

1 HB381
2 204316-1
3 By Representative Coleman
4 RFD: Judiciary
5 First Read: 03-MAR-20

SYNOPSIS: This bill would provide for the Extreme Risk Protection Order Act.

This bill would provide for an extreme risk protection order which would prohibit potentially violent defendants from possessing firearms, ammunition, or a pistol permit.

This bill would provide a process for the implementation of an extreme risk protection order.

This bill would provide for the enforcement and registration of an extreme risk protection order.

This bill would require that information regarding extreme risk protection orders be tracked and distributed.

This bill would also provide for criminal penalties for violations of extreme risk protection orders.

Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of

1 Alabama of 1901, as amended, prohibits a general
2 law whose purpose or effect would be to require a
3 new or increased expenditure of local funds from
4 becoming effective with regard to a local
5 governmental entity without enactment by a 2/3 vote
6 unless: it comes within one of a number of
7 specified exceptions; it is approved by the
8 affected entity; or the Legislature appropriates
9 funds, or provides a local source of revenue, to
10 the entity for the purpose.

11 The purpose or effect of this bill would be
12 to require a new or increased expenditure of local
13 funds within the meaning of the amendment.
14 However, the bill does not require approval of a
15 local governmental entity or enactment by a 2/3
16 vote to become effective because it comes within
17 one of the specified exceptions contained in the
18 amendment.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT
23

24 Relating to firearms and domestic violence; to add a
25 new Chapter 10, commencing with Section 30-10-1, to Title 30,
26 Code of Alabama 1975; to create an extreme risk protection
27 order; to create a process to allow these orders to be issued

1 and implemented; to create a process for enforcement of an
2 order; to provide for the registration of an order; to provide
3 a process for a defendant to surrender any firearms,
4 ammunition, or pistol permits to law enforcement; to require
5 that information regarding extreme risk protection orders be
6 tracked and distributed to Alabama law enforcement officials;
7 to create criminal penalties for violations of extreme risk
8 protection orders; to amend Section 13A-11-72, Code of Alabama
9 1975, to provide that it is unlawful for a person that has an
10 order against him or her to obtain or possess a firearm; and
11 in connection therewith would have as its purpose or effect
12 the requirement of a new or increased expenditure of local
13 funds within the meaning of Amendment 621 of the Constitution
14 of Alabama of 1901, now appearing as Section 111.05 of the
15 Official Recompilation of the Constitution of Alabama of 1901,
16 as amended.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Chapter 10, commencing with Section
19 30-10-1, is added to Title 30, Code of Alabama of 1975, to
20 read as follows:

21 §30-10-1.

22 This chapter shall be known as and may be cited as
23 the Extreme Risk Protection Order Act.

24 §30-10-2.

25 As used in this chapter, the following words shall
26 have the following meanings:

1 (1) AMMUNITION. Ammunition as provided in Section
2 13A-11-61.3.

3 (2) BACKGROUND CHECK. A check of the National
4 Instant Criminal Background Check System.

5 (3) COURT. A circuit court judge, a district court
6 judge appointed as a special circuit court judge pursuant to
7 law, or a district judge designated by a written standing
8 order from the presiding circuit court judge to handle extreme
9 risk protection order cases.

10 (4) DEFENDANT. An individual identified as the
11 defendant in a petition pursuant to this chapter.

12 (5) EXTREME RISK. A significant risk of causing
13 physical injury by virtue of an individual having custody or
14 control of any firearm or any ammunition.

15 (6) EXTREME RISK PROTECTION ORDER. An ex parte order
16 or a final order granted under this chapter.

17 (7) FAMILY MEMBER. A spouse, former spouse, child,
18 sibling, parent, grandparent, grandchild, and individuals in a
19 dating relationship, as provided in Section 30-5-2.

20 (8) FIREARM. Firearm as provided in Section 13A-8-1.

21 (9) PHYSICAL INJURY. Physical injury as provided in
22 Section 13A-1-2.

23 (10) PLAINTIFF. An individual that petitions a court
24 for an extreme risk protection order under this chapter.

25 §30-10-3.

26 (a) The Administrative Office of Courts shall
27 develop a standard petition for an extreme risk protection

1 order and an ex parte and final extreme risk protection
2 orders. The standardized forms shall be prepared by the
3 Administrative Office of Courts in consultation with
4 interested persons, including representatives of gun violence
5 prevention groups, judges, clerks, and law enforcement
6 personnel. The forms shall be based on best practices and
7 shall be available online to the public.

8 (b)(1) The petition shall include instructions
9 designed to assist plaintiffs in completing the petition.

10 (2) The instructions shall include a means for a
11 plaintiff to identify the firearm, firearms, or ammunition the
12 defendant may have in his or her custody or control. The
13 instructions shall provide pictures of types of firearms and
14 ammunition that the plaintiff may select to identify the
15 relevant firearms or ammunition or shall provide an equivalent
16 means to allow the plaintiff to identify firearms or
17 ammunition without requiring specific or technical knowledge
18 regarding firearms or ammunition.

