

CHAPTER 293

COURTS

HOUSE BILL 21-1255

BY REPRESENTATIVE(S) Duran and Gray, Amabile, Bennett, Bird, Boesenecker, Caraveo, Cutter, Esgar, Froelich, Gonzales-Gutierrez, Herod, Hooton, Jackson, Jodeh, Kennedy, Kipp, Lontine, McCluskie, McCormick, McLachlan, Michaelson Jenet, Mullica, Ortiz, Sirota, Snyder, Sullivan, Tipper, Titone, Valdez A., Weissman, Woodrow, Young, Garnett; also SENATOR(S) Jaquez Lewis and Pettersen, Buckner, Danielson, Fenberg, Fields, Ginal, Hansen, Moreno, Story, Winter.

AN ACT

CONCERNING PROCEDURES FOR A DOMESTIC ABUSER UPON THE ISSUANCE OF A PROTECTION ORDER, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **amend with relocated provisions** 13-14-105.5 as follows:

13-14-105.5. Civil protection orders - prohibition on possessing or purchasing a firearm. (1) **Order requirements.** If the court subjects a ~~person~~ **RESPONDENT** to a civil protection order pursuant to a provision of this article and THE COURT DETERMINES ON THE RECORD AFTER REVIEWING THE PETITION FOR THE PROTECTION ORDER THAT the protection order ~~qualifies as an order described in 18 U.S.C. sec. 922 (d)(8) or (g)(8)~~ **INCLUDES AN ACT OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1), AND THE ACT OF DOMESTIC VIOLENCE INVOLVED THE THREAT OF USE, USE OF, OR ATTEMPTED USE OF PHYSICAL FORCE, the** court, as part of such order:

(a) Shall order the ~~person~~ **RESPONDENT** to:

(I) Refrain from possessing or purchasing any firearm or ammunition for the duration of the order; and

(II) Relinquish, for the duration of the order, any firearm or ammunition in the respondent's immediate possession or control or subject to the respondent's immediate possession or control; and

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(b) May require that before the ~~person~~ RESPONDENT is released from custody on bond, the ~~person shall~~ RESPONDENT relinquish, for the duration of the order, any firearm or ammunition in the ~~person's~~ RESPONDENT'S immediate possession or control or subject to the ~~person's~~ RESPONDENT'S immediate possession or control; AND

(c) SHALL SCHEDULE A COMPLIANCE HEARING PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION AND NOTIFY THE RESPONDENT OF THE HEARING DATE AND THAT THE RESPONDENT SHALL APPEAR AT THE HEARING IN PERSON UNLESS THE HEARING IS VACATED PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION.

(2) **Time period to relinquish.** (a) Except as described in ~~paragraph (b) of this subsection (2)~~ SUBSECTION (2)(b) OF THIS SECTION, upon issuance of an order pursuant to subsection (1) of this section, the respondent shall relinquish, IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION, any firearm or ammunition:

(I) Not more than twenty-four hours, EXCLUDING LEGAL HOLIDAYS AND WEEKENDS, after being served with the order in open court; or

(II) Not more than forty-eight hours, EXCLUDING LEGAL HOLIDAYS AND WEEKENDS, after being served with the order outside of the court.

(b) NOTWITHSTANDING SUBSECTION (2)(a) OF THIS SECTION, a court may allow a respondent up to ~~seventy-two~~ AN ADDITIONAL TWENTY-FOUR hours to relinquish a firearm or up to five days to relinquish ammunition pursuant to ~~paragraph (a) of this subsection (2)~~ if the respondent demonstrates to the satisfaction of the court that ~~he or she~~ THE RESPONDENT is unable to comply within the time frame set forth in ~~said subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION.

