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 paraphrases 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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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.

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.

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.
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
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 provided 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
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: ________________________________________________________

Rough draft for discussion purposes only. NOT FINAL.
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;

Rough draft for discussion purposes only. NOT FINAL.
_____ 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;

Rough draft for discussion purposes only. NOT FINAL.
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

Rough draft for discussion purposes only. NOT FINAL.
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.

Rough draft for discussion purposes only. NOT FINAL.
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:

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<th>Quantity</th>
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</table>

____ 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: ________________

Rough draft for discussion purposes only. NOT FINAL.
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 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 ACCOMMODATIONS 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.
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} __________________________

Rough draft for discussion purposes only. NOT FINAL.
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;

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______ 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

*Rough draft for discussion purposes only. NOT FINAL.*
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
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} ____________________________________

Rough draft for discussion purposes only. NOT FINAL.
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.;

Rough draft for discussion purposes only. NOT FINAL.
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;

Rough draft for discussion purposes only. NOT FINAL.
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

4
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

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)(O),
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 ACCOMMODATIONS 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
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
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
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] __________________________
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.)

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

Section 15. Section 790.401, Florida Statutes, may be cited as “The Risk Protection Order Act.”

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

790.401 Risk protection orders.—
(1) DEFINITIONS.—As used in this section, the term:
(a) “Petitioner” means a law enforcement officer or a law enforcement agency that petitions a court for a risk protection order under this section.
(b) “Respondent” means the individual who is identified as the respondent in a petition filed under this section.
(c) “Risk protection order” means a temporary ex parte order or a final order granted under this section.

(2) PETITION FOR A RISK PROTECTION ORDER.—There is created an action known as a petition for a risk protection order.
(a) A petition for a risk protection order may be filed by a law enforcement officer or law enforcement agency.
(b) An action under this section must be filed in the county where the petitioner’s law enforcement office is located or the county where the respondent resides.

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

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

(e) A petition must:

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

2. Identify 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; and

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

(f) The petitioner must make 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. The notice must state that the petitioner intends to petition the court for a risk protection order or has already done so and must include referrals to appropriate resources, including mental health.
domestic violence, and counseling resources. The petitioner must attest in the petition to having provided such notice or must attest to the steps that will be taken to provide such notice.

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

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

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

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

(3) RISK PROTECTION ORDER HEARINGS AND ISSUANCE.—

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

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

2. The court may, as provided in subsection (4), issue a temporary ex parte risk protection order pending the hearing ordered under this subsection. Such temporary ex parte order must be served concurrently with the notice of hearing and petition as provided in subsection (5).
3. The court may conduct a hearing by telephone pursuant to a local court rule to reasonably accommodate a disability or exceptional circumstances. The court must receive assurances of the petitioner’s identity before conducting a telephonic hearing.

(b) Upon notice and a hearing on the matter, if the court finds by clear and convincing evidence that the 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 must issue a risk protection order for a period that it deems appropriate, up to and including but not exceeding 12 months.

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

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

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

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

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

5. A previous or existing risk protection order issued
against the respondent.

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

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

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

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

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

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

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

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

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

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

(d) A person, including an officer of the court, who offers
evidence or recommendations relating to the cause of action
either must present the evidence or recommendations in writing
to the court with copies to each party and his or her attorney,
if one is retained, or must present the evidence under oath at a
hearing at which all parties are present.

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

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

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

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

2. The date the order was issued;

3. The date the order ends;

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

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

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

7. The following statement:

"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 s. 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.”

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

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

(4) TEMPORARY EX PARTE RISK PROTECTION ORDERS.—

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

(b) In considering whether to issue a temporary ex parte
risk protection order under this section, the court shall
consider all relevant evidence, including the evidence described
in paragraph (3)(c).

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

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

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

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

"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 s. 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."

