledge receipt of a certified copy of this Order Granting Temporary Ex Parte Risk Protection.

[Name of respondent]
Respondent

REQUESTS FOR ACCOMODATIONS BY PERSONS WITH DISABILITIES. If you are a person with a disability who needs accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Court Administration, (Address and Phone Number), immediately upon receiving this notice.]

DRAFT

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

Petitioner, (Law Enforcement
Officer/Agency)

v.

Case Number: _____
Division: _____

Respondent

NOTICE OF HEARING

To: Petitioner, Petitioner's Address, Petitioner's Email Address
Respondent, Respondent's Address, Respondent's Email Address

**YOU ARE HEREBY NOTIFIED THAT PURSUANT TO SECTION 790.401(7)(f),
FLORIDA STATUTES, A HEARING HAS BEEN SCHEDULED BEFORE THIS
COURT ON:**

(Date) _____, at (time) _____ A.M./P.M., in Courtroom _____,
located at (location of courthouse).

**At or before the scheduled hearing, proof shall be provided to the court that the
Respondent has surrendered any firearms and any ammunition owned by the
Respondent in the Respondent's custody, control, or possession. The above-scheduled
hearing may be cancelled upon a satisfactory showing that the Respondent is in
compliance with the temporary ex parte risk protection order or the risk protection
order entered herein.**

DONE AND ORDERED in _____, at _____

County, this _____ day of _____, 20_____.

Judge

Copies furnished to:
Petitioner

Respondent

REQUESTS FOR ACCOMODATIONS BY PERSONS WITH DISABILITIES. If you are a person with a disability who needs accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Court Administration, (Address and Phone Number), immediately upon receiving this notice.

DRAFT

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

Petitioner,
(Law Enforcement Officer/Agency)

v.

Case Number: _____
Division: _____

Respondent.

**ORDER DENYING PETITION FOR
TEMPORARY EX PARTE RISK PROTECTION ORDER**

THIS CAUSE came before the Court upon [a hearing] on Petitioner’s Petition for Temporary Ex Parte Risk Protection Order. The Court, having considered the Petition, testimony, record, applicable law, and being otherwise fully advised in the premises, makes the following findings and rulings:

The Petition is hereby **DENIED**. The Court does not find reasonable cause to believe that Respondent poses a significant danger of causing personal injury to himself or herself or others by having in his or her custody or control, or by purchasing, possessing, or receiving, a firearm or any ammunition.

The specific facts or findings for said denial are as follows:

It is therefore **ORDERED and ADJUDGED** that Petitioner's request for a temporary ex parte risk protection order is **DENIED without prejudice** to provide additional evidence at the hearing regarding the risk protection order requested in the Petition, or to file a subsequent petition for risk protection order against the Respondent herein.

DONE AND ORDERED in _____,
County, this _____ day of _____, 20_____.

Judge

Copies furnished to:
Petitioner
Respondent

DRAFT

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

Petitioner, (Law Enforcement
Officer/Agency)

v.

Case Number: _____
Division: _____

Respondent.

FINAL ORDER GRANTING PETITION FOR RISK PROTECTION
[AND NOTICE OF HEARING]

THIS CAUSE came before the Court upon a hearing on Petitioner’s Petition for Risk Protection Order. [An Order Granting Temporary Ex Parte Risk Protection was rendered on _____, and Respondent has complied with said order.] The Court having reviewed the Petition, considered all relevant evidence presented, and being otherwise fully advised in the premises, the Petition is hereby **GRANTED**. The Court finds by clear and convincing evidence, specifically identified below, that Respondent poses a significant danger of causing personal injury to himself or herself or others by having in his or her custody or control or by purchasing, possessing, or receiving, a firearm or any ammunition.

The Court has received and considered the following evidence [and initialed those facts found by clear and convincing evidence]:

- _____ The Respondent engaged in a recent act or threat of violence against himself or herself, or others;
- _____ The Respondent engaged in an act or threat of violence, including but not limited to acts or threats of violence against himself or herself, within the past 12 months;
- _____ The Respondent is seriously mentally ill or has recurring mental health issues;

_____ The Respondent has violated a risk protection order or no contact order issued under sections 741.30, 784.046, or 784.0485, Florida Statutes;

_____ The Respondent is the subject of a previous or existing risk protection order;

_____ The Respondent has violated a previous or existing risk protection order;

_____ The Respondent has been convicted of, had adjudication withheld on, or pled *nolo contendere* to a crime that constitutes domestic violence as defined in section 741.28, Florida Statutes;

_____ The Respondent has used, or threatened to use, against himself or herself or others, any weapons;

_____ The Respondent has unlawfully or recklessly used, displayed or brandished a firearm;

_____ The Respondent has used or threatened to use on a recurring basis physical force against another person or has stalked another person;

_____ The Respondent has been arrested for, convicted of, had adjudication withheld, or pled *nolo contendere* to a crime involving violence or a threat of violence in Florida or in another state;

_____ The Respondent, based on corroborated evidence, has abused or is abusing controlled substances or alcohol;

_____ The Respondent has recently acquired firearms or ammunition;

In addition the Court has:

_____ Considered all relevant information from family and household members concerning the Respondent;

_____ Received witness testimony while the witness was under oath concerning the present matter; and

_____ Considered other relevant evidence as follows: _____

RESPONDENT IS HEREBY ORDERED TO SURRENDER ALL FIREARMS AND AMMUNITION THAT HE/SHE HAS IN HIS/HER CUSTODY, CONTROL, OR POSSESSION.

[OPTIONAL LANGUAGE: Petitioner and Respondent are **ORDERED** to appear for a three day post-service hearing on _____ at A.M./P.M. in Courtroom _____, to present proof of surrender. A law enforcement officer taking possession of any firearm or ammunition owned by the Respondent, or a license to carry a concealed weapon or firearm held by the Respondent shall issue a receipt identifying all firearms and the quantity and type of ammunition that have been surrendered. Law enforcement shall file the original receipt with the Court. The Court may cancel the hearing upon a satisfactory showing that the Respondent is in compliance with the order.]

THIS ORDER shall be in effect until _____, 20____, unless extended or sooner vacated, pursuant to section 790.401, Florida Statutes.