(3) **Additional time to comply if respondent in custody.** If a respondent is unable to satisfy the provisions of ~~subsection (2) of this section~~ because ~~he or she~~ THE RESPONDENT is incarcerated or otherwise held in the custody of a law enforcement agency, the court shall require the respondent to satisfy ~~such~~ THE PROVISIONS OF THIS SECTION not more than twenty-four hours, EXCLUDING LEGAL HOLIDAYS AND WEEKENDS, after ~~his or her~~ THE RESPONDENT'S release from incarceration or custody, or be held in contempt of court. Notwithstanding any provision of this subsection (3), the court may, in its discretion, require the respondent to relinquish any firearm or ammunition in the respondent's immediate possession or control or subject to the respondent's immediate possession or control before the end of the respondent's incarceration. In such a case, a respondent's failure to relinquish a firearm or ammunition as required ~~shall constitute~~ CONSTITUTES contempt of court.

(4) **[Formerly 13-14-105.5 (2)(c)] Relinquishment options.** To satisfy the requirement in ~~paragraph (a) of this subsection (2)~~ OF THIS SECTION, the respondent ~~may~~ SHALL EITHER:

(⊕) (a) Sell or transfer possession of the firearm or ammunition to a federally licensed firearms dealer described in 18 U.S.C. sec. 923, as amended; except that this provision ~~shall~~ MUST not be interpreted to require any federally licensed firearms dealer to purchase or accept possession of any firearm or ammunition; OR

~~(H)~~ (b) Arrange for the storage of the firearm or ammunition by a law enforcement agency OR BY A STORAGE FACILITY WITH WHICH THE SHERIFF HAS CONTRACTED FOR THE STORAGE OF TRANSFERRED FIREARMS OR AMMUNITION, PURSUANT TO SUBSECTION (7)(a) OF THIS SECTION; except that this provision ~~shall~~ MUST NOT BE INTERPRETED TO REQUIRE ANY LAW ENFORCEMENT AGENCY TO PROVIDE STORAGE OF FIREARMS OR AMMUNITION FOR ANY PERSON; or

~~(H)~~ (c) Sell or otherwise transfer the firearm or ammunition to a private party who may legally possess the firearm or ammunition; except that a ~~person~~ RESPONDENT who sells or transfers a firearm pursuant to this ~~subparagraph (H)~~ SUBSECTION (4)(c) shall satisfy all of the provisions of section 18-12-112 C.R.S., concerning private firearms transfers, including but not limited to the performance of a criminal background check of the transferee.

(5) Compliance hearing and affidavit. (a) THE COURT SHALL CONDUCT A COMPLIANCE HEARING NOT LESS THAN EIGHT BUT NOT MORE THAN TWELVE BUSINESS DAYS AFTER THE ORDER IS ISSUED TO ENSURE THE RESPONDENT HAS COMPLIED WITH SUBSECTION (5)(b) OF THIS SECTION. THE COURT MAY VACATE THE HEARING IF THE COURT DETERMINES THE RESPONDENT HAS COMPLETED THE AFFIDAVIT DESCRIBED IN SUBSECTION (5)(b) OF THIS SECTION. FAILURE TO APPEAR AT A HEARING DESCRIBED IN THIS SUBSECTION (5)(a) CONSTITUTES CONTEMPT OF COURT.

(b) THE RESPONDENT SHALL COMPLETE AN AFFIDAVIT, WHICH MUST BE FILED IN THE COURT RECORD WITHIN SEVEN BUSINESS DAYS AFTER THE ORDER IS ISSUED, STATING THE NUMBER OF FIREARMS IN THE RESPONDENT'S IMMEDIATE POSSESSION OR CONTROL OR SUBJECT TO THE RESPONDENT'S IMMEDIATE POSSESSION OR CONTROL, THE MAKE AND MODEL OF EACH FIREARM, ANY REASON THE RESPONDENT IS STILL IN IMMEDIATE POSSESSION OR CONTROL OF SUCH FIREARM, AND THE LOCATION OF EACH FIREARM. IF THE RESPONDENT DOES NOT POSSESS A FIREARM AT THE TIME THE ORDER IS ISSUED PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE RESPONDENT SHALL INDICATE SUCH NONPOSSESSION IN THE AFFIDAVIT.