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

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

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

(5) SERVICE.—
(a) The clerk of the court shall furnish a copy of the
notice of hearing, petition, and temporary ex parte risk
protection order or risk protection order, as applicable, to the
sheriff of the county where the respondent resides or can be
found, who shall serve it upon the respondent as soon thereafter
as possible on any day of the week and at any time of the day or night. When requested by the sheriff, the clerk of the court may transmit a facsimile copy of a temporary ex parte risk protection order or a risk protection order that has been certified by the clerk of the court, and this facsimile copy may be served in the same manner as a certified copy. Upon receiving a facsimile copy, the sheriff must verify receipt with the sender before attempting to serve it upon the respondent. The clerk of the court shall be responsible for furnishing to the sheriff information on the respondent’s physical description and location. Notwithstanding any other provision of law to the contrary, the chief judge of each circuit, in consultation with the appropriate sheriff, may authorize a law enforcement agency within the jurisdiction to effect service. A law enforcement agency effecting service pursuant to this section shall use service and verification procedures consistent with those of the sheriff. Service under this section takes precedence over the service of other documents, unless the other documents are of a similar emergency nature.

(b) All orders issued, changed, continued, extended, or vacated after the original service of documents specified in paragraph (a) must be certified by the clerk of the court and delivered to the parties at the time of the entry of the order. The parties may acknowledge receipt of such order in writing on the face of the original order. If a party fails or refuses to acknowledge the receipt of a certified copy of an order, the clerk shall note on the original order that service was effected. If delivery at the hearing is not possible, the clerk shall mail certified copies of the order to the parties at the
last known address of each party. Service by mail is complete upon mailing. When an order is served pursuant to this subsection, the clerk shall prepare a written certification to be placed in the court file specifying the time, date, and method of service and shall notify the sheriff.

(6) TERMINATION AND EXTENSION OF ORDERS.—

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

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

2. The respondent shall have the burden of proving by clear and convincing evidence that the respondent does not pose a significant danger of causing personal injury to himself or herself or others by having in his or her custody or control, purchasing, possessing, or receiving a firearm or ammunition.

   The court may consider any relevant evidence, including evidence of the considerations listed in paragraph (3)(c).

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

   4. The law enforcement agency holding any firearm or ammunition or license to carry a concealed weapon or firearm...
that has been surrendered pursuant to this section shall be
notified of the court order to vacate the risk protection order.
(b) The court must notify the petitioner of the impending
end of a risk protection order. Notice must be received by the
petitioner at least 30 days before the date the order ends.
(c) The petitioner may, by motion, request an extension of
a risk protection order at any time within 30 days before the
end of the order.
1. Upon receipt of the motion to extend, the court shall
order that a hearing be held no later than 14 days after the
date the order is issued and shall schedule such hearing.
   a. The court may schedule a hearing by telephone in the
      manner provided by subparagraph (3)(a).
   b. The respondent must be personally served in the same
      manner provided by subsection (5).
2. In determining whether to extend a risk protection order
   issued under this section, the court may consider all relevant
evidence, including evidence of the considerations listed in
paragraph (3)(c).
3. If the court finds by clear and convincing evidence that
   the requirements for issuance of a risk protection order as
   provided in subsection (3) continue to be met, the court must
   extend the order. However, if, after notice, the motion for
   extension is uncontested and no modification of the order is
   sought, the order may be extended on the basis of a motion or
   affidavit stating that there has been no material change in
   relevant circumstances since entry of the order and stating the
   reason for the requested extension.
4. The court may extend a risk protection order for a
period that it deems appropriate, up to and including but not
exceeding 12 months, subject to an order to vacate as provided
in paragraph (a) or to another extension order by the court.

(7) SURRENDER OF FIREARMS AND AMMUNITION.—
(a) Upon issuance of a risk protection order under this
section, including a temporary ex parte risk protection order,
the court shall order the respondent to surrender to the local
law enforcement agency all firearms and ammunition owned by the
respondent in the respondent’s custody, control, or possession
except as provided in subsection (9), and any license to carry a
concealed weapon or firearm issued under s. 790.06, held by the
respondent.

