

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 58**

Introduced by Morfeld, 46.

Read first time January 10, 2019

Committee: Judiciary

1 A BILL FOR AN ACT relating to relating to firearms; to amend sections  
2 69-2406, 69-2407, and 69-2439, Reissue Revised Statutes of Nebraska,  
3 and section 25-2740, Revised Statutes Cumulative Supplement, 2018;  
4 to adopt the Extreme Risk Protection Order Act; to harmonize  
5 provisions; to repeal the original sections; and to declare an  
6 emergency.

7 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 16 of this act shall be known and may be  
2 cited as the Extreme Risk Protection Order Act.

3           Sec. 2. For purposes of the Extreme Risk Protection Order Act:

4           (1) Ex parte extreme risk protection order means a temporary  
5 protection order issued on an ex parte basis under section 5 of this act;

6           (2) Family or household member includes spouses or former spouses,  
7 children, persons who are presently residing together or who have resided  
8 together in the past, persons who have a child in common whether or not  
9 they have been married or have lived together at any time, other persons  
10 related by consanguinity or affinity, and persons who are presently  
11 involved in a dating relationship with each other or who have been  
12 involved in a dating relationship with each other. For purposes of this  
13 subdivision, dating relationship means frequent, intimate associations  
14 primarily characterized by the expectation of affectional or sexual  
15 involvement, but does not include a casual relationship or an ordinary  
16 association between persons in a business or social context;

17           (3) Final extreme risk protection order means an order issued under  
18 section 4 of this act or an ex parte extreme risk protection order that  
19 is deemed final under section 5 of this act and includes renewals of such  
20 orders;

21           (4) Firearm has the same meaning as in section 28-1201;

22           (5) Law enforcement agency means the police department or town  
23 marshal in incorporated municipalities, the office of the sheriff in  
24 unincorporated areas, and the Nebraska State Patrol;

25           (6) Law enforcement officer means any officer or employee of a law  
26 enforcement agency authorized by law to make arrests;

27           (7) Petitioner means the person who petitions for an extreme risk  
28 protection order; and

29           (8) Respondent means the person who is identified as the respondent  
30 in a petition filed under the act.

31           Sec. 3. (1) A petition for an extreme risk protection order may be

1 filed by (a) a family or household member of the respondent or (b) a law  
2 enforcement agency or law enforcement officer.

3 (2) A petition for an extreme risk protection order shall be filed  
4 with the clerk of the district court of the county where the petitioner  
5 or respondent resides, and the proceeding may be heard by the county  
6 court or the district court as provided in section 25-2740. A petition  
7 may not be withdrawn except upon order of the court.

8 (3) A petition for an extreme risk protection order shall:

9 (a) Allege that the respondent poses a significant risk of causing  
10 personal injury to self or others by having in his or her custody or  
11 control, purchasing, possessing, or receiving a firearm;

12 (b) Be accompanied by an affidavit made under oath stating the  
13 specific statements, actions, or facts that give rise to a reasonable  
14 fear of future dangerous acts by the respondent;

15 (c) Identify the number, types, and locations of any firearms the  
16 petitioner believes to be in the respondent's current ownership,  
17 possession, custody, or control;

18 (d) If known by the petitioner, identify any existing harassment  
19 protection order, sexual assault protection order, domestic violence  
20 protection order, or other similar protection order governing the  
21 respondent, whether from this state or another jurisdiction; and

22 (e) Identify whether there is a pending lawsuit, complaint,  
23 petition, or other action between the parties to the petition under the  
24 laws of Nebraska or any other jurisdiction.

25 (4) The court shall verify the terms of any existing domestic court  
26 order governing the parties and, if reasonably practicable, the terms of  
27 any such existing court order from another jurisdiction. The court shall  
28 not delay granting relief because of the existence of a pending action  
29 between the parties or in order to verify the terms of an existing order.  
30 A petition for an extreme risk protection order may be granted whether or  
31 not there is a pending action between the parties.

1       (5) If the petitioner is a law enforcement agency or law enforcement  
2 officer, the petitioner shall make a good faith effort to provide notice  
3 to any family or household member of the respondent who may be at risk of  
4 violence and to any known third party who may be at risk of violence. If  
5 such person is a minor, notice to such minor's parent or guardian, other  
6 than the respondent, shall be sufficient. The notice shall state that the  
7 petitioner intends to petition the court for an extreme risk protection  
8 order or has already done so, and include referrals to appropriate  
9 resources, including mental health, domestic violence, and counseling  
10 resources. The petitioner shall attest in the petition to having provided  
11 such notice or attest to the steps that will be taken to provide such  
12 notice.