(c) IF THE RESPONDENT POSSESSED A FIREARM AT THE TIME OF THE QUALIFYING INCIDENT GIVING RISE TO THE DUTY TO RELINQUISH THE FIREARM PURSUANT TO THIS SECTION BUT TRANSFERRED OR SOLD THE FIREARM TO A PRIVATE PARTY PRIOR TO THE COURT'S ISSUANCE OF THE ORDER, THE RESPONDENT SHALL DISCLOSE THE SALE OR TRANSFER OF THE FIREARM TO THE PRIVATE PARTY IN THE AFFIDAVIT DESCRIBED IN SUBSECTION (5)(b) OF THIS SECTION. THE RESPONDENT, WITHIN SEVEN BUSINESS DAYS AFTER THE ORDER IS ISSUED, SHALL ACQUIRE A WRITTEN RECEIPT AND SIGNED DECLARATION THAT COMPLIES WITH SUBSECTION (8)(a)(I) OF THIS SECTION, AND THE RESPONDENT SHALL FILE THE SIGNED DECLARATION AT THE SAME TIME THE RESPONDENT FILES THE AFFIDAVIT PURSUANT TO SUBSECTION (5)(b) OF THIS SECTION.

(d) THE STATE COURT ADMINISTRATOR SHALL DEVELOP THE AFFIDAVIT DESCRIBED IN SUBSECTION (5)(b) OF THIS SECTION AND ALL OTHER FORMS NECESSARY TO IMPLEMENT THIS SECTION NO LATER THAN JANUARY 1, 2022. STATE COURTS MAY USE THE FORMS DEVELOPED BY THE STATE COURT ADMINISTRATOR PURSUANT TO THIS SUBSECTION (5)(d) OR ANOTHER FORM OF THE COURT'S CHOOSING, SO LONG AS THE FORMS COMPLY WITH THE REQUIREMENTS OF THIS

SUBSECTION (5).

(e) UPON THE SWORN STATEMENT OR TESTIMONY OF THE PETITIONER OR OF ANY LAW ENFORCEMENT OFFICER ALLEGING THERE IS PROBABLE CAUSE TO BELIEVE THE RESPONDENT HAS FAILED TO COMPLY WITH THE PROVISIONS OF THIS SECTION, THE COURT SHALL DETERMINE WHETHER PROBABLE CAUSE EXISTS TO BELIEVE THAT THE RESPONDENT HAS FAILED TO RELINQUISH ALL FIREARMS OR A CONCEALED CARRY PERMIT IN THE RESPONDENT'S CUSTODY, CONTROL, OR POSSESSION. IF PROBABLE CAUSE EXISTS, THE COURT SHALL ISSUE A SEARCH WARRANT THAT STATES WITH PARTICULARITY THE PLACES TO BE SEARCHED AND THE ITEMS TO BE TAKEN INTO CUSTODY.

~~(4)~~ (6) **Relinquishment to a federally licensed firearms dealer.** A federally licensed firearms dealer who takes possession of a firearm or ammunition pursuant to this section shall issue a WRITTEN receipt AND SIGNED DECLARATION to the respondent at the time of relinquishment. THE DECLARATION MUST MEMORIALIZE THE SALE OR TRANSFER OF THE FIREARM. The federally licensed firearms dealer shall not return the firearm or ammunition to the respondent unless the dealer:

(a) Contacts the ~~bureau~~ COLORADO BUREAU OF INVESTIGATION, REFERRED TO IN THIS SECTION AS "THE BUREAU", to request that a CRIMINAL background check of the respondent be performed; and

(b) Obtains approval of the transfer from the bureau after the performance of the CRIMINAL background check.