To the subject of this protection order: This order will last until the date noted above. If you have not done so already, you must surrender immediately to the (insert name of local law enforcement agency) all firearms and ammunition that you own in your custody, control, or possession and any license to carry a concealed weapon or firearm issued to you under section 790.06, Florida Statutes. You may not have in your custody or control, or purchase, possess, receive, or attempt to purchase or receive, a firearm or ammunition while this order is in effect. You have the right to request one hearing to vacate this order, starting after the date of the issuance of this order, and to request another hearing after every extension of the order, if any. You may seek the advice of an attorney as to any matter connected with this order.

Respondent and/or his/her attorney may file any responsive pleadings in this cause with

the Clerk of the Circuit Court located at _____,
and must submit a copy to the Honorable _____ located
at _____.

A violation of this order constitutes a third degree felony punishable by up to 5 years
in prison and a \$5,000 fine. You have the sole responsibility to avoid or refrain from
violating this order's provisions. Only a court can change the order and only upon written
request. This order is valid until the date of the final evidentiary hearing noted above.

[OPTIONAL LANGUAGE: This Court ORDERS Respondent to successfully
complete a mental health evaluation/ chemical dependency evaluation within sixty (60) days
of the date of this order. A motion for enlargement of time may be granted upon a showing of
good cause.]

DONE AND ORDERED in _____, _____ County, on this _____ day of _____, 20__.

Judge

Copies furnished to:

Petitioner
Respondent
Florida Department of Agriculture and Consumer Services

I CERTIFY the foregoing is a true copy of the original as it appears on file in the office of the clerk of the circuit court of *[name of county]*, Florida, and that I have furnished copies of this order as indicated above.

CLERK OF THE CIRCUIT COURT

By:

[Name of deputy clerk]

[SEAL]

ACKNOWLEDGMENT

I, *[name of petitioner]*, acknowledge receipt of a certified copy of this Order Granting Temporary Ex Parte Risk Protection.

[Name of petitioner]

ACKNOWLEDGMENT

I, *[name of respondent]*, acknowledge receipt of a certified copy of this Order Granting Temporary Ex Parte Risk Protection.

[Name of respondent]

Respondent

REQUESTS FOR ACCOMODATIONS BY PERSONS WITH DISABILITIES. If you are a person with a disability who needs accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Court Administration, (Address and Phone Number), immediately upon receiving this notice.]

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

Petitioner,
(Law Enforcement Officer/Agency)

v.

Case Number: _____
Division: _____

Respondent.

ORDER DENYING PETITION FOR RISK PROTECTION ORDER

THIS CAUSE came before the Court upon a hearing on Petitioner's Petition for Risk Protection Order. The Court, having considered the petition, testimony, record, applicable law, and being otherwise fully advised in the premises, makes the following findings and rulings:

The Petition is hereby **DENIED**. The Court does not find by clear and convincing evidence that Respondent poses a significant danger of causing personal injury to himself or herself or others by having in his or her custody or control, or by purchasing, possessing, or receiving, a firearm or any ammunition.

The specific facts or findings for said denial are as follows:

It is therefore **ORDERED and ADJUDGED** that Petitioner's Petition for Risk Protection Order is **DENIED without prejudice** to provide additional evidence, or to file a subsequent petition for risk protection order against the respondent herein.

DONE AND ORDERED in _____,
County, this _____ day of _____, 20____.

Judge

Copies furnished to:
Petitioner
Respondent

DRAFT

INSTRUCTIONS FOR MOTION TO VACATE A RISK PROTECTION ORDER

When should this form be used?

This form may be used if you have had a Risk Protection Order entered against you pursuant to section 790.401(3), Florida Statutes, or the order has been extended pursuant to section 790.401(6), F.S. If you use this form, you are the respondent. As respondent, you may file a written request for a hearing to vacate a risk protection order starting after the date the order is issued by the court. You may also file a written request for a hearing to vacate after every extension of the risk protection order, if any.

Who may file this form?

This form may be filed by:

- A respondent who has had a risk protection order entered against him or her pursuant to section 790.401(3), Florida Statutes, and who has not previously filed a written request to vacate the order;
- A respondent who has had a risk protection order against him or her extended, and who has not previously filed a written request to vacate that extension.

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

Case No.: _____

Division: _____

Petitioner,

and

Respondent.

MOTION TO VACATE A RISK PROTECTION ORDER

I, {full legal name} _____, being sworn, certify that the following statements are true:

SECTION I.

1. I am the Respondent in this case.
2. I currently live at the following address: {street address} _____
{city, state, and zip code} _____
Telephone Number: {area code and number} _____
3. My attorney's name, address and telephone number is: _____

(If you do not have an attorney, write "none.")

SECTION II. REQUEST TO VACATE

1. This is a request to vacate a: {Indicate only **one**}

_____ Risk Protection Order entered {date} _____ by
{court entering order} _____

_____ Extension of a Risk Protection Order entered {date} _____ by
{court entering extension} _____
2. I _____ have _____ have not previously requested a hearing to vacate a _____ Risk Protection Order or _____ Extension of Risk Protection Order. What is the date of your most recent request to vacate either an order or extension? {date} _____ i _____

3. I no longer pose a significant danger of causing personal injury to myself or to others by having firearms and/or ammunition in my custody or control, or by purchasing, possessing, or receiving a firearm or ammunition.
4. I ___ have ___ have not committed or threatened violence against myself or others—whether or not such act or threat involved a firearm since issuance of the order or extension.
5. I ___ have ___ have not had mental health issues since the order or extension was issued. Describe any mental health issues with specificity and whether you were hospitalized or put on medication as a result of such issues: _____

_____.
6. An ___ injunction for protection or ___ no-contact order ___ has ___ has not been entered against me. This order was entered {date} _____ by {name of court entering order} _____.
7. I ___ have ___ have not violated the injunction for protection or no-contact order.
8. I ___ have ___ have not been convicted or, had adjudication withheld, or pled nolo contendere to a crime that constitutes domestic violence as defined in s. 741.28, F.S., in Florida or another state. If yes, please provide {date} _____ on which such action took place and {court} _____.
9. I ___ have ___ have not been convicted or, had adjudication withheld, or pled nolo contendere to a crime involving violence or a threat of violence in Florida or another state. If yes, please provide {date} _____ on which such action took place and {court} _____.
10. I ___ have ___ have not used physical force or stalked another person. If yes, describe the circumstances: _____

_____.
11. I ___ have ___ have not used or threatened to use a weapon against myself or others. If yes, describe the circumstances: _____

_____.
12. I ___ have ___ have not recklessly used, displayed, or brandished a firearm. If yes, describe the circumstances: _____
_____.