19 (3) The instructions shall describe the use of and
20 the process for obtaining, extending, or vacating an extreme
21 risk protection order.

22 (c) The forms of extreme risk protection orders
23 shall include, in a conspicuous location, notice of criminal
24 penalties resulting from violations of the order and the
25 following statement: "You have the sole responsibility to
26 avoid or refrain from violating this order. Only the court can
27 amend the order and only upon written request."

1 (d) Any clerk of court may create a community
2 resource list of crisis intervention, mental health, substance
3 abuse, interpreter, counseling, and other relevant resources
4 serving the county in which the court is located.

5 §30-10-4.

6 (a) A court shall have jurisdiction to issue ex
7 parte and final extreme risk protection orders.

8 (b) A petition for an ex parte or final extreme risk
9 protection order may be filed by a law enforcement officer or
10 a family member.

11 (c) A petition for an ex parte or final extreme risk
12 protection order may be filed in any of the following
13 locations:

14 (1) Where the family member resides or is
15 temporarily located.

16 (2) Where the law enforcement officer's office is
17 located.

18 (3) Where the defendant resides.

19 (d) Any extreme risk protection order issued in this
20 state pursuant to this chapter shall be effective throughout
21 this state.

22 (e) Any extreme risk protection order, or any
23 substantially similar order, issued by the court of another
24 state shall be accorded full faith and credit and enforced as
25 if it were an order of this state.

26 §30-10-5.

1 (a) A sworn petition for an extreme risk protection
2 order shall include all of the following:

3 (1) A statement alleging that the defendant poses a
4 significant risk of causing physical injury to himself,
5 herself, or others by having a firearm or any ammunition in
6 his or her custody or control.

7 (2) An affidavit made under oath stating the
8 specific statements, actions, or facts that give rise to a
9 reasonable fear of future dangerous acts by the defendant.

10 (3) Identify, to the best of his or her ability, the
11 quantities, types, and locations of all firearms and
12 ammunition the plaintiff believes or knows to be in the
13 defendant's current custody or control.

14 (4) Identify whether there is a known existing order
15 of protection governing the defendant pursuant to Chapters 5,
16 5A, or 5B of Title 30 or Article 7A of Chapter 6 of Title 13A.

17 (5) Identify whether there is or has been a
18 violation by the defendant of any prior or existing order or
19 protection under Title 13A.

20 (6) Indicate whether the plaintiff is requesting an
21 ex parte extreme risk protection order.

22 (b) If the plaintiff is a law enforcement officer,
23 the plaintiff shall make a good faith effort to provide
24 written notice to a family member of the defendant who may be
25 at risk of physical injury. The notice shall state that the
26 plaintiff intends to petition the court for an extreme risk
27 protection order, or has already done so, and shall include

1 referrals to appropriate resources, including mental health,
2 domestic violence, and counseling resources. The plaintiff
3 shall attest in the petition to having provided the notice or
4 shall attest to the steps that have been taken or will be
5 taken to provide the notice.

6 §30-10-6.

7 (a) Any plaintiff who files a petition for an
8 extreme risk protection order may do so through an attorney or
9 may represent himself or herself throughout the legal process,
10 including, but not limited to, the filing of pleadings,
11 motions, or any other legal documents with any court, and the
12 appearance in ex parte and final court proceedings on his or
13 her behalf.

14 (b) Notwithstanding any other law, attorneys' fees
15 may not be awarded in any proceeding pursuant to this chapter.

16 (c) If the plaintiff is a family member and the
17 petition states that disclosure of the plaintiff's home or
18 business address, home or business telephone number,
19 confidential relocation placement, or the home or business
20 address or telephone number of the plaintiff's immediate
21 family members, would risk physical injury to the plaintiff or
22 any members of the plaintiff's family or household, the
23 plaintiff's addresses and telephone numbers shall be omitted
24 from all documents filed with the court. If the plaintiff has
25 not disclosed an address under this subsection, the plaintiff
26 shall designate an alternative address where the defendant may
27 serve notice of any motions or elect to substitute the

1 business address and telephone number of his or her attorney
2 of record.

3 (d) A court or law enforcement agency shall not
4 charge fees to a plaintiff for filing an extreme risk
5 protection order or for service of process pursuant to this
6 chapter and shall provide the necessary number of certified
7 copies and forms at no cost.

8 §30-10-7.

9 (a) A plaintiff may request that an ex parte extreme
10 risk protection order be issued before a hearing, without
11 notice to the defendant, by including in the petition detailed
12 allegations based on personal knowledge that the defendant
13 poses a significant risk of causing personal injury to
14 himself, herself, or others in the immediate future by having
15 a firearm or ammunition in his or her custody or control.

16 (b) If the plaintiff requests an ex parte extreme
17 risk protection order, the court shall hold an ex parte
18 hearing on the day the petition is filed or on the business
19 day immediately following the day the petition is filed.