~~(5)~~ (7) **Storage by a law enforcement agency or storage facility.** (a) A local law enforcement agency may elect to store firearms or ammunition for ~~persons~~ A RESPONDENT pursuant to this section. THE LAW ENFORCEMENT AGENCY MAY ENTER INTO AN AGREEMENT WITH ANY OTHER LAW ENFORCEMENT AGENCY OR STORAGE FACILITY FOR THE STORAGE OF TRANSFERRED FIREARMS OR AMMUNITION. ~~If an~~ A LAW ENFORCEMENT agency ~~so~~ elects TO STORE FIREARMS OR AMMUNITION FOR A RESPONDENT:

~~(a)~~ (I) The LAW ENFORCEMENT agency may charge a fee for ~~such~~ THE storage, the amount of which ~~shall~~ MUST not exceed the direct and indirect costs incurred by the LAW ENFORCEMENT agency in providing ~~such~~ THE storage;

~~(b)~~ (II) The LAW ENFORCEMENT agency ~~may~~ SHALL establish policies for disposal of abandoned or stolen firearms or ammunition; and

~~(c)~~ (III) The LAW ENFORCEMENT agency shall issue a WRITTEN receipt AND SIGNED DECLARATION to ~~each~~ THE respondent at the time ~~the respondent~~ ~~relinquishes possession of a firearm or ammunition~~ OF RELINQUISHMENT. THE DECLARATION MUST MEMORIALIZE THE TRANSFER OF THE FIREARM.

~~(6)~~ (b) If a local law enforcement agency elects to store firearms or ammunition for a ~~person~~ RESPONDENT pursuant to this ~~section~~ SUBSECTION (7), the law enforcement agency shall not return the firearm or ammunition to the respondent unless the LAW ENFORCEMENT agency:

~~(a)~~ (I) Contacts the bureau to request that a CRIMINAL background check of the respondent be performed; and

~~(b)~~ (II) Obtains approval of the transfer from the bureau after the performance of the CRIMINAL background check.

~~(7)~~ ~~(a)~~ (c) (I) A law enforcement agency that elects to store a firearm or ammunition for a ~~person~~ RESPONDENT pursuant to this section may elect to cease storing the firearm or ammunition. A law enforcement agency that elects to cease storing a firearm or ammunition for a ~~person~~ RESPONDENT shall notify the ~~person~~ RESPONDENT of ~~such~~ THE decision and request that the ~~person~~ RESPONDENT immediately make arrangements for the transfer of the possession of the firearm or ammunition to the ~~person~~ RESPONDENT or, if the ~~person~~ RESPONDENT is prohibited from possessing a firearm, to another person who is legally permitted to possess a firearm.

~~(b)~~ (II) If a law enforcement agency elects to cease storing a firearm or ammunition for a ~~person~~ RESPONDENT and notifies the ~~person~~ RESPONDENT as described in ~~paragraph (a) of this subsection~~ (7) SUBSECTION (7)(c)(I) OF THIS SECTION, the law enforcement agency may dispose of the firearm or ammunition if the ~~person~~ RESPONDENT fails to make arrangements for the transfer of the firearm or ammunition and complete ~~said~~ THE transfer within ninety days of AFTER receiving ~~such~~ THE notification.

(d) A LAW ENFORCEMENT AGENCY THAT ELECTS TO STORE A FIREARM OR AMMUNITION SHALL OBTAIN A SEARCH WARRANT TO EXAMINE OR TEST THE FIREARM OR AMMUNITION OR FACILITATE A CRIMINAL INVESTIGATION IF A LAW ENFORCEMENT AGENCY HAS PROBABLE CAUSE TO BELIEVE THE FIREARM OR AMMUNITION HAS BEEN USED IN THE COMMISSION OF A CRIME, IS STOLEN, OR IS CONTRABAND. THIS SUBSECTION (7)(d) DOES NOT PRECLUDE A LAW ENFORCEMENT AGENCY FROM CONDUCTING A ROUTINE INSPECTION OF THE FIREARM OR AMMUNITION PRIOR TO ACCEPTING THE FIREARM FOR STORAGE.