13       (6) If the petitioner is a family or household member of the  
14 respondent and the petition for an extreme risk protection order states  
15 that disclosure of the petitioner's address would risk harm to the  
16 petitioner or any member of the petitioner's family or household, the  
17 petitioner's address may be omitted from all documents filed with the  
18 court. If the petitioner has not disclosed an address under this  
19 subsection, the petitioner must designate an alternative address at which  
20 the respondent may serve notice of any motions. If the petitioner is a  
21 law enforcement agency or law enforcement officer, the petition must  
22 contain the address of record of such agency or officer.

23       (7) No fees for filing or service of process shall be charged by a  
24 court or any public agency to petitioners seeking relief under the  
25 Extreme Risk Protection Order Act, except that a court may assess such  
26 fees and costs if the court finds, by clear and convincing evidence, that  
27 the statements contained in the petition were false and that the extreme  
28 risk protection order was sought in bad faith.

29       (8) Petitioners shall be provided the necessary number of certified  
30 copies, forms, and instructional brochures free of charge.

31       (9) A petitioner shall not be required to post a bond to obtain

1 relief in any proceeding under the Extreme Risk Protection Order Act.

2       Sec. 4. (1) If an extreme risk protection order is not issued ex  
3 parte under section 5 of this act, upon receipt of the petition, the  
4 court shall immediately schedule an evidentiary hearing to be held within  
5 fourteen days after the filing of the petition, and the court shall cause  
6 notice of the hearing to be given to the petitioner and the respondent.  
7 The clerk of the district court shall cause a copy of the notice of  
8 hearing and petition to be forwarded on or before the next judicial day  
9 to the appropriate law enforcement agency for service upon the  
10 respondent. Service issued under this section takes precedence over the  
11 service of other documents, unless the other documents are of a similar  
12 emergency nature.

13       (2) Subject to court rules, a hearing under the Extreme Risk  
14 Protection Order Act, including an evidentiary hearing, may be held  
15 telephonically or by videoconferencing or similar means at any location  
16 within the judicial district as ordered by the court and in a manner that  
17 ensures the preservation of an accurate record, when doing so is  
18 necessary to reasonably accommodate a disability or in exceptional  
19 circumstances to protect a petitioner or witness from potential harm. The  
20 court shall require assurances of the identity of the petitioner and any  
21 witness before conducting a hearing in such manner.

22       (3) Upon hearing the matter, if the court finds by a preponderance  
23 of the evidence that the respondent poses a significant risk of causing  
24 personal injury to self or others by having in his or her custody or  
25 control, purchasing, possessing, or receiving a firearm, the court shall  
26 issue an extreme risk protection order that shall be effective for one  
27 year.

28       (4) In determining whether grounds for issuing an extreme risk  
29 protection order exist, the court may consider any relevant evidence,  
30 including, but not limited to:

31       (a) A recent act or threat of violence by the respondent against

1 self or others, whether or not such violence or threat of violence  
2 involves a firearm;

3 (b) A pattern of acts or threats of violence by the respondent,  
4 including, but not limited to, acts or threats of violence by the  
5 respondent against self or others;

6 (c) Evidence of the respondent being seriously mentally ill or  
7 having recurring mental health issues;

8 (d) A violation by the respondent of a harassment protection order,  
9 sexual assault protection order, domestic violence protection order, or  
10 other similar protection order, whether from this state or another  
11 jurisdiction;

12 (e) The existence of any previous or current extreme risk protection  
13 order issued against the respondent, whether from this state or another  
14 jurisdiction, and whether the respondent has violated such order;

15 (f) Whether the respondent, in this state or any other jurisdiction,  
16 has been convicted of, had adjudication withheld or deferred on, or pled  
17 nolo contendere to a crime in which any victim was a family or household  
18 member of the respondent;

19 (g) The respondent's ownership of, access to, or intent to possess  
20 firearms;

21 (h) The unlawful or reckless use, display, or brandishing of a  
22 firearm by the respondent;

23 (i) The history of use, attempted use, or threatened use of physical  
24 force by the respondent against another person;

25 (j) Any history of stalking by the respondent;

26 (k) Whether the respondent, in this state or any other jurisdiction,  
27 has been arrested for, convicted of, had adjudication withheld or  
28 deferred on, or pled nolo contendere to a crime involving violence or a  
29 threat of violence;

30 (l) Corroborated evidence of the abuse of controlled substances or  
31 alcohol by the respondent; and

1 (m) Evidence of recent acquisition of firearms by the respondent.

2 (5) The court may:

3 (a) Examine under oath the petitioner, the respondent, and any  
4 witnesses they may produce, or, in lieu of examination, consider sworn  
5 affidavits of the petitioner, the respondent, and any witnesses they may  
6 produce; and

7 (b) Ensure that a reasonable search has been conducted for criminal  
8 history record information related to the respondent.