20 (c) In considering whether to issue an ex parte
21 extreme risk protection order, the court shall consider all
22 relevant evidence, including the evidence described in
23 subsection (a) of Section 30-10-9.

24 (d) The court shall conduct an inquiry to determine
25 whether the defendant has in his or her custody or control any
26 firearms, ammunition, or a permit to carry a pistol.

1 (e) If a court finds there is reasonable cause to
2 believe that the defendant poses a significant risk of causing
3 personal injury to himself, herself, or others in the
4 immediate future by having a firearm or ammunition in his or
5 her custody or control, the court shall issue an ex parte
6 extreme risk protection order and shall require that any
7 firearms, ammunition, or any permit to carry a pistol be
8 surrendered pursuant to this chapter.

9 (f) An ex parte extreme risk protection order shall
10 include all of the following:

11 (1) A statement of the grounds supporting the
12 issuance of the order.

13 (2) The date the order was issued.

14 (3) The address of the court where any responsive
15 pleading may be filed.

16 (4) The date, time, and place of the final hearing.

17 (5) A description of the requirements for the
18 relinquishment of all firearms and ammunition that the
19 defendant has in his or her custody or control, pursuant to
20 Section 30-10-12.

21 (6) The following statement:

22 "To the subject of this protection order: This order
23 is valid until the date noted above. You are required to
24 relinquish all firearms, ammunition, and any permits to carry
25 a pistol that are in your custody or control. You may not have
26 in your custody or control a firearm or ammunition while this
27 order is in effect. You must immediately relinquish to the

1 (insert name of local law enforcement agency) all firearms and
2 ammunition in your custody or control and any permit to carry
3 a pistol issued to you under Section 13A-11-75 or recognized
4 under Section 13A-11-85. A hearing will be held on the date,
5 time, and place noted above to determine if a final extreme
6 risk protection order should be issued. Failure to appear at
7 that hearing may result in a court issuing an extreme risk
8 protection order against you which is valid for one year. You
9 may seek the advice of an attorney as to any matter connected
10 with this order, however, one will not be appointed at state
11 expense."

12 (g) An ex parte extreme risk protection order shall
13 be served by a law enforcement officer in the same manner as
14 provided in Section 30-10-10 for service of the notice of
15 hearing and petition and shall be served concurrently with the
16 notice of hearing and petition.

17 (h) If the court denies the plaintiff's request for
18 an ex parte extreme risk protection order, the court shall
19 state the particular reasons for the denial.

20 (i) If the court denies the plaintiff's request for
21 an ex parte extreme risk protection order, the court shall
22 still be required to hold a hearing to determine whether a
23 final extreme risk protection order should be issued pursuant
24 to Section 30-10-8.

25 (j) An ex parte extreme risk protection order shall
26 terminate upon the conclusion of the final hearing on the
27 extreme risk protection order.

1 §30-10-8.

2 (a) After a petition is filed in the clerk's office,
3 the court shall order a final hearing to be held within 14
4 days of the perfection of service and shall issue a notice of
5 hearing and serve a copy of the petition to the defendant as
6 provided in Section 30-10-10. The court may order a
7 continuance of the final hearing date upon the consent of all
8 parties.

9 (b) Upon notice and a final hearing on the matter,
10 if the court finds by clear and convincing evidence that the
11 defendant poses a significant risk of causing personal injury
12 to himself, herself, or others by having a firearm or
13 ammunition in his or her custody or control, the court shall
14 issue an extreme risk protection order for a period of one
15 year.

16 (c) At the final hearing, the court shall conduct an
17 inquiry as to whether the defendant has firearms, ammunition,
18 or a permit to carry a pistol. The court shall require the
19 firearms, ammunition, and any permit to carry a pistol to be
20 surrendered as required by this chapter. If at any time the
21 court determines that the defendant did not surrender his or
22 her firearms, ammunition, or any permit to carry a pistol, the
23 court, upon a finding of probable cause, shall issue a search
24 warrant to recover any one of those items.

25 (d) During the final hearing, the court shall
26 consider whether a mental health evaluation or chemical

1 dependency evaluation is appropriate and, if a determination
2 is made, the court may order such evaluations, if appropriate.

3 (e) A final extreme risk protection order shall
4 include all of the following:

5 (1) A statement of the grounds supporting the
6 issuance of the order.

7 (2) The date the order was issued.

8 (3) The date the order concludes.

9 (4) Whether a mental health evaluation or chemical
10 dependency evaluation of the defendant is required.

11 (5) A description of the requirements for the
12 relinquishment of all firearms and ammunition that the
13 defendant owns, or has in his or her custody or control, under
14 subsection (b) of Section 30-10-12.