(8) **Relinquishment to a private party.** (a) If a respondent sells or otherwise transfers a firearm or ammunition to a private party who may legally possess the firearm or ammunition, as described in ~~subparagraph (III) of paragraph (c) of subsection (2)~~ SUBSECTION (4)(c) of this section, the respondent shall acquire:

~~(a)~~ (I) From the ~~transferee~~ FEDERALLY LICENSED FIREARMS DEALER, a written receipt ~~acknowledging~~ AND SIGNED DECLARATION MEMORIALIZING the transfer, which receipt ~~shall~~ MUST be dated and signed by the respondent, ~~and~~ the transferee, AND THE FEDERALLY LICENSED FIREARMS DEALER; and

~~(b)~~ (II) From the FEDERALLY licensed ~~gun~~ FIREARMS dealer who requests from the bureau a CRIMINAL background check of the transferee, as described in section 18-12-112, ~~C.R.S.~~; a written statement of the results of the CRIMINAL background check.

(b) THE RESPONDENT SHALL NOT TRANSFER THE FIREARM TO A PRIVATE PARTY LIVING IN THE SAME RESIDENCE AS THE DEFENDANT AT THE TIME OF THE TRANSFER.

(c) NOTWITHSTANDING SECTION 18-12-112, IF A PRIVATE PARTY ELECTS TO STORE A FIREARM FOR A RESPONDENT PURSUANT TO THIS SECTION, THE PRIVATE PARTY SHALL NOT RETURN THE FIREARM TO THE RESPONDENT UNLESS THE PRIVATE PARTY ACQUIRES FROM THE FEDERALLY LICENSED FIREARMS DEALER WHO REQUESTS FROM THE BUREAU A BACKGROUND CHECK OF THE RESPONDENT, A WRITTEN STATEMENT OF THE RESULTS OF THE BACKGROUND CHECK AUTHORIZING THE RETURN OF THE FIREARM TO THE RESPONDENT.

(9) Requirement to file signed declaration. (a) ~~Not more than three business days after the relinquishment,~~ The respondent shall file a copy of the ~~receipt~~ SIGNED DECLARATION issued pursuant to ~~subsection (4), (5), or (8)~~ SUBSECTION (6), (7)(a)(III), OR (8)(a)(I) of this section, and, if applicable, the written statement of the results of a CRIMINAL background check performed on the respondent, as described in ~~paragraph (b) of subsection (8)~~ SUBSECTION (8)(a)(II) of this section, with the court as proof of the relinquishment AT THE SAME TIME THE RESPONDENT FILES THE SIGNED AFFIDAVIT PURSUANT TO SUBSECTION (5)(b) OF THIS SECTION. THE SIGNED DECLARATION AND WRITTEN STATEMENT FILED PURSUANT TO THIS SUBSECTION (9) ARE ONLY AVAILABLE FOR INSPECTION BY THE COURT AND THE PARTIES TO THE PROCEEDING. If a respondent fails to timely TRANSFER OR SELL A FIREARM OR ~~file a receipt~~ THE SIGNED DECLARATION OR written statement as described in this subsection (9):

(I) The failure constitutes a violation of the protection order pursuant to section 18-6-803.5 (1)(c); ~~C.R.S.~~; and

(II) The court shall issue a warrant for the respondent's arrest.

(b) In any subsequent prosecution for a violation of a protection order described in this subsection (9), the court shall take judicial notice of the ~~defendant's~~ RESPONDENT'S failure to TRANSFER OR SELL A FIREARM, OR ~~file a receipt~~ THE SIGNED DECLARATION OR written statement, which ~~will constitute~~ CONSTITUTES prima facie evidence of a violation of the protection order pursuant to section 18-6-803.5 (1)(c), ~~C.R.S.~~; and testimony of the clerk of the court or ~~his or her~~ THE CLERK OF THE COURT'S deputy is not required.

(10) Nothing in this section ~~shall be construed to limit~~ LIMITS a respondent's right to petition the court for dismissal of a protection order.