9 (6) In a hearing under the Extreme Risk Protection Order Act, the  
10 rules of evidence apply to the same extent as in proceedings for a  
11 domestic protection order under the Protection from Domestic Abuse Act.

12 (7) During the hearing, the court shall consider whether a mental  
13 health evaluation or chemical dependency evaluation of the respondent is  
14 appropriate, and may order such evaluation, if appropriate.

15 (8) If the court issues an extreme risk protection order, such order  
16 shall include:

17 (a) A statement of the grounds supporting the issuance of the order;

18 (b) The date and time the order was issued;

19 (c) The date and time the order expires;

20 (d) Whether a mental health evaluation or chemical dependency  
21 evaluation of the respondent is required;

22 (e) The address of the court in which any responsive pleading should  
23 be filed;

24 (f) A description of the requirements for relinquishment of firearms  
25 under section 10 of this act; and

26 (g) A statement in substantially the following form: "To (name of  
27 respondent): This order will last until the date and time noted above. If  
28 you have not done so already, you must immediately surrender to the (name  
29 of local law enforcement agency) all firearms in your custody, control,  
30 or possession, any permit to carry a concealed handgun issued to you  
31 under the Concealed Handgun Permit Act, and any certificate issued to you

1 under section 69-2404. While this order is in effect you shall not have a  
2 firearm in your custody or control or purchase, possess, receive, or  
3 attempt to purchase, possess, or receive a firearm. You have the sole  
4 responsibility to avoid or refrain from violating this order. Only the  
5 court can terminate this order and only upon written request. You have  
6 the right to request a hearing to terminate this order once during every  
7 twelve-month period that this order is in effect, starting from the date  
8 of this order and continuing through any renewals. You may seek the  
9 advice of an attorney as to any matter connected with this order."

10 (9) When the court issues an extreme risk protection order following  
11 a hearing under this section, the court shall inform the respondent that  
12 he or she is entitled to request termination of the order in the manner  
13 prescribed by section 8 of this act. The court shall provide the  
14 respondent with a form to request a termination hearing.

15 (10) If the court declines to issue an extreme risk protection  
16 order, the court shall state on the record the particular reasons for the  
17 denial.

18 Sec. 5. (1) A petitioner may request that an extreme risk  
19 protection order be issued ex parte to the respondent and without prior  
20 notice to the respondent by including in the petition detailed  
21 allegations based on personal knowledge that the respondent poses a  
22 significant risk of causing personal injury to self or others in the near  
23 future by having in his or her custody or control, purchasing,  
24 possessing, or receiving a firearm.

25 (2) In considering whether to issue an ex parte extreme risk  
26 protection order under this section, the court shall consider all  
27 relevant evidence, including the evidence described in subsection (4) of  
28 section 4 of this act.

29 (3) The court shall hold a hearing for a petition for an ex parte  
30 extreme risk protection order on the day the petition is filed or on the  
31 judicial day immediately following the day the petition is filed. Subject

1 to court rules, such hearing may be held telephonically or by  
2 videoconferencing or similar means at any location within the judicial  
3 district as ordered by the court when doing so is necessary. The court  
4 shall require assurances of the identity of the petitioner and any  
5 witness before conducting a hearing in such manner.

6 (4) If a court finds there is reasonable cause to believe that the  
7 respondent poses a significant risk of causing personal injury to self or  
8 others in the near future by having in his or her custody or control,  
9 purchasing, possessing, or receiving a firearm, the court shall issue an  
10 ex parte extreme risk protection order. The order shall contain the  
11 matters required by subsection (8) of section 4 of this act.

12 (5)(a) If an extreme risk protection order is issued ex parte, such  
13 order is a temporary order and the court shall forthwith cause notice of  
14 the petition and ex parte protection order to be given to the respondent.  
15 The court shall also cause a form to request a show-cause hearing to be  
16 served upon the respondent. If the respondent wishes to appear and show  
17 cause why the order should not remain in effect, he or she shall affix  
18 his or her current address, telephone number, and signature to the form  
19 and return it to the clerk of the district court within five days after  
20 service upon him or her. Upon receipt of the request for a show-cause  
21 hearing, the request of the petitioner, or upon the court's own motion,  
22 the court shall immediately schedule a show-cause hearing to be held  
23 within thirty days after the receipt of the request for a show-cause  
24 hearing and shall notify the petitioner and respondent of the hearing  
25 date.

26 (b) If the respondent appears at the hearing and shows cause why the  
27 ex parte extreme risk protection order should not remain in effect, the  
28 court shall rescind such order.