_____.

13. I ____ have ____ have not abused alcohol or a controlled substance. If yes, describe the circumstances: _____

_____.

14. I have not possessed a firearm or ammunition since any firearms or ammunition of mine was surrendered pursuant to the court's order.

SECTION III. REQUEST FOR RELIEF

1. I understand that the court will hold a hearing on this motion and that I must appear at the hearing.
2. I ask the court to vacate the Risk Protection Order or the Extension of a Risk Protection Order entered in this case.

I understand that I am swearing or affirming under oath to the truthfulness of the factual claims made in this motion and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

Dated: _____

Signature of Respondent

STATE OF FLORIDA
COUNTY OF _____

Sworn to or affirmed and signed before me on _____ by _____.

NOTARY PUBLIC or DEPUTY CLERK

{Print, type, or stamp commissioned name of notary or clerk}

- _____ Personally known
- _____ Produced identification
- _____ Type of identification produced

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

Case No.: _____
Division: _____

Petitioner,
and

Respondent.

ORDER VACATING RISK PROTECTION ORDER OR EXTENSION

This cause came before the Court for a hearing on Respondent's request to vacate the _____ Risk Protection Order _____ Extension of a Risk Protection Order entered {date} _____. The Court, having reviewed the file and heard the testimony, makes these findings of fact and reaches these conclusions of law:

FINDINGS AND CONCLUSIONS:

1. The Court has jurisdiction over the subject matter and the parties.
2. The Respondent has proven by clear and convincing evidence that he/she no longer poses a threat of causing personal injury to himself/herself or others by having firearms or ammunition in his/her custody or control, or by purchasing, possession, or receiving a firearm or ammunition.

ORDERED AND ADJUDGED:

The _____ Risk Protection Order _____ Extension of Risk Protection Order is hereby VACATED.

ORDERED in _____, Florida on _____.

CIRCUIT JUDGE

Sheriff of _____ County

I CERTIFY the foregoing is a true copy of the original Order Vacating Risk Protection Order as it appears on file in the office of the Clerk of the Circuit Court of _____ County, Florida, and that I have furnished copies of this order as indicated below.

CLERK OF THE CIRCUIT COURT

(SEAL)

By: _____
{Deputy Clerk or Judicial Assistant}

Petitioner (or his or her attorney):

____ by hand delivery in open court (Petitioner acknowledged receipt in writing on the face of the original order--see below.)

____ by certification by clerk (Petitioner failed or refused to acknowledge receipt of a certified copy)

____ by mail to last known address

Respondent (or his or her attorney):

____ by hand delivery in open court (Respondent acknowledged receipt in writing on the face of the original order--see below.)

____ certification by clerk (Respondent failed or refused to acknowledge receipt of a certified copy)

____ by mail to last known address

ACKNOWLEDGMENT

I, {Name of Petitioner} _____, acknowledge receipt of a certified copy of this Order.

Petitioner _____
{Signature of Petitioner}

ACKNOWLEDGMENT

I, {Name of Respondent} _____, acknowledge receipt of a certified copy of this Order.

Respondent _____
{Signature of Respondent}

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

Case No.: _____

Division: _____

Petitioner,

and

Respondent.

ORDER DENYING RESPONDENT’S REQUEST TO VACATE AFTER HEARING

This cause came before the Court for a hearing on Respondent’s request to vacate the _____ Risk Protection Order _____ Extension of a Risk Protection Order entered {date} _____. The Court, having reviewed the file and heard the testimony, makes these findings of fact and reaches these conclusions of law:

FINDINGS AND CONCLUSIONS:

1. The Court has jurisdiction over the subject matter and the parties.
2. Respondent has NOT proven by clear and convincing evidence that he/she no longer poses a threat of causing personal injury to himself/herself or others by having firearms or ammunition in his/her custody or control, or by purchasing, possession, or receiving a firearm or ammunition.
3. Respondent may not request another hearing to vacate unless the order presently in effect is extended.

ORDERED AND ADJUDGED:

The _____ Risk Protection Order _____ Extension of Risk Protection Order is NOT vacated but remains in effect.

ORDERED in _____, Florida on _____.

CIRCUIT JUDGE

Sheriff of _____ County

I CERTIFY the foregoing is a true copy of the original Order Denying Vacation of Risk Protection Order as it appears on file in the office of the Clerk of the Circuit Court of _____ County, Florida, and that I have furnished copies of this order as indicated below.

CLERK OF THE CIRCUIT COURT

(SEAL)

By: _____
{Deputy Clerk or Judicial Assistant}

Petitioner (or his or her attorney):

- ____ by hand delivery in open court (Petitioner acknowledged receipt in writing on the face of the original order--see below.)
- ____ by certification by clerk (Petitioner failed or refused to acknowledge receipt of a certified copy)
- ____ by mail to last known address

Respondent (or his or her attorney):

- ____ by hand delivery in open court (Respondent acknowledged receipt in writing on the face of the original order--see below.)
- ____ certification by clerk (Respondent failed or refused to acknowledge receipt of a certified copy)
- ____ by mail to last known address

ACKNOWLEDGMENT

I, {Name of Petitioner} _____, acknowledge receipt of a certified copy of this Order.

Petitioner _____
{Signature of Petitioner}

ACKNOWLEDGMENT

I, {Name of Respondent} _____, acknowledge receipt of a certified copy of this Order.

Respondent _____
{Signature of Respondent}

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

Case No.: _____
Division: _____

Petitioner,

and

Respondent.

**ORDER DENYING/GRANTING RESPONDENT'S REQUEST FOR A HEARING
TO VACATE RISK PROTECTION ORDER OR EXTENSION**

This cause came before the Court for a hearing on Respondent's request for a hearing to vacate the
____ Risk Protection Order ____ Extension of a Risk Protection Order entered {date} _____.
The Court, having reviewed the filed, **ORDERS** as follows:

A. ____ DENIAL OF REQUEST FOR HEARING TO VACATE ORDER OR EXTENSION

Respondent's Request for a Hearing to vacate the Order is **DENIED** because:

____ Respondent has previously requested a hearing to vacate this Order;

____ Respondent's Request for a Hearing to Vacate does not comply with s. 790.401(6), F.S.;

____ Other _____

Respondent may not request another hearing to vacate unless the order presently in effect is extended.