(b) The law enforcement officer serving a risk protection
order under this section, including a temporary ex parte risk
protection order, shall request that the respondent immediately
surrender all firearms and ammunition owned by the respondent in
his or her custody, control, or possession and any license to
carry a concealed weapon or firearm issued under s. 790.06, held
by the respondent. The law enforcement officer shall take
possession of all firearms and ammunition owned by the
respondent and any license to carry a concealed weapon or
firearm issued under s. 790.06, held by the respondent, which
are surrendered. Alternatively, if personal service by a law
enforcement officer is not possible or is not required because
the respondent was present at the risk protection order hearing,
the respondent must surrender any firearms and ammunition owned
by the respondent and any license to carry a concealed weapon or
firearm issued under s. 790.06, held by the respondent, in a
safe manner to the control of the local law enforcement agency.
immediately after being served with the order by service or
immediately after the hearing at which the respondent was
present. Notwithstanding ss. 933.02 and 933.18, a law
enforcement officer may seek a search warrant from a court of
competent jurisdiction to conduct a search for firearms or
ammunition owned by the respondent if the officer has probable
cause to believe that there are firearms or ammunition owned by
the respondent in the respondent’s custody, control, or
possession which have not been surrendered.

(c) At the time 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
issued under s. 790.06, held by the respondent shall issue a
receipt identifying all firearms and the quantity and type of
ammunition that have been surrendered, and any license
surrendered and shall provide a copy of the receipt to the
respondent. Within 72 hours after service of the order, the law
enforcement officer serving the order shall file the original
receipt with the court and shall ensure that his or her law
enforcement agency retains a copy of the receipt.

(d) Notwithstanding ss. 933.02 and 933.18, upon the sworn
statement or testimony of any person alleging that the
respondent has failed to comply with the surrender of firearms
or ammunition owned by the respondent, as required by an order
issued under this section, the court shall determine whether
probable cause exists to believe that the respondent has failed
to surrender all firearms or ammunition owned by the respondent
in the respondent’s custody, control, or possession. If the
court finds that probable cause exists, the court must issue a
warrant describing the firearms or ammunition owned by the
respondent and authorizing a search of the locations where the
firearms or ammunition owned by the respondent are reasonably
believed to be found and the seizure of any firearms or
ammunition owned by the respondent discovered pursuant to such
search.

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

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

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

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

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

(8) RETURN AND DISPOSAL OF FIREARMS AND AMMUNITION.—
(a) If a risk protection order is vacated or ends without extension, a law enforcement agency holding a firearm or any ammunition owned by the respondent or a license to carry a concealed weapon or firearm issued under s. 790.06, held by the respondent, that has been surrendered or seized pursuant to this section must return such surrendered firearm, ammunition, or license to carry a concealed weapon or firearm issued under s. 790.06, as requested by a respondent only after confirming through a background check that the respondent is currently eligible to own or possess firearms and ammunition under federal and state law and after confirming with the court that the risk protection order has been vacated or has ended without extension.

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

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

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

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

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

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

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

(10) REPORTING OF ORDERS.—

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

(b) Within 24 hours after issuance, the clerk of the court
shall forward a copy of an order issued under this section to
the appropriate law enforcement agency specified in the order.
Upon receipt of the copy of the order, the law enforcement
agency shall enter the order into the Florida Crime Information
Center and National Crime Information Center. The order must remain in each system for the period stated in the order, and the law enforcement agency may only remove an order from the systems which has ended or been vacated. Entry of the order into the Florida Crime Information Center and National Crime Information Center constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in this state.

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

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

(11) PENALTIES.—

(a) A person who makes a false statement, which he or she does not believe to be true, under oath in a hearing under this
section in regard to any material matter commits a felony of the
third degree, punishable as provided in s. 775.082, s. 775.083,
or s. 775.084.

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

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

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

(14) INSTRUCTIONAL AND INFORMATIONAL MATERIAL.—
(a) The Office of the State Courts Administrator shall
develop and prepare instructions and informational brochures,
standard petitions and risk protection order forms, and a court
staff handbook on the risk protection order process. The
standard petition and order forms must be used after January 1, 2019, for all petitions filed and orders issued pursuant to this section. The office shall determine the significant non-English-speaking or limited English-speaking populations in the state and prepare the instructions and informational brochures and standard petitions and risk protection order forms in such languages. The instructions, brochures, forms, and handbook must be prepared in consultation with interested persons, including representatives of gun violence prevention groups, judges, and law enforcement personnel. Materials must be based on best practices and must be available online to the public.

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

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

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

CODING: Words stricken are deletions; words underlined are additions.
4. The risk protection order form must include, in a conspicuous location, notice of criminal penalties resulting from violation of the order and the following statement: “You have the sole responsibility to avoid or refrain from violating this order’s provisions. Only the court can change the order and only upon written request.”

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

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

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

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

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

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

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