29 (c) If the respondent appears at the hearing and does not show  
30 cause, the ex parte extreme risk protection order shall be affirmed,  
31 shall be deemed the final extreme risk protection order, and shall be

1 effective for one year from its initial issuance as an ex parte  
2 protection order. In such case, service of the ex parte protection order  
3 shall be notice of the final protection order for purposes of prosecution  
4 under section 13 of this act.

5 (d) If the respondent has been properly served with the ex parte  
6 extreme risk protection order and fails to appear at the hearing, the  
7 order shall be affirmed, shall be deemed the final extreme risk  
8 protection order, and shall be effective for one year from its initial  
9 issuance as an ex parte protection order. In such case, service of the ex  
10 parte protection order shall be notice of the final protection order for  
11 purposes of prosecution under section 13 of this act.

12 (6) If the court declines to issue an ex parte extreme risk  
13 protection order, the court shall state on the record the particular  
14 reasons for the denial.

15 Sec. 6. (1)(a) Upon the issuance of an ex parte extreme risk  
16 protection order or final extreme risk protection order, the clerk of the  
17 district court shall, on or before the next judicial day, provide:

18 (i) The petitioner, without charge, with two certified copies of  
19 such order;

20 (ii) The local police department or local law enforcement agency and  
21 the local sheriff's office, without charge, with one copy each of such  
22 order and one copy each of the sheriff's return thereon; and

23 (iii) A copy of the extreme risk protection order to the sheriff's  
24 office in the county where the respondent may be personally served  
25 together with instructions for service. Upon receipt of the order and  
26 instructions for service, such sheriff's office shall forthwith serve the  
27 order upon the respondent and file its return thereon with the clerk of  
28 the district court within ten days after the issuance of the order.

29 (b) If any protection order is dismissed or modified by the court,  
30 the clerk of the district court shall, on or before the next judicial  
31 day, provide the local police department or local law enforcement agency

1 and the local sheriff's office, without charge, with one copy each of the  
2 order of dismissal or modification.

3 (c) If the respondent has notice as described in subsection (2) of  
4 this section, further service under this subsection is unnecessary.

5 (2) If the respondent was present at a hearing under section 5 of  
6 this act and the extreme risk protection order was not dismissed, the  
7 respondent shall be deemed to have notice by the court at such hearing  
8 that the protection order will be granted and remain in effect and  
9 further service of notice described in subsection (1) of this section is  
10 not required for purposes of prosecution under section 13 of this act.

11 (3) If the sheriff's office cannot complete service upon the  
12 respondent within ten days, the sheriff's office shall notify the  
13 petitioner. The petitioner shall provide information sufficient to permit  
14 such notification.

15 Sec. 7. (1) A respondent may submit a written request for a hearing  
16 to terminate a final extreme risk protection order once during every  
17 twelve-month period that the order is in effect, starting from the date  
18 of issuance of the order and continuing through any renewals.

19 (2) Upon receipt of a request for a hearing to terminate an extreme  
20 risk protection order, the court shall set a date for a hearing to be  
21 held within thirty days after receipt of the request. The court may also  
22 schedule such a hearing on its own motion. The court shall notify the  
23 petitioner and respondent of the hearing date.

24 (3) At a hearing requested by the respondent, the respondent shall  
25 have the burden of proving by a preponderance of the evidence that the  
26 respondent does not pose a significant risk of causing personal injury to  
27 self or others by having in his or her custody or control, purchasing,  
28 possessing, or receiving a firearm. The court may consider any relevant  
29 evidence, including evidence of the considerations listed in subsection  
30 (4) of section 4 of this act.

31 (4) The court shall terminate the order if the court finds by a

1 preponderance of the evidence that the respondent does not pose a  
2 significant risk of causing personal injury to self or others by having  
3 in his or her custody or control, purchasing, possessing, or receiving a  
4 firearm.

5       Sec. 8. (1) The court shall notify the petitioner of the impending  
6 expiration of a final extreme risk protection order. The court shall  
7 provide such notice on or before one hundred and five days before the  
8 date the order expires.

9       (2) A family or household member of a respondent or a law  
10 enforcement agency or law enforcement officer may file a motion  
11 requesting renewal of a final extreme risk protection order at any time  
12 no earlier than one hundred and five days before the expiration of the  
13 order.

14       (3) Upon receipt of a motion to renew, the court shall immediately  
15 schedule an evidentiary hearing to be held within fourteen days after the  
16 filing of the motion, and the court shall cause notice of the hearing to  
17 be given to the petitioner; the movant, if other than the petitioner; and  
18 the respondent. The clerk of the district court shall cause a copy of the  
19 notice of hearing and motion to be forwarded no later than the next  
20 judicial day to the appropriate law enforcement agency for service upon  
21 the respondent and the petitioner, if other than the movant. Service  
22 issued under this section takes precedence over the service of other  
23 documents, unless the other documents are of a similar emergency nature.