15 (6) The following statement:

16 "To the subject of this protection order: This order
17 will remain in effect until the date noted above. If you have
18 not done so already, you shall immediately relinquish to the
19 (insert name of local law enforcement agency) all firearms and
20 ammunition that you own or that are in your custody or
21 control, and any permit to carry a pistol issued to you under
22 Section 13A-11-75 or recognized under Section 13A-11-85. You
23 may not have in your custody or control a firearm or
24 ammunition while this order is in effect. You have the right
25 to request one hearing to vacate this order, starting after
26 the date of the issuance of this order, and to request another
27 hearing after every extension of the order, if any. You may

1 seek the advice of an attorney as to any matter connected with
2 this order; however, one shall not be appointed at state
3 expense."

4 (f) Upon issuance of a final extreme risk protection
5 order, the court shall inform the defendant that he or she is
6 entitled to request a hearing to vacate the order in the
7 manner provided by subsection (a) of Section 30-10-11 and
8 provide the defendant with a form to request a hearing to
9 vacate the order.

10 (g) If the court denies the plaintiff's request for
11 an extreme risk protection order, the court shall state the
12 particular reasons for the denial.

13 §30-10-9.

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

18 (1) An act or threat of physical injury by the
19 defendant against himself, herself, or others, within the past
20 12 months, and whether or not any physical injury or threat of
21 physical injury involved a firearm.

22 (2) Evidence of the defendant being seriously
23 mentally ill or having recurring mental health issues.

24 (3) A violation by the defendant of an extreme risk
25 protection order or an order of protection issued pursuant to
26 Chapter 5, 5A, or 5B of Title 30 or Article 7A of Chapter 6 of
27 Title 13A, or under any other applicable statute.

1 (4) Whether the defendant, in this state or any
2 other state, has been convicted of, had a sentence suspended
3 or adjudication withheld, or pleaded nolo contendere to a
4 crime that includes an act of abuse as defined in Section
5 30-5-2.

6 (5) Whether the defendant has used, or has
7 threatened to use, against himself, herself, or others, any
8 firearms, or the unlawful or reckless use, display, or
9 brandishing of a firearm by the defendant.

10 (6) The recurring use of, or threat to use, physical
11 injury by the defendant against another person or evidence of
12 the defendant stalking another person.

13 (7) Whether the defendant, in this state or any
14 other state, has been convicted of, had a sentence suspended
15 or adjudication withheld, or pleaded nolo contendere to a
16 crime of violence as defined in Section 13A-11-70.

17 (8) Corroborated evidence of the abuse of controlled
18 substances or alcohol by the defendant.

19 (9) Evidence of recent acquisition of firearms or
20 ammunition by the defendant.

21 (10) Any other relevant information from law
22 enforcement or a family member concerning the defendant.

23 (11) Witness testimony, taken while the witness is
24 under oath, relating to the matter before the court.

25 (b) A person, including an officer of the court, who
26 offers evidence or recommendations relating to the cause of
27 action must either present the evidence or recommendations in

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

4 (c) In a hearing under this chapter, the rules of
5 evidence apply to the same extent as in a protective order
6 proceeding pursuant to Chapters 5, 5A, and 5B of this title.

7 §30-10-10.

8 (a) The clerk of the court shall provide a certified
9 copy of any notice of a hearing or any extreme risk protection
10 order, pursuant to this chapter, to the plaintiff within 24
11 hours of issuance, provided the plaintiff provides the court
12 with current and accurate contact information, and to the law
13 enforcement officials with jurisdiction over the residence of
14 the plaintiff. The clerk of the court may furnish a certified
15 copy of the notice of a hearing or extreme risk protection
16 order, if any, electronically.

17 (b) A copy of the petition, notice of hearing, any
18 extreme risk protection order, and any order to vacate or
19 extend a final extreme risk protection order pursuant to this
20 chapter shall be served upon the defendant as soon as possible
21 pursuant to Rule 4 of the Alabama Rules of Civil Procedure.

22 (c) Within 24 hours after receiving proof of service
23 of process of the petition and ex parte extreme risk
24 protection order, if issued, the Administrative Office of
25 Courts shall electronically transmit the information to the
26 Alabama State Law Enforcement Agency.

1 (d) Within 48 hours, information shall be
2 electronically transmitted by the Administrative Office of
3 Courts to the Alabama State Law Enforcement Agency for entry
4 into the Law Enforcement Tactical System and into the National
5 Crime Information Center, the National Instant Criminal
6 Background Check System as permitted by the rules of the
7 Alabama Justice Information Commission, and the Federal Bureau
8 of Investigation. The information entered shall include, but
9 is not limited to, information as to the existence and status
10 of any protection order for verification purposes. Orders
11 shall remain in each system for the period stated in the
12 order, and the Alabama State Law Enforcement Agency shall
13 expunge orders from the systems that have expired or
14 terminated. Entry into the computer-based criminal
15 intelligence information system constitutes notice to all law
16 enforcement agencies of the existence of the order. The order
17 is fully enforceable in any county in the state.