B. ____ GRANTING OF REQUEST FOR HEARING TO VACATE ORDER AND NOTICE OF HEARING:

____ Respondent has not previously requested a hearing to vacate this Order;

____ Respondent's Request for a Hearing to Vacate complies with s. 790.401(6), F.S.; therefore, Respondent's Request for a Hearing to vacate the Order is **GRANTED**.

ORDERED in _____, Florida on _____.

CIRCUIT JUDGE

NOTICE OF HEARING

There will be a hearing on Respondent's Request to Vacate the _____ Risk Protection Order
_____ Extension of Risk Protection Order before Judge *{name}* _____,
on *{date}* _____, at *{time}* _____ m., in Room _____ of the _____
County Courthouse, *{address}* _____.

_____ hour(s)/_____ minutes have been reserved for this hearing.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact:

_____ *{identify applicable court personnel by name, address, and telephone number}* at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

I certify that a copy of this document was _____ mailed _____ e-mailed _____ hand-delivered to the person(s) listed below on *{date}* _____.

CLERK OF THE CIRCUIT COURT

By: _____
{Deputy Clerk or Judicial Assistant}

Petitioner (or his or her attorney)

Respondent (or his or her attorney)

.

ENROLLED
2018 Legislature

CS for SB 7026, 2nd Engrossed

20187026er

755 crisis or violent behavior.

756 (2) The purpose and intent of s. 790.401, Florida Statutes,
757 is to reduce deaths and injuries as a result of certain
758 individuals' use of firearms while respecting constitutional
759 rights by providing a judicial procedure for law enforcement
760 officers to obtain a court order temporarily restricting a
761 person's access to firearms and ammunition. The process
762 established by s. 790.401, Florida Statutes, is intended to
763 apply only to situations in which the person poses a significant
764 danger of harming himself or herself or others by possessing a
765 firearm or ammunition and to include standards and safeguards to
766 protect the rights of respondents and due process of law.

767 Section 15. Section 790.401, Florida Statutes, may be cited
768 as "The Risk Protection Order Act."

769 Section 16. Section 790.401, Florida Statutes, is created
770 to read:

771 790.401 Risk protection orders.—

772 (1) DEFINITIONS.—As used in this section, the term:

773 (a) "Petitioner" means a law enforcement officer or a law
774 enforcement agency that petitions a court for a risk protection
775 order under this section.

776 (b) "Respondent" means the individual who is identified as
777 the respondent in a petition filed under this section.

778 (c) "Risk protection order" means a temporary ex parte
779 order or a final order granted under this section.

780 (2) PETITION FOR A RISK PROTECTION ORDER.—There is created
781 an action known as a petition for a risk protection order.

782 (a) A petition for a risk protection order may be filed by
783 a law enforcement officer or law enforcement agency.

20187026er

784 (b) An action under this section must be filed in the
785 county where the petitioner’s law enforcement office is located
786 or the county where the respondent resides.

787 (c) Such petition for a risk protection order does not
788 require either party to be represented by an attorney.

789 (d) Notwithstanding any other law, attorney fees may not be
790 awarded in any proceeding under this section.

791 (e) A petition must:

792 1. Allege that the respondent poses a significant danger of
793 causing personal injury to himself or herself or others by
794 having a firearm or any ammunition in his or her custody or
795 control or by purchasing, possessing, or receiving a firearm or
796 any ammunition, and must be accompanied by an affidavit made
797 under oath stating the specific statements, actions, or facts
798 that give rise to a reasonable fear of significant dangerous
799 acts by the respondent;

800 2. Identify the quantities, types, and locations of all
801 firearms and ammunition the petitioner believes to be in the
802 respondent’s current ownership, possession, custody, or control;
803 and

804 3. Identify whether there is a known existing protection
805 order governing the respondent under s. 741.30, s. 784.046, or
806 s. 784.0485 or under any other applicable statute.

807 (f) The petitioner must make a good faith effort to provide
808 notice to a family or household member of the respondent and to
809 any known third party who may be at risk of violence. The notice
810 must state that the petitioner intends to petition the court for
811 a risk protection order or has already done so and must include
812 referrals to appropriate resources, including mental health,

20187026er

813 domestic violence, and counseling resources. The petitioner must
814 attest in the petition to having provided such notice or must
815 attest to the steps that will be taken to provide such notice.

816 (g) The petitioner must list the address of record on the
817 petition as being where the appropriate law enforcement agency
818 is located.

819 (h) A court or a public agency may not charge fees for
820 filing or for service of process to a petitioner seeking relief
821 under this section and must provide the necessary number of
822 certified copies, forms, and instructional brochures free of
823 charge.

824 (i) A person is not required to post a bond to obtain
825 relief in any proceeding under this section.

826 (j) The circuit courts of this state have jurisdiction over
827 proceedings under this section.

828 (3) RISK PROTECTION ORDER HEARINGS AND ISSUANCE.—

829 (a) Upon receipt of a petition, the court must order a
830 hearing to be held no later than 14 days after the date of the
831 order and must issue a notice of hearing to the respondent for
832 the same.

833 1. The clerk of the court shall cause a copy of the notice
834 of hearing and petition to be forwarded on or before the next
835 business day to the appropriate law enforcement agency for
836 service upon the respondent as provided in subsection (5).

837 2. The court may, as provided in subsection (4), issue a
838 temporary ex parte risk protection order pending the hearing
839 ordered under this subsection. Such temporary ex parte order
840 must be served concurrently with the notice of hearing and
841 petition as provided in subsection (5).

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842 3. The court may conduct a hearing by telephone pursuant to
843 a local court rule to reasonably accommodate a disability or
844 exceptional circumstances. The court must receive assurances of
845 the petitioner's identity before conducting a telephonic
846 hearing.

847 (b) Upon notice and a hearing on the matter, if the court
848 finds by clear and convincing evidence that the respondent poses
849 a significant danger of causing personal injury to himself or
850 herself or others by having in his or her custody or control, or
851 by purchasing, possessing, or receiving, a firearm or any
852 ammunition, the court must issue a risk protection order for a
853 period that it deems appropriate, up to and including but not
854 exceeding 12 months.

855 (c) In determining whether grounds for a risk protection
856 order exist, the court may consider any relevant evidence,
857 including, but not limited to, any of the following:

858 1. A recent act or threat of violence by the respondent
859 against himself or herself or others, whether or not such
860 violence or threat of violence involves a firearm.