24       (4) In determining whether to renew a final extreme risk protection  
25 order, the court shall consider all relevant evidence presented by the  
26 petitioner and follow the same procedure as provided in section 4 of this  
27 act.

28       (5) If the court finds by a preponderance of the evidence that the  
29 requirements for issuance of a final extreme risk protection order as  
30 provided in subsection (3) of section 4 of this act continue to be met,  
31 the court shall renew the order.

1       (6) A final extreme risk protection order may be renewed on the  
2 basis of the petitioner's or movant's motion or affidavit stating that  
3 there has been no material change in relevant circumstances since entry  
4 of the order and stating the reason for the requested renewal if:

5       (a) The petitioner and movant seek no modification of the order; and

6       (b)(i) The respondent has been properly served under subsection (3)  
7 of this section and fails to appear at the hearing; or

8       (ii) The respondent indicates that he or she does not contest the  
9 renewal.

10       (7) A renewed extreme risk protection order shall be effective for  
11 one year to commence on the first day following the expiration of the  
12 previous order, subject to termination as provided in section 8 of this  
13 act or further renewal by order of the court.

14       Sec. 9. (1) Upon issuance of a final extreme risk protection order  
15 or an ex parte extreme risk protection order, the court shall order the  
16 respondent to surrender to the local law enforcement agency all firearms  
17 in the respondent's custody, control, or possession, any permit to carry  
18 a concealed handgun issued to the respondent under the Concealed Handgun  
19 Permit Act, and any certificate issued to the respondent under section  
20 69-2404.

21       (2) The law enforcement officer serving the extreme risk protection  
22 order shall require the respondent to immediately surrender all firearms  
23 in his or her custody, control, or possession, any permit to carry a  
24 concealed handgun issued to the respondent under the Concealed Handgun  
25 Permit Act, and any certificate issued to the respondent under section  
26 69-2404. The officer may conduct any search permitted by law for such  
27 firearms, permit, or certificate. The law enforcement officer shall take  
28 possession of all firearms and any such permit or certificate belonging  
29 to the respondent that are surrendered, found in plain sight, or  
30 discovered pursuant to a lawful search. Alternatively, if personal  
31 service by a law enforcement officer is not possible or not required

1 because the respondent was present at the extreme risk protection order  
2 hearing, the respondent shall surrender the firearms and any such permit  
3 or certificate in a safe manner to the control of the local law  
4 enforcement agency within twenty-four hours after the earlier of being  
5 served with the order or such hearing.

6 (3) At the time of surrender, a law enforcement officer taking  
7 possession of a firearm, a permit to carry a concealed handgun, or a  
8 certificate issued under section 69-2404 shall issue a receipt  
9 identifying all firearms and any such permit or certificate that has been  
10 surrendered and provide a copy of the receipt to the respondent. Within  
11 seventy-two hours after service of the order, the officer serving the  
12 order shall file the original receipt with the court and shall ensure  
13 that his or her law enforcement agency retains a copy of the receipt.

14 (4) Upon the sworn statement or testimony of the petitioner or of  
15 any law enforcement officer alleging that the respondent has failed to  
16 surrender all firearms in his or her possession, custody, or control or  
17 any permit or certificate required to be surrendered, the court shall  
18 determine whether probable cause exists to believe that the respondent  
19 has so failed to comply. If probable cause exists, the court shall issue  
20 a warrant authorizing the search for and seizure of such firearms,  
21 permit, or certificate.

22 (5) If a person other than the respondent claims title to any  
23 firearm surrendered pursuant to the Extreme Risk Protection Order Act and  
24 such claim is determined to be valid by the law enforcement agency  
25 holding such firearm, the firearm shall be returned to such person if:

26 (a) Such person agrees that the firearm shall remain removed from  
27 the respondent's custody, control, or possession and agrees to store the  
28 firearm in a manner such that the respondent does not have access to or  
29 control of the firearm; and

30 (b) Possession of the firearm by such person is not otherwise  
31 prohibited by Nebraska or federal law.

1       (6) By October 1, 2019, all law enforcement agencies shall develop  
2 policies and procedures governing the acceptance, storage, and return of  
3 firearms required to be surrendered under the act.

4       Sec. 10. (1) If a final extreme risk protection order or ex parte  
5 extreme risk protection order is terminated or expires without renewal, a  
6 law enforcement agency holding any firearm that has been surrendered  
7 pursuant to the Extreme Risk Protection Order Act shall return any  
8 surrendered firearm requested by a respondent only after confirming,  
9 through a criminal history record information check, that the respondent  
10 is currently eligible to own or possess such firearms under Nebraska and  
11 federal law and after confirming with the court that the extreme risk  
12 protection order has terminated or expired without renewal.