18 (e) Ex parte extreme risk protection orders and
19 final extreme risk protection orders shall be in a format as
20 provided by the Administrative Office of Courts. If a court
21 wishes to provide additional information in these standardized
22 court orders, the court may attach additional pages containing
23 this additional information.

24 §30-10-11.

25 (a) After the date of the issuance of the order, the
26 defendant may file a motion under the existing case file
27 number for a hearing to vacate a final extreme risk protection

1 order issued under this chapter and may request another
2 hearing after every extension of the order, if any.

3 (1) Upon receipt of the request for a hearing to
4 vacate an extreme risk protection order, the court shall set a
5 date for a hearing. Written notice of the request shall be
6 served upon the plaintiff in accordance with Section 30-10-10.
7 The hearing shall occur no sooner than 14 days and no later
8 than 30 days after the date of service of the request upon the
9 plaintiff, unless all parties consent to a continuance of the
10 hearing.

11 (2) The defendant shall have the burden of proving
12 by clear and convincing evidence that the defendant does not
13 pose a significant risk of causing personal injury to himself,
14 herself, or others by having a firearm or ammunition in his or
15 her custody or control. In making its determination, the court
16 may consider any relevant evidence, including evidence of the
17 considerations listed in Section 30-10-9.

18 (3) If the court finds after the hearing that the
19 defendant has met his or her burden of proof, the court shall
20 vacate the order.

21 (4) The law enforcement agency holding any firearm
22 or ammunition that has been relinquished pursuant to this
23 chapter shall be notified of the court order to vacate the
24 final extreme risk protection order and shall return any
25 firearms, ammunition, or permit to carry a pistol pursuant to
26 Section 30-10-12.

1 (5) If a final extreme risk protection order is
2 vacated before its end date, the Administrative Office of
3 Courts, on the day of the order to vacate, shall forward a
4 copy of the order to the Alabama State Law Enforcement Agency
5 and the appropriate law enforcement agency specified in the
6 order to vacate. Upon receipt of the order, the agency shall
7 promptly remove the order from any computer-based system in
8 which it was entered pursuant to Section 30-10-10.

9 (6) If a court vacates a final extreme risk
10 protection order, notification of the decision shall be sent
11 within 24 hours to the plaintiff, provided that the plaintiff
12 provides the court with current and accurate contact
13 information, to the defendant, and to the local law
14 enforcement agency with jurisdiction over the county where the
15 plaintiff resides.

16 (b) Except as provided in subdivision (5) of
17 subsection (a), the court shall notify the plaintiff of the
18 impending end of an extreme risk protection order. Written
19 notice must be received by the plaintiff at least 30 days
20 before the date the order ends.

21 (c) The plaintiff, by motion under the existing case
22 file number, may request an extension of an extreme risk
23 protection order at any time within 30 days before the end of
24 the order.

25 (1) After a petition to extend a final extreme risk
26 protection order has been filed in the clerk's office, the
27 court shall order that a hearing be held no later than 14 days

1 after the date the motion is received, unless all parties
2 consent to a continuance of the hearing.

3 (2) The defendant shall be served in accordance with
4 Section 30-10-10.

5 (3) In determining whether to extend a final extreme
6 risk protection order issued under this section, the court may
7 consider all relevant evidence, including evidence of the
8 considerations listed in Section 30-10-9.

9 (4) If the court finds by clear and convincing
10 evidence that the requirements for issuance of a final extreme
11 risk protection order as provided in Section 30-10-9 continue
12 to be met, the court shall extend the order. However, if,
13 after notice, the motion for extension is uncontested and no
14 modification of the order is sought, the order may be extended
15 on the basis of a motion or affidavit stating that there has
16 been no material change in relevant circumstances since entry
17 of the order and stating the reason for the requested
18 extension.

19 (5) The court may extend a final extreme risk
20 protection order for a period that it deems appropriate, up to
21 one year, subject to an order to vacate as provided in
22 subsection (a) or by an extension order by the court.

23 §30-10-12.

24 (a) Upon issuance of an extreme risk protection
25 order under this chapter, including an ex parte extreme risk
26 protection order, the court shall order the defendant to
27 relinquish to the appropriate local law enforcement agency all

1 firearms and ammunition in the defendant's custody or control,
2 or any permit to carry a pistol issued under Section 13A-11-75
3 or recognized under Section 13A-11-85.

4 (b) A law enforcement officer serving an extreme
5 risk protection order under this chapter, including an ex
6 parte extreme risk protection order, shall request that the
7 defendant immediately relinquish all firearms and ammunition
8 in the defendant's custody or control or any permit to carry a
9 pistol issued under Section 13A-11-75 or recognized under
10 Section 13A-11-85. The law enforcement officer shall take
11 possession of all firearms and ammunition in the custody or
12 control of the defendant, as well as any permit to carry a
13 pistol. Alternatively, if personal service by a law
14 enforcement officer is not possible or is not required because
15 the defendant was present at the extreme risk protection order
16 hearing, the defendant must relinquish any firearms and
17 ammunition in his or her custody or control, and any permit to
18 carry a pistol, in a safe manner to the local law enforcement
19 agency within 24 hours after being served with the order by
20 service of process or immediately after the hearing at which
21 the defendant was present.