861 2. An act or threat of violence by the respondent within
862 the past 12 months, including, but not limited to, acts or
863 threats of violence by the respondent against himself or herself
864 or others.

865 3. Evidence of the respondent being seriously mentally ill
866 or having recurring mental health issues.

867 4. A violation by the respondent of a risk protection order
868 or a no contact order issued under s. 741.30, s. 784.046, or s.
869 784.0485.

870 5. A previous or existing risk protection order issued

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871 against the respondent.

872 6. A violation of a previous or existing risk protection
873 order issued against the respondent.

874 7. Whether the respondent, in this state or any other
875 state, has been convicted of, had adjudication withheld on, or
876 pled nolo contendere to a crime that constitutes domestic
877 violence as defined in s. 741.28.

878 8. Whether the respondent has used, or has threatened to
879 use, against himself or herself or others any weapons.

880 9. The unlawful or reckless use, display, or brandishing of
881 a firearm by the respondent.

882 10. The recurring use of, or threat to use, physical force
883 by the respondent against another person or the respondent
884 stalking another person.

885 11. Whether the respondent, in this state or any other
886 state, has been arrested for, convicted of, had adjudication
887 withheld on, or pled nolo contendere to a crime involving
888 violence or a threat of violence.

889 12. Corroborated evidence of the abuse of controlled
890 substances or alcohol by the respondent.

891 13. Evidence of recent acquisition of firearms or
892 ammunition by the respondent.

893 14. Any relevant information from family and household
894 members concerning the respondent.

895 15. Witness testimony, taken while the witness is under
896 oath, relating to the matter before the court.

897 (d) A person, including an officer of the court, who offers
898 evidence or recommendations relating to the cause of action
899 either must present the evidence or recommendations in writing

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900 to the court with copies to each party and his or her attorney,
901 if one is retained, or must present the evidence under oath at a
902 hearing at which all parties are present.

903 (e) In a hearing under this section, the rules of evidence
904 apply to the same extent as in a domestic violence injunction
905 proceeding under s. 741.30.

906 (f) During the hearing, the court must consider whether a
907 mental health evaluation or chemical dependency evaluation is
908 appropriate and, if such determination is made, may order such
909 evaluations, if appropriate.

910 (g) A risk protection order must include all of the
911 following:

912 1. A statement of the grounds supporting the issuance of
913 the order;

914 2. The date the order was issued;

915 3. The date the order ends;

916 4. Whether a mental health evaluation or chemical
917 dependency evaluation of the respondent is required;

918 5. The address of the court in which any responsive
919 pleading should be filed;

920 6. A description of the requirements for the surrender of
921 all firearms and ammunition that the respondent owns, under
922 subsection (7); and

923 7. The following statement:

924

925 "To the subject of this protection order: This order will last
926 until the date noted above. If you have not done so already, you
927 must surrender immediately to the (insert name of local law
928 enforcement agency) all firearms and ammunition that you own in

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929 your custody, control, or possession and any license to carry a
 930 concealed weapon or firearm issued to you under s. 790.06,
 931 Florida Statutes. You may not have in your custody or control,
 932 or purchase, possess, receive, or attempt to purchase or
 933 receive, a firearm or ammunition while this order is in effect.
 934 You have the right to request one hearing to vacate this order,
 935 starting after the date of the issuance of this order, and to
 936 request another hearing after every extension of the order, if
 937 any. You may seek the advice of an attorney as to any matter
 938 connected with this order."

939
 940 (h) If the court issues a risk protection order, the court
 941 must inform the respondent that he or she is entitled to request
 942 a hearing to vacate the order in the manner provided by
 943 subsection (6). The court shall provide the respondent with a
 944 form to request a hearing to vacate.

945 (i) If the court denies the petitioner's request for a risk
 946 protection order, the court must state the particular reasons
 947 for the denial.

948 (4) TEMPORARY EX PARTE RISK PROTECTION ORDERS.-

949 (a) A petitioner may request that a temporary ex parte risk
 950 protection order be issued before a hearing for a risk
 951 protection order, without notice to the respondent, by including
 952 in the petition detailed allegations based on personal knowledge
 953 that the respondent poses a significant danger of causing
 954 personal injury to himself or herself or others in the near
 955 future by having in his or her custody or control, or by
 956 purchasing, possessing, or receiving, a firearm or ammunition.

957 (b) In considering whether to issue a temporary ex parte

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958 risk protection order under this section, the court shall
959 consider all relevant evidence, including the evidence described
960 in paragraph (3)(c).

961 (c) If a court finds there is reasonable cause to believe
962 that the respondent poses a significant danger of causing
963 personal injury to himself or herself or others in the near
964 future by having in his or her custody or control, or by
965 purchasing, possessing, or receiving, a firearm or ammunition,
966 the court must issue a temporary ex parte risk protection order.

967 (d) The court must hold a temporary ex parte risk
968 protection order hearing in person or by telephone on the day
969 the petition is filed or on the business day immediately
970 following the day the petition is filed.

971 (e) A temporary ex parte risk protection order must include
972 all of the following:

- 973 1. A statement of the grounds asserted for the order;
- 974 2. The date the order was issued;
- 975 3. The address of the court in which any responsive
976 pleading may be filed;
- 977 4. The date and time of the scheduled hearing;
- 978 5. A description of the requirements for the surrender of
979 all firearms and ammunition that the respondent owns, under
980 subsection (7); and
- 981 6. The following statement:

982
983 "To the subject of this protection order: This order is valid
984 until the date noted above. You are required to surrender all
985 firearms and ammunition that you own in your custody, control,
986 or possession. You may not have in your custody or control, or

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987 purchase, possess, receive, or attempt to purchase or receive, a
988 firearm or ammunition while this order is in effect. You must
989 surrender immediately to the (insert name of local law
990 enforcement agency) all firearms and ammunition in your custody,
991 control, or possession and any license to carry a concealed
992 weapon or firearm issued to you under s. 790.06, Florida
993 Statutes. A hearing will be held on the date and at the time
994 noted above to determine if a risk protection order should be
995 issued. Failure to appear at that hearing may result in a court
996 issuing an order against you which is valid for 1 year. You may
997 seek the advice of an attorney as to any matter connected with
998 this order.”