13       (2) Any firearm surrendered by a respondent pursuant to the act that  
14 remains unclaimed for more than sixty days following termination or  
15 expiration of the order shall be disposed of in accordance with the law  
16 enforcement agency's policies and procedures.

17       Sec. 11. (1) On the same day a final extreme risk protection order  
18 or ex parte extreme risk protection order is issued, the clerk of the  
19 district court shall enter such order into a statewide judicial  
20 information system and electronically forward a copy of such order to the  
21 appropriate law enforcement agency specified in the order. Upon receipt  
22 of such copy, the law enforcement agency shall enter the order into the  
23 national criminal history record information system, any other federal or  
24 state computer-based systems used by law enforcement or others to  
25 identify prohibited purchasers of firearms, and any computer-based  
26 criminal intelligence information system available in this state used by  
27 law enforcement agencies to list outstanding warrants. The order shall  
28 remain in each system for the period stated in the order. The law  
29 enforcement agency shall only expunge orders from the systems that have  
30 expired or terminated. Entry into the computer-based criminal  
31 intelligence information system constitutes notice to all law enforcement

1 agencies of the existence of the order. Any extreme risk protection order  
2 is fully enforceable in any county in the state.

3 (2) The issuing court shall, within three judicial days after  
4 issuance of a final extreme risk protection order or an ex parte extreme  
5 risk protection order, forward a copy of the respondent's driver's  
6 license, along with the date of order issuance, to the Nebraska State  
7 Patrol. Upon receipt of the information, the Nebraska State Patrol shall:

8 (a) Determine if the respondent has a permit to carry a concealed  
9 handgun issued under the Concealed Handgun Permit Act. If the respondent  
10 has such a permit, the Nebraska State Patrol shall immediately revoke  
11 such permit and notify the sheriff of the county of the respondent's  
12 residence of such revocation. Such revocation shall not be subject to the  
13 procedures of section 69-2439, including the fine set forth in subsection  
14 (4) of such section; and

15 (b) Determine if the respondent has a certificate issued under  
16 section 69-2404. If the respondent has such a certificate, the Nebraska  
17 State Patrol shall immediately notify the sheriff or chief of police who  
18 issued such certificate. Upon receipt of such notification, such sheriff  
19 or chief of police shall immediately revoke the certificate.

20 (3) If a final extreme risk protection order or ex parte extreme  
21 risk protection order is terminated before its expiration date, the clerk  
22 of the district court shall, on the same day, electronically forward a  
23 copy of the termination order to the Nebraska State Patrol and the  
24 appropriate law enforcement agency specified in the termination order.  
25 Upon receipt of such copy, the Nebraska State Patrol and law enforcement  
26 agency shall promptly remove the extreme risk protection order from any  
27 computer-based system in which it was entered pursuant to subsection (1)  
28 of this section.

29 Sec. 12. (1) Any person who files a petition under the Extreme Risk  
30 Protection Order Act knowing the information in such petition to be  
31 materially false or with intent to harass the respondent shall be guilty

1 of a Class III misdemeanor.

2 (2) Any person who has in his or her custody or control or  
3 purchases, possesses, or receives a firearm knowing that he or she is  
4 prohibited from doing so by a final extreme risk protection order, an ex  
5 parte extreme risk protection order, or an order issued pursuant  
6 subsection (3) of this section:

7 (a) For a first or second violation, shall be guilty of a Class II  
8 misdemeanor; and

9 (b) For a third or subsequent violation, shall be guilty of a Class  
10 IV felony.

11 (3) Upon a conviction described in subdivision (2)(a) of this  
12 section, the court shall issue an order prohibiting the respondent from  
13 having in his or her custody or control, purchasing, possessing, or  
14 receiving, or attempting to purchase, possess, or receive, a firearm for  
15 a period of five years from the date of issuance of the extreme risk  
16 protection order underlying the conviction.

17 Sec. 13. The Extreme Risk Protection Order Act does not affect the  
18 ability, pursuant to other lawful authority, of a law enforcement agency  
19 or law enforcement officer to seize from any person a firearm, a permit  
20 to carry a concealed handgun under the Concealed Handgun Permit Act, or  
21 any certificate issued under section 69-2404 or otherwise conduct any  
22 lawful search and seizure.

23 Sec. 14. Except as provided in section 13 of this act, the Extreme  
24 Risk Protection Order Act does not impose criminal or civil liability on  
25 any person or entity for acts or omissions related to obtaining an  
26 extreme risk protection order, including, but not limited to, reporting,  
27 declining to report, investigating, declining to investigate, filing, or  
28 declining to file a petition under the act.