22 (c) At the time of relinquishment, a law enforcement
23 officer taking possession of any firearm or ammunition, shall
24 issue a receipt identifying all firearms and the types of
25 ammunition and the quantity of each that have been
26 relinquished, and shall provide a copy of the receipt to the
27 defendant. Within 72 hours after service of the order, the law

1 enforcement officer serving the order shall file the original
2 receipt with the court and shall ensure that his or her law
3 enforcement agency retains a copy of the receipt.

4 (d) Any law enforcement agency taking possession of
5 a permit to carry a pistol pursuant to this section shall
6 notify the issuing sheriff in writing of the existence of an
7 extreme risk protection order.

8 (e) Upon the sworn statement or testimony of any
9 person alleging that the defendant has failed to comply with
10 the relinquishment of any firearms, ammunition, or any permit
11 to carry a pistol, as required by an order issued under this
12 chapter, a court of competent jurisdiction shall determine
13 whether probable cause exists to believe that the defendant
14 has violated Section 13A-11-86, by failing to relinquish all
15 firearms, ammunition, or any permit to carry a pistol, that
16 are in the defendant's custody or control. If the court finds
17 that probable cause exists, the court shall issue a search
18 warrant describing the firearms, ammunition, or any permit to
19 carry a pistol, in the custody or control of the defendant,
20 authorizing a search of the locations where the items are
21 reasonably believed to be found, and the seizure of any
22 firearm, ammunition, or any permit to carry a pistol, in the
23 defendant's custody or control, discovered pursuant to the
24 search.

25 (f) If a person other than the defendant claims
26 title to any firearms or ammunition relinquished pursuant to
27 this section and he or she is determined by the law

1 enforcement agency to be the lawful owner of the firearm or
2 ammunition, the firearm or ammunition shall immediately be
3 returned to the owner, if both of the following occur:

4 (1) The lawful owner agrees to store the firearm or
5 ammunition in a manner that prohibits the defendant from
6 gaining access to or control of the firearm or ammunition.

7 (2) The law enforcement agency confirms, by means of
8 a background check, that it would not be unlawful for the
9 owner to possess the firearm or ammunition.

10 (g) The court shall request proof that the defendant
11 has relinquished any firearms, ammunition, or any permit to
12 carry a pistol, in the defendant's custody or control. If the
13 defendant fails to provide proof within three business days,
14 the court shall inform law enforcement who shall make a good
15 faith effort to determine whether the defendant has failed to
16 relinquish any firearms, ammunition, or any permit to carry a
17 pistol that is in his or her custody or control.

18 (h) All law enforcement agencies shall develop
19 policies and procedures regarding the acceptance, storage, and
20 return of firearms or ammunition required to be relinquished
21 under this section.

22 (i) If an extreme risk protection order is vacated
23 or ends without extension, a law enforcement agency holding
24 any firearm or ammunition belonging to the defendant, that has
25 been relinquished pursuant to this section, upon the request
26 of the defendant, shall return the firearm or ammunition
27 within 72 hours, only after confirming through a background

1 check that the defendant is currently eligible to own or
2 possess firearms and ammunition under federal and state law
3 and after confirming with the court that the extreme risk
4 protection order has been vacated or has ended without
5 extension.

6 (j) A law enforcement agency shall provide notice to
7 any family member of the defendant before the return of any
8 relinquished firearm or ammunition owned by the defendant.

9 (k) Any firearm or ammunition relinquished by a
10 defendant pursuant to this section which remains unclaimed for
11 one year by the lawful owner, after an extreme risk protection
12 order is vacated or order ends without extension, shall be
13 disposed of in accordance with the law enforcement agency's
14 policies for the disposal of firearms in police custody.

15 §30-10-13.

16 (a) No later than January 31st of each calendar
17 year, the Administrative Office of Courts shall collect and
18 track all of the following information:

19 (1) The total number of petitions for an extreme
20 risk protection order and the total number of those petitions
21 that requested the order be issued ex parte during the
22 previous calendar year.

23 (2) The total number of ex parte extreme risk
24 protection orders issued and the total number denied during
25 the previous calendar year.

1 (3) The total number of final extreme risk
2 protection orders issued and the total number denied during
3 the previous calendar year.

4 (4) The total number of extreme risk protection
5 orders vacated upon petition by the defendant during the
6 previous calendar year.

7 (5) The total number of extreme risk protection
8 orders extended during the previous calendar year.

9 (b) No later than April 1st of each calendar year,
10 the Administrative Office of Courts shall compile and publish
11 on its website a report which aggregates the information
12 received pursuant to subdivision (1) of subsection (a) and
13 lists each category by county and type of court.