999

1000 (f) A temporary ex parte risk protection order ends upon
1001 the hearing on the risk protection order.

1002 (g) A temporary ex parte risk protection order must be
1003 served by a law enforcement officer in the same manner as
1004 provided for in subsection (5) for service of the notice of
1005 hearing and petition and must be served concurrently with the
1006 notice of hearing and petition.

1007 (h) If the court denies the petitioner’s request for a
1008 temporary ex parte risk protection order, the court must state
1009 the particular reasons for the denial.

1010 (5) SERVICE.—

1011 (a) The clerk of the court shall furnish a copy of the
1012 notice of hearing, petition, and temporary ex parte risk
1013 protection order or risk protection order, as applicable, to the
1014 sheriff of the county where the respondent resides or can be
1015 found, who shall serve it upon the respondent as soon thereafter

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1016 as possible on any day of the week and at any time of the day or
1017 night. When requested by the sheriff, the clerk of the court may
1018 transmit a facsimile copy of a temporary ex parte risk
1019 protection order or a risk protection order that has been
1020 certified by the clerk of the court, and this facsimile copy may
1021 be served in the same manner as a certified copy. Upon receiving
1022 a facsimile copy, the sheriff must verify receipt with the
1023 sender before attempting to serve it upon the respondent. The
1024 clerk of the court shall be responsible for furnishing to the
1025 sheriff information on the respondent's physical description and
1026 location. Notwithstanding any other provision of law to the
1027 contrary, the chief judge of each circuit, in consultation with
1028 the appropriate sheriff, may authorize a law enforcement agency
1029 within the jurisdiction to effect service. A law enforcement
1030 agency effecting service pursuant to this section shall use
1031 service and verification procedures consistent with those of the
1032 sheriff. Service under this section takes precedence over the
1033 service of other documents, unless the other documents are of a
1034 similar emergency nature.

1035 (b) All orders issued, changed, continued, extended, or
1036 vacated after the original service of documents specified in
1037 paragraph (a) must be certified by the clerk of the court and
1038 delivered to the parties at the time of the entry of the order.
1039 The parties may acknowledge receipt of such order in writing on
1040 the face of the original order. If a party fails or refuses to
1041 acknowledge the receipt of a certified copy of an order, the
1042 clerk shall note on the original order that service was
1043 effected. If delivery at the hearing is not possible, the clerk
1044 shall mail certified copies of the order to the parties at the

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1045 last known address of each party. Service by mail is complete
1046 upon mailing. When an order is served pursuant to this
1047 subsection, the clerk shall prepare a written certification to
1048 be placed in the court file specifying the time, date, and
1049 method of service and shall notify the sheriff.

1050 (6) TERMINATION AND EXTENSION OF ORDERS.—

1051 (a) The respondent may submit one written request for a
1052 hearing to vacate a risk protection order issued under this
1053 section, starting after the date of the issuance of the order,
1054 and may request another hearing after every extension of the
1055 order, if any.

1056 1. Upon receipt of the request for a hearing to vacate a
1057 risk protection order, the court shall set a date for a hearing.
1058 Notice of the request must be served on the petitioner in
1059 accordance with subsection (5). The hearing must occur no sooner
1060 than 14 days and no later than 30 days after the date of service
1061 of the request upon the petitioner.

1062 2. The respondent shall have the burden of proving by clear
1063 and convincing evidence that the respondent does not pose a
1064 significant danger of causing personal injury to himself or
1065 herself or others by having in his or her custody or control,
1066 purchasing, possessing, or receiving a firearm or ammunition.
1067 The court may consider any relevant evidence, including evidence
1068 of the considerations listed in paragraph (3)(c).

1069 3. If the court finds after the hearing that the respondent
1070 has met his or her burden of proof, the court must vacate the
1071 order.

1072 4. The law enforcement agency holding any firearm or
1073 ammunition or license to carry a concealed weapon or firearm

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1074 that has been surrendered pursuant to this section shall be
1075 notified of the court order to vacate the risk protection order.

1076 (b) The court must notify the petitioner of the impending
1077 end of a risk protection order. Notice must be received by the
1078 petitioner at least 30 days before the date the order ends.

1079 (c) The petitioner may, by motion, request an extension of
1080 a risk protection order at any time within 30 days before the
1081 end of the order.

1082 1. Upon receipt of the motion to extend, the court shall
1083 order that a hearing be held no later than 14 days after the
1084 date the order is issued and shall schedule such hearing.

1085 a. The court may schedule a hearing by telephone in the
1086 manner provided by subparagraph (3)(a)3.

1087 b. The respondent must be personally serviced in the same
1088 manner provided by subsection (5).

1089 2. In determining whether to extend a risk protection order
1090 issued under this section, the court may consider all relevant
1091 evidence, including evidence of the considerations listed in
1092 paragraph (3)(c).

1093 3. If the court finds by clear and convincing evidence that
1094 the requirements for issuance of a risk protection order as
1095 provided in subsection (3) continue to be met, the court must
1096 extend the order. However, if, after notice, the motion for
1097 extension is uncontested and no modification of the order is
1098 sought, the order may be extended on the basis of a motion or
1099 affidavit stating that there has been no material change in
1100 relevant circumstances since entry of the order and stating the
1101 reason for the requested extension.

1102 4. The court may extend a risk protection order for a

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1103 period that it deems appropriate, up to and including but not
 1104 exceeding 12 months, subject to an order to vacate as provided
 1105 in paragraph (a) or to another extension order by the court.
 1106 (7) SURRENDER OF FIREARMS AND AMMUNITION.—
 1107 (a) Upon issuance of a risk protection order under this
 1108 section, including a temporary ex parte risk protection order,
 1109 the court shall order the respondent to surrender to the local
 1110 law enforcement agency all firearms and ammunition owned by the
 1111 respondent in the respondent’s custody, control, or possession
 1112 except as provided in subsection (9), and any license to carry a
 1113 concealed weapon or firearm issued under s. 790.06, held by the
 1114 respondent.
 1115 (b) The law enforcement officer serving a risk protection
 1116 order under this section, including a temporary ex parte risk
 1117 protection order, shall request that the respondent immediately
 1118 surrender all firearms and ammunition owned by the respondent in
 1119 his or her custody, control, or possession and any license to
 1120 carry a concealed weapon or firearm issued under s. 790.06, held
 1121 by the respondent. The law enforcement officer shall take
 1122 possession of all firearms and ammunition owned by the
 1123 respondent and any license to carry a concealed weapon or
 1124 firearm issued under s. 790.06, held by the respondent, which
 1125 are surrendered. Alternatively, if personal service by a law
 1126 enforcement officer is not possible or is not required because
 1127 the respondent was present at the risk protection order hearing,
 1128 the respondent must surrender any firearms and ammunition owned
 1129 by the respondent and any license to carry a concealed weapon or
 1130 firearm issued under s. 790.06, held by the respondent, in a
 1131 safe manner to the control of the local law enforcement agency