29 Sec. 15. (1) The State Court Administrator shall develop and  
30 prepare instructions and informational brochures, standard petitions and  
31 extreme risk protection order forms, and a court staff handbook on the

1 Extreme Risk Protection Order Act.

2 (2) On and after October 1, 2019, the standard petition and order  
3 forms shall be used for all petitions filed and orders issued under the  
4 Extreme Risk Protection Order Act. The instructions, brochures, forms,  
5 and handbook shall be prepared in consultation with interested persons,  
6 including representatives of gun violence prevention groups, judges, and  
7 law enforcement personnel. Materials shall be based on best practices and  
8 available to the public online.

9 (a) The instructions shall be designed to assist petitioners in  
10 completing the petition and shall include a sample of a standard petition  
11 and order forms.

12 (b) The instructions and standard petition shall include a means for  
13 the petitioner to identify, with only lay knowledge, the firearms the  
14 respondent may own, possess, receive, or have in his or her custody or  
15 control. The instructions shall provide pictures of types of firearms  
16 that the petitioner may choose from to identify the relevant firearms, or  
17 an equivalent means to allow petitioners to identify firearms without  
18 requiring specific or technical knowledge regarding the firearms.

19 (c) The informational brochure must describe the use of and the  
20 process for obtaining, renewing, and terminating an extreme risk  
21 protection order and provide relevant forms.

22 (d) The court staff handbook shall allow for the addition of a  
23 community resource list by the clerk of the district court.

24 (3) All clerks of the district court may create a community resource  
25 list of crisis intervention, mental health, substance abuse, interpreter,  
26 counseling, and other relevant resources serving the county in which the  
27 court is located. The court may make the community resource list  
28 available as part of or in addition to the informational brochures  
29 described in subsection (1) of this section.

30 (4) The State Court Administrator shall distribute a master copy of  
31 the petition and order forms, instructions, and informational brochures

1 to all clerks of the district court and shall distribute a master copy of  
2 the petition and order forms to all county and district courts.  
3 Distribution of all documents shall, at a minimum, be in an electronic  
4 format or formats accessible to such courts and their clerks.

5 (5) The State Court Administrator shall determine the significant  
6 non-English-speaking or limited English-speaking populations in this  
7 state. The administrator shall then arrange for translation of the  
8 instructions and informational brochures required by this section, which  
9 shall contain a sample of the standard petition and order forms, into the  
10 languages spoken by such populations and shall distribute a master copy  
11 of the translated instructions and informational brochures to all clerks  
12 of the district court by October 1, 2019.

13 (6) The State Court Administrator shall update the instructions,  
14 brochures, standard petition and order forms, and court staff handbook as  
15 necessary, including when changes in the law make an update necessary.

16 (7) Within ninety days after receipt of the master copy from the  
17 State Court Administrator, all clerks of the district court shall make  
18 available to petitioners and the public the standardized forms,  
19 instructions, and informational brochures required by this section.

20 (8) No court clerk or his or her employees shall provide assistance  
21 in completing the forms.

22 Sec. 16. (1) On or before January 31, 2020, and each January 31  
23 thereafter, each clerk of the district court shall report to the State  
24 Court Administrator the total number, for the previous calendar year, of:

25 (a) Petitions for extreme risk protection orders and the total  
26 number of those petitions that requested an ex parte extreme risk  
27 protection order;

28 (b) Ex parte extreme risk protection orders issued and denied;

29 (c) Final extreme risk protection orders issued and denied;

30 (d) Extreme risk protection orders terminated; and

31 (e) Extreme risk protection orders renewed.

1       (2) No later than April 1, 2020, and each April 1 thereafter, the  
2 State Court Administrator shall compile and publish on his or her web  
3 site a report which aggregates the information received pursuant to this  
4 section during the previous calendar year and lists each category by  
5 county and type of court.

6       Sec. 17. Section 25-2740, Revised Statutes Cumulative Supplement,  
7 2018, is amended to read:

8       25-2740 (1) For purposes of this section:

9       (a) Domestic relations matters means proceedings under sections  
10 28-311.09 and 28-311.10 (including harassment protection orders and valid  
11 foreign harassment protection orders), sections 28-311.11 and 28-311.12  
12 (including sexual assault protection orders and valid foreign sexual  
13 assault protection orders), the Extreme Risk Protection Order Act, the  
14 Conciliation Court Law and sections 42-347 to 42-381 (including  
15 dissolution, separation, annulment, custody, and support), section  
16 43-512.04 (including child support or medical support), section 42-924  
17 (including domestic protection orders), sections 43-1401 to 43-1418  
18 (including paternity determinations and parental support), and sections  
19 43-1801 to 43-1803 (including grandparent visitation); and

20       (b) Paternity or custody determinations means proceedings to  
21 establish the paternity of a child under sections 43-1411 to 43-1418 or  
22 proceedings to determine custody of a child under section 42-364.