14 (c) All filings, orders, and records of proceedings
15 pursuant to this section are confidential and are not
16 available for inspection or disclosure without a court order.
17 The personal identifying information of plaintiffs and persons
18 named in warrants and orders issued pursuant to this section
19 shall be redacted from the records prior to their release by
20 the court for inspection or disclosure, except that unredacted
21 records may be released upon a showing of good cause. All
22 records relating to proceedings under this section shall be
23 made available without redaction to state and federal law
24 enforcement agencies in connection with the detection or
25 investigation of crime and for other law enforcement purposes
26 during the validity of the order.

27 §30-10-14.

1 (a) Prior to October 1, 2020, the Attorney General
2 shall inform all Alabama law enforcement agencies in writing
3 about the requirements of this chapter.

4 (b) This chapter does not affect the ability of a
5 law enforcement officer to remove a firearm, ammunition, or
6 permit to carry a pistol from any person or to conduct any
7 search and seizure for firearms or ammunition pursuant to
8 other lawful authority.

9 (c) Except as otherwise provided, this chapter does
10 not impose criminal or civil liability on any person or entity
11 for acts or omissions related to obtaining an extreme risk
12 protection order or ex parte extreme risk protection order,
13 including, but not limited to, providing notice to the
14 plaintiff, a family member of the defendant, and any known
15 third party who may be at risk of violence or for failure to
16 provide notice, or reporting, declining to report,
17 investigating, declining to investigate, filing, or declining
18 to file, a petition under this chapter.

19 §30-10-15.

20 (a) A person who makes a false statement under oath
21 regarding any material matter which he or she does not believe
22 to be true in a hearing pursuant to this chapter shall be
23 guilty of a Class A misdemeanor.

24 (b) A person who files a petition under this chapter
25 knowing the information in the petition is false, or with
26 intent to harass the respondent, shall be guilty of a Class A
27 misdemeanor.

1 (c) A person who has in his or her custody or
2 control a firearm, ammunition, or a permit to carry a pistol
3 with knowledge that he or she is prohibited from doing so by
4 an order issued under this chapter shall be guilty of a Class
5 C felony.

6 Section 2. Section 13A-11-72, Code of Alabama 1975,
7 is amended to read as follows:

8 "§13A-11-72.

9 "(a) No person who has been convicted in this state
10 or elsewhere of committing or attempting to commit a crime of
11 violence, misdemeanor offense of domestic violence, violent
12 offense ~~as listed in~~ pursuant to Section 12-25-32(15), anyone
13 who is subject to a valid protection order for domestic abuse,
14 anyone who is subject to an extreme risk protection order, or
15 anyone of unsound mind shall own a firearm or have one in his
16 or her possession or under his or her control.

17 "(b) No person who is a minor, except under the
18 circumstances provided in this section, a drug addict, or an
19 habitual drunkard shall own a pistol or have one in his or her
20 possession or under his or her control.

21 "(c) Subject to the exceptions provided by Section
22 13A-11-74, no person shall knowingly with intent to do bodily
23 harm carry or possess a deadly weapon on the premises of a
24 public school.

25 "(d) Possession of a deadly weapon with the intent
26 to do bodily harm on the premises of a public school in

1 violation of subsection (c) of this section is a Class C
2 felony.

3 "(e) School security personnel and school resource
4 officers qualified under subsection (a) of Section 16-1-44.1,
5 employed by a local board of education, and authorized by the
6 employing local board of education to carry a deadly weapon
7 while on duty are exempt from subsection (c) of this section.
8 Law enforcement officers are exempt from this section, and
9 persons with pistol permits issued pursuant to Section
10 13A-11-75, are exempt from subsection (c) of this section.

11 "(f) A person shall not be in violation of Section
12 13A-11-57 or 13A-11-76 and a minor shall not be in violation
13 of this section if the minor has permission to possess a
14 pistol from a parent or legal guardian who is not prohibited
15 from possessing a firearm under state or federal law, and any
16 of the following are satisfied:

17 "(1) The minor is attending a hunter education
18 course or a firearms safety course under the supervision of an
19 adult who is not prohibited from possessing a firearm under
20 state or federal law.

21 "(2) The minor is engaging in practice in the use of
22 a firearm or target shooting at an established range under the
23 supervision of an adult who is not prohibited from possessing
24 a firearm under state or federal law.

25 "(3) The minor is engaging in an organized
26 competition involving the use of a firearm or participating in
27 or practicing for a performance by an organized group under 26

1 U.S.C. § 501(c) (3) which uses firearms as part of the
2 performance.

3 "(4) The minor is hunting or fishing pursuant to a
4 valid license, if required, and the person has the license in
5 his or her possession; has written permission of the owner or
6 legal possessor of the land on which the activities are being
7 conducted; and the pistol, when loaded, is carried only in a
8 manner discernible by ordinary observation.

9 "(5) The minor is on real property under the control
10 of the minor's parent, legal guardian, or grandparent.