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1132 immediately after being served with the order by service or
 1133 immediately after the hearing at which the respondent was
 1134 present. Notwithstanding ss. 933.02 and 933.18, a law
 1135 enforcement officer may seek a search warrant from a court of
 1136 competent jurisdiction to conduct a search for firearms or
 1137 ammunition owned by the respondent if the officer has probable
 1138 cause to believe that there are firearms or ammunition owned by
 1139 the respondent in the respondent's custody, control, or
 1140 possession which have not been surrendered.

1141 (c) At the time of surrender, a law enforcement officer
 1142 taking possession of any firearm or ammunition owned by the
 1143 respondent, or a license to carry a concealed weapon or firearm
 1144 issued under s. 790.06, held by the respondent shall issue a
 1145 receipt identifying all firearms and the quantity and type of
 1146 ammunition that have been surrendered, and any license
 1147 surrendered and shall provide a copy of the receipt to the
 1148 respondent. Within 72 hours after service of the order, the law
 1149 enforcement officer serving the order shall file the original
 1150 receipt with the court and shall ensure that his or her law
 1151 enforcement agency retains a copy of the receipt.

1152 (d) Notwithstanding ss. 933.02 and 933.18, upon the sworn
 1153 statement or testimony of any person alleging that the
 1154 respondent has failed to comply with the surrender of firearms
 1155 or ammunition owned by the respondent, as required by an order
 1156 issued under this section, the court shall determine whether
 1157 probable cause exists to believe that the respondent has failed
 1158 to surrender all firearms or ammunition owned by the respondent
 1159 in the respondent's custody, control, or possession. If the
 1160 court finds that probable cause exists, the court must issue a

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1161 warrant describing the firearms or ammunition owned by the
1162 respondent and authorizing a search of the locations where the
1163 firearms or ammunition owned by the respondent are reasonably
1164 believed to be found and the seizure of any firearms or
1165 ammunition owned by the respondent discovered pursuant to such
1166 search.

1167 (e) If a person other than the respondent claims title to
1168 any firearms or ammunition surrendered pursuant to this section
1169 and he or she is determined by the law enforcement agency to be
1170 the lawful owner of the firearm or ammunition, the firearm or
1171 ammunition shall be returned to him or her, if:

1172 1. The lawful owner agrees to store the firearm or
1173 ammunition in a manner such that the respondent does not have
1174 access to or control of the firearm or ammunition.

1175 2. The firearm or ammunition is not otherwise unlawfully
1176 possessed by the owner.

1177 (f) Upon the issuance of a risk protection order, the court
1178 shall order a new hearing date and require the respondent to
1179 appear no later than 3 business days after the issuance of the
1180 order. The court shall require proof that the respondent has
1181 surrendered any firearms or ammunition owned by the respondent
1182 in the respondent's custody, control, or possession. The court
1183 may cancel the hearing upon a satisfactory showing that the
1184 respondent is in compliance with the order.

1185 (g) All law enforcement agencies must develop policies and
1186 procedures regarding the acceptance, storage, and return of
1187 firearms, ammunition, or licenses required to be surrendered
1188 under this section.

1189 (8) RETURN AND DISPOSAL OF FIREARMS AND AMMUNITION.-

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1190 (a) If a risk protection order is vacated or ends without
1191 extension, a law enforcement agency holding a firearm or any
1192 ammunition owned by the respondent or a license to carry a
1193 concealed weapon or firearm issued under s. 790.06, held by the
1194 respondent, that has been surrendered or seized pursuant to this
1195 section must return such surrendered firearm, ammunition, or
1196 license to carry a concealed weapon or firearm issued under s.
1197 790.06, as requested by a respondent only after confirming
1198 through a background check that the respondent is currently
1199 eligible to own or possess firearms and ammunition under federal
1200 and state law and after confirming with the court that the risk
1201 protection order has been vacated or has ended without
1202 extension.

1203 (b) If a risk protection order is vacated or ends without
1204 extension, the Department of Agriculture and Consumer Services,
1205 if it has suspended a license to carry a concealed weapon or
1206 firearm pursuant to this section, must reinstate such license
1207 only after confirming that the respondent is currently eligible
1208 to have a license to carry a concealed weapon or firearm
1209 pursuant to s. 790.06.

1210 (c) A law enforcement agency must provide notice to any
1211 family or household members of the respondent before the return
1212 of any surrendered firearm and ammunition owned by the
1213 respondent.

1214 (d) Any firearm and ammunition surrendered by a respondent
1215 pursuant to subsection (7) which remains unclaimed for 1 year by
1216 the lawful owner after an order to vacate the risk protection
1217 order shall be disposed of in accordance with the law
1218 enforcement agency's policies and procedures for the disposal of

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1219 firearms in police custody.

1220 (9) TRANSFER OF FIREARMS AND AMMUNITION.—A respondent may
1221 elect to transfer all firearms and ammunition owned by the
1222 respondent that have been surrendered to or seized by a local
1223 law enforcement agency pursuant to subsection (7) to another
1224 person who is willing to receive the respondent's firearms and
1225 ammunition. The law enforcement agency must allow such a
1226 transfer only if it is determined that the chosen recipient:

1227 (a) Currently is eligible to own or possess a firearm and
1228 ammunition under federal and state law after confirmation
1229 through a background check;

1230 (b) Attests to storing the firearms and ammunition in a
1231 manner such that the respondent does not have access to or
1232 control of the firearms and ammunition until the risk protection
1233 order against the respondent is vacated or ends without
1234 extension; and

1235 (c) Attests not to transfer the firearms or ammunition back
1236 to the respondent until the risk protection order against the
1237 respondent is vacated or ends without extension.

1238 (10) REPORTING OF ORDERS.—

1239 (a) Within 24 hours after issuance, the clerk of the court
1240 shall enter any risk protection order or temporary ex parte risk
1241 protection order issued under this section into the uniform case
1242 reporting system.