23       (2) Except as provided in subsection (3) of this section, in  
24 domestic relations matters, a party shall file his or her petition or  
25 complaint and all other court filings with the clerk of the district  
26 court. The party shall state in the petition or complaint whether such  
27 party requests that the proceeding be heard by a county court judge or by  
28 a district court judge. If the party requests the case be heard by a  
29 county court judge, the county court judge assigned to hear cases in the  
30 county in which the matter is filed at the time of the hearing is deemed  
31 appointed by the district court and the consent of the county court judge

1 is not required. Such proceeding is considered a district court  
2 proceeding, even if heard by a county court judge, and an order or  
3 judgment of the county court in a domestic relations matter has the force  
4 and effect of a district court judgment. The testimony in a domestic  
5 relations matter heard before a county court judge shall be preserved as  
6 provided in section 25-2732.

7 (3) In addition to the jurisdiction provided for paternity or  
8 custody determinations under subsection (2) of this section, a county  
9 court or separate juvenile court which already has jurisdiction over the  
10 child whose paternity or custody is to be determined has jurisdiction  
11 over such paternity or custody determination.

12 Sec. 18. Section 69-2406, Reissue Revised Statutes of Nebraska, is  
13 amended to read:

14 69-2406 (1) Any person who is denied a certificate, whose  
15 certificate is revoked, or who has not been issued a certificate upon  
16 expiration of the three-day period may appeal within ten days of receipt  
17 of the denial or revocation to the county court of the county of the  
18 applicant's place of residence. The applicant shall file with the court  
19 the specific reasons for the denial or revocation by the chief of police  
20 or sheriff and a filing fee of ten dollars in lieu of any other filing  
21 fee required by law. The court shall issue its decision within thirty  
22 days of the filing of the appeal.

23 (2) This section does not apply to revocations pursuant to the  
24 Extreme Risk Protection Order Act.

25 Sec. 19. Section 69-2407, Reissue Revised Statutes of Nebraska, is  
26 amended to read:

27 69-2407 (1) A certificate issued in accordance with section 69-2404  
28 shall contain the holder's name, address, and date of birth and the  
29 effective date of the certificate. A certificate shall authorize the  
30 holder to acquire any number of handguns during the period that the  
31 certificate is valid. The certificate shall be valid throughout the state

1 and shall become invalid three years after its effective date. If the  
2 chief of police or sheriff who issued the certificate determines that the  
3 applicant has become disqualified for the certificate under section  
4 69-2404, he or she may immediately revoke the certificate and require the  
5 holder to surrender the certificate immediately. Revocation may be  
6 appealed pursuant to section 69-2406.

7 (2) This section does not apply to revocations pursuant to the  
8 Extreme Risk Protection Order Act.

9 Sec. 20. Section 69-2439, Reissue Revised Statutes of Nebraska, is  
10 amended to read:

11 69-2439 (1) Any peace officer having probable cause to believe that  
12 a permitholder is no longer in compliance with one or more requirements  
13 of section 69-2433, except as provided in subsection (4) of section  
14 69-2443, shall bring an application for revocation of the permit to be  
15 prosecuted as provided in subsection (2) of this section.

16 (2) It is the duty of the county attorney or his or her deputy of  
17 the county in which such permitholder resides to prosecute a case for the  
18 revocation of a permit to carry a concealed handgun brought pursuant to  
19 subsection (1) of this section. In case the county attorney refuses or is  
20 unable to prosecute the case, the duty to prosecute shall be upon the  
21 Attorney General or his or her assistant.

22 (3) The case shall be prosecuted as a civil case, and the permit  
23 shall be revoked upon a showing by a preponderance of the evidence that  
24 the permitholder does not meet one or more of the requirements of section  
25 69-2433, except as provided in subsection (4) of section 69-2443.

26 (4) A person who has his or her permit revoked under this section  
27 may be fined up to one thousand dollars and shall be charged with the  
28 costs of the prosecution. The money collected under this subsection as an  
29 administrative fine shall be remitted to the State Treasurer for  
30 distribution in accordance with Article VII, section 5, of the  
31 Constitution of Nebraska.

1            (5) This section does not apply to revocations pursuant to the  
2 Extreme Risk Protection Order Act.

3            Sec. 21. Original sections 69-2406, 69-2407, and 69-2439, Reissue  
4 Revised Statutes of Nebraska, and section 25-2740, Revised Statutes  
5 Cumulative Supplement, 2018, are repealed.

6            Sec. 22. Since an emergency exists, this act takes effect when  
7 passed and approved according to law.