11 "(6) The minor is a member of the armed services or
12 National Guard and the minor is acting in the line of duty.

13 "(7) The minor is traveling by motor vehicle to any
14 of the locations or activities listed in subdivisions (1)
15 through (6), has written permission to possess the pistol by
16 his or her parent or legal guardian, and the pistol is
17 unloaded, locked in a compartment or container that is in or
18 affixed securely to the motor vehicle and is out of reach of
19 the driver and any passenger in the motor vehicle.

20 "(g) This section does not apply to a minor who uses
21 a pistol while acting in self-defense of himself or herself or
22 other persons against an intruder into the residence of the
23 minor or a residence in which the minor is an invited guest.

24 "(h) The term "school resource officer" as used in
25 this section means an Alabama Peace Officers' Standards and
26 Training Commissioner-certified law enforcement officer

1 employed by a law enforcement agency who is specifically
2 selected and specially trained for the school setting.

3 "(i) The term "public school" as used in this
4 section applies only to a school composed of grades K-12 and
5 shall include a school bus used for grades K-12.

6 "(j) The term "deadly weapon" as used in this
7 section means a firearm or anything manifestly designed, made,
8 or adapted for the purposes of inflicting death or serious
9 physical injury, and such term includes, but is not limited
10 to, a bazooka, hand grenade, missile, or explosive or
11 incendiary device; a pistol, rifle, or shotgun; or a
12 switch-blade knife, gravity knife, stiletto, sword, or dagger;
13 or any club, baton, billy, black-jack, bludgeon, or metal
14 knuckles.

15 "(k) (1) The term "convicted" as used in this section
16 requires that the person was represented by counsel in the
17 case, or knowingly and intelligently waived the right to
18 counsel in the case if required by law, and either the case
19 was tried before a judge, tried by a jury, or the person
20 knowingly and intelligently waived the right to have the case
21 tried, by guilty plea or otherwise.

22 "(2) A person may not be considered to have been
23 convicted for the purposes of this section if the person is
24 not considered to have been convicted in the jurisdiction in
25 which the proceedings were held or the conviction has been
26 expunged, set aside, or is of an offense for which the person
27 has been pardoned or has had civil rights restored, unless the

1 pardon, expungement, or restoration of civil rights expressly
2 provides that the person may not ship, transport, possess, or
3 receive firearms.

4 "(l) The term "misdemeanor offense of domestic
5 violence" as used in this section means a misdemeanor offense
6 that has, as its elements, the use or attempted use of
7 physical force or the threatened use of a dangerous instrument
8 or deadly weapon, and the victim is a current or former
9 spouse, parent, child, person with whom the defendant has a
10 child in common, or a present or former household member.

11 "(m) The term "valid protection order" as used in
12 this section means an order issued after a hearing of which
13 the person received actual notice, and at which the person had
14 an opportunity to participate, that does any of the following:

15 "(1) Restrains the person from harassing, stalking,
16 or threatening a qualified individual or child of the
17 qualified individual or person or engaging in other conduct
18 that would place a qualified individual in reasonable fear of
19 bodily injury to the individual or child and that includes a
20 finding that the person represents a credible threat to the
21 physical safety of the qualified individual or child.

22 "(2) By its terms, explicitly prohibits the use,
23 attempted use, or threatened use of physical force against the
24 qualified individual or child that would reasonably be
25 expected to cause bodily injury.

26 "(n) The term "qualified individual" as used in
27 subsection (m), means a spouse or former spouse of the person,

1 an individual who is a parent of a child of the person, or an
2 individual who cohabitates or has cohabited with the person.

3 "(o) The term "unsound mind" as used in this section
4 includes any person who is subject to any of the findings
5 listed below, and who has not had his or her rights to possess
6 a firearm reinstated by operation of law or legal process:

7 "(1) Found by a court, board, commission, or other
8 lawful authority that, as a result of marked subnormal
9 intelligence, mental illness, incompetency, condition, or
10 disease, is a danger to himself or herself or others or lacks
11 the mental capacity to contract or manage his or her own
12 affairs.

13 "(2) Found to be insane, not guilty by reason of
14 mental disease or defect, found mentally incompetent to stand
15 trial, or found not guilty by a reason of lack of mental
16 responsibility by a court in a criminal case, to include
17 state, federal and military courts.

18 "(3) Involuntarily committed for a final commitment
19 for inpatient treatment to the Department of Mental Health or
20 a Veterans' Administration hospital by a court after a
21 hearing."

22 Section 3. Although this bill would have as its
23 purpose or effect the requirement of a new or increased
24 expenditure of local funds, the bill is excluded from further
25 requirements and application under Amendment 621, now
26 appearing as Section 111.05 of the Official Recompile of
27 the Constitution of Alabama of 1901, as amended, because the

1 bill defines a new crime or amends the definition of an
2 existing crime.

3 Section 4. This act shall become effective on
4 October 1, 2020, following its passage and approval by the
5 Governor, or its otherwise becoming law.