1243 (b) Within 24 hours after issuance, the clerk of the court
1244 shall forward a copy of an order issued under this section to
1245 the appropriate law enforcement agency specified in the order.
1246 Upon receipt of the copy of the order, the law enforcement
1247 agency shall enter the order into the Florida Crime Information

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1248 Center and National Crime Information Center. The order must
1249 remain in each system for the period stated in the order, and
1250 the law enforcement agency may only remove an order from the
1251 systems which has ended or been vacated. Entry of the order into
1252 the Florida Crime Information Center and National Crime
1253 Information Center constitutes notice to all law enforcement
1254 agencies of the existence of the order. The order is fully
1255 enforceable in any county in this state.

1256 (c) The issuing court shall, within 3 business days after
1257 issuance of a risk protection order or temporary ex parte risk
1258 protection order, forward all available identifying information
1259 concerning the respondent, along with the date of order
1260 issuance, to the Department of Agriculture and Consumer
1261 Services. Upon receipt of the information, the department shall
1262 determine if the respondent has a license to carry a concealed
1263 weapon or firearm. If the respondent does have a license to
1264 carry a concealed weapon or firearm, the department must
1265 immediately suspend the license.

1266 (d) If a risk protection order is vacated before its end
1267 date, the clerk of the court shall, on the day of the order to
1268 vacate, forward a copy of the order to the Department of
1269 Agriculture and Consumer Services and the appropriate law
1270 enforcement agency specified in the order to vacate. Upon
1271 receipt of the order, the law enforcement agency shall promptly
1272 remove the order from any computer-based system in which it was
1273 entered pursuant to paragraph (b).

1274 (11) PENALTIES.—

1275 (a) A person who makes a false statement, which he or she
1276 does not believe to be true, under oath in a hearing under this

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1277 section in regard to any material matter commits a felony of the
1278 third degree, punishable as provided in s. 775.082, s. 775.083,
1279 or s. 775.084.

1280 (b) A person who has in his or her custody or control a
1281 firearm or any ammunition or who purchases, possesses, or
1282 receives a firearm or any ammunition with knowledge that he or
1283 she is prohibited from doing so by an order issued under this
1284 section commits a felony of the third degree, punishable as
1285 provided in s. 775.082, s. 775.083, or s. 775.084.

1286 (12) LAW ENFORCEMENT RETAINS OTHER AUTHORITY.—This section
1287 does not affect the ability of a law enforcement officer to
1288 remove a firearm or ammunition or license to carry a concealed
1289 weapon or concealed firearm from any person or to conduct any
1290 search and seizure for firearms or ammunition pursuant to other
1291 lawful authority.

1292 (13) LIABILITY.—Except as provided in subsection (8) or
1293 subsection (11), this section does not impose criminal or civil
1294 liability on any person or entity for acts or omissions related
1295 to obtaining a risk protection order or temporary ex parte risk
1296 protection order, including, but not limited to, providing
1297 notice to the petitioner, a family or household member of the
1298 respondent, and any known third party who may be at risk of
1299 violence or failure to provide such notice, or reporting,
1300 declining to report, investigating, declining to investigate,
1301 filing, or declining to file, a petition under this section.

1302 (14) INSTRUCTIONAL AND INFORMATIONAL MATERIAL.—

1303 (a) The Office of the State Courts Administrator shall
1304 develop and prepare instructions and informational brochures,
1305 standard petitions and risk protection order forms, and a court

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1306 staff handbook on the risk protection order process. The
1307 standard petition and order forms must be used after January 1,
1308 2019, for all petitions filed and orders issued pursuant to this
1309 section. The office shall determine the significant non-English-
1310 speaking or limited English-speaking populations in the state
1311 and prepare the instructions and informational brochures and
1312 standard petitions and risk protection order forms in such
1313 languages. The instructions, brochures, forms, and handbook must
1314 be prepared in consultation with interested persons, including
1315 representatives of gun violence prevention groups, judges, and
1316 law enforcement personnel. Materials must be based on best
1317 practices and must be available online to the public.

1318 1. The instructions must be designed to assist petitioners
1319 in completing the petition and must include a sample of a
1320 standard petition and order for protection forms.

1321 2. The instructions and standard petition must include a
1322 means for the petitioner to identify, with only layman's
1323 knowledge, the firearms or ammunition the respondent may own,
1324 possess, receive, or have in his or her custody or control. The
1325 instructions must provide pictures of types of firearms and
1326 ammunition that the petitioner may choose from to identify the
1327 relevant firearms or ammunition, or must provide an equivalent
1328 means to allow petitioners to identify firearms or ammunition
1329 without requiring specific or technical knowledge regarding the
1330 firearms or ammunition.

1331 3. The informational brochure must describe the use of and
1332 the process for obtaining, extending, and vacating a risk
1333 protection order under this section and must provide relevant
1334 forms.

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1335 4. The risk protection order form must include, in a
1336 conspicuous location, notice of criminal penalties resulting
1337 from violation of the order and the following statement: "You
1338 have the sole responsibility to avoid or refrain from violating
1339 this order's provisions. Only the court can change the order and
1340 only upon written request."

1341 5. The court staff handbook must allow for the addition of
1342 a community resource list by the clerk of the court.

1343 (b) Any clerk of court may create a community resource list
1344 of crisis intervention, mental health, substance abuse,
1345 interpreter, counseling, and other relevant resources serving
1346 the county in which the court is located. The court may make the
1347 community resource list available as part of or in addition to
1348 the informational brochures described in paragraph (a).

1349 (c) The Office of the State Courts Administrator shall
1350 distribute a master copy of the petition and order forms,
1351 instructions, and informational brochures to the clerks of
1352 court. Distribution of all documents shall, at a minimum, be in
1353 an electronic format or formats accessible to all courts and
1354 clerks of court in the state.

1355 (d) Within 90 days after receipt of the master copy from
1356 the Office of the State Courts Administrator, the clerk of the
1357 court shall make available the standardized forms, instructions,
1358 and informational brochures required by this subsection.

1359 (e) The Office of the State Courts Administrator shall
1360 update the instructions, brochures, standard petition and risk
1361 protection order forms, and court staff handbook as necessary,
1362 including when changes in the law make an update necessary.

1363 Section 17. Section 836.10, Florida Statutes, is amended to