(11) A ~~person~~ RESPONDENT subject to a civil protection order issued pursuant to section 13-14-104.5 (1)(a) who possesses or attempts to purchase or receive a firearm or ammunition while the protection order is in effect violates the order pursuant to section 18-6-803.5 (1)(c). ~~C.R.S.~~

(12) (a) A law enforcement agency that elects in good faith to not store a firearm or ammunition for a ~~person~~ RESPONDENT pursuant to ~~subparagraph (H) of paragraph (c) of subsection (2)~~ SUBSECTION (7)(a) of this section ~~shall~~ IS NOT ~~be held~~ criminally or civilly liable for such ~~election not to act~~ INACTION.

(b) A law enforcement agency that returns possession of a firearm or ammunition to a ~~person~~ RESPONDENT in good faith as permitted by ~~subsection (6)~~ SUBSECTION (7) of this section ~~shall~~ IS NOT ~~be held~~ criminally or civilly liable for such action.

(13) **Immunity.** A FEDERALLY LICENSED FIREARMS DEALER, LAW ENFORCEMENT AGENCY, STORAGE FACILITY, OR PRIVATE PARTY THAT ELECTS TO STORE A FIREARM PURSUANT TO THIS SECTION IS NOT CIVILLY LIABLE FOR ANY RESULTING DAMAGES TO THE FIREARM, AS LONG AS SUCH DAMAGE DID NOT RESULT FROM THE WILLFUL AND WRONGFUL ACT OR GROSS NEGLIGENCE OF THE FEDERALLY LICENSED FIREARMS DEALER, LAW ENFORCEMENT AGENCY, STORAGE FACILITY, OR PRIVATE PARTY.

SECTION 2. In Colorado Revised Statutes, 18-1-1001, **amend with relocated provisions (9)** as follows:

18-1-1001. Protection order against defendant - definitions. (9) (a) **Order requirements.** When the court subjects a defendant to a mandatory protection order that THE COURT, USING THE PROBABLE CAUSE STANDARD OF REVIEW, DETERMINES ON THE RECORD AFTER REVIEWING THE PROBABLE CAUSE STATEMENT OR ARREST WARRANT THAT THE ORDER ~~qualifies as an order described in 18 U.S.C. sec. 922 (g)(8)~~ INCLUDES A CRIME THAT INCLUDES AN ACT OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1), AND THE ACT OF DOMESTIC VIOLENCE INVOLVED THE THREAT OF USE, USE OF, OR ATTEMPTED USE OF PHYSICAL FORCE, ~~the court,~~ as part of such order:

(I) Shall order the defendant to:

(A) Refrain from possessing or purchasing any firearm or ammunition for the duration of the order; and

(B) Relinquish, for the duration of the order, any firearm or ammunition in the defendant's immediate possession or control or subject to the defendant's immediate possession or control; and

(II) May require that before the defendant is released from custody on bond, the defendant ~~shall~~ relinquish, for the duration of the order, any firearm or ammunition in the defendant's immediate possession or control or subject to the defendant's immediate possession or control; AND

(III) SHALL SCHEDULE A COMPLIANCE HEARING PURSUANT TO SUBSECTION (9)(e) OF THIS SECTION AND NOTIFY THE DEFENDANT OF THE HEARING DATE AND THAT THE DEFENDANT SHALL APPEAR AT THE HEARING IN PERSON UNLESS THE HEARING IS VACATED PURSUANT TO SUBSECTION (9)(e)(I) OF THIS SECTION.

(b) **Time period to relinquish.** Upon issuance of an order pursuant to ~~paragraph (a) of this subsection (9)~~ SUBSECTION (9)(a) OF THIS SECTION, the defendant shall relinquish, IN ACCORDANCE WITH SUBSECTION (9)(d) OF THIS SECTION, any firearm or ammunition not more than twenty-four hours, EXCLUDING LEGAL HOLIDAYS AND WEEKENDS, after being served with the order; except that a court may allow a defendant ~~up to seventy-two hours~~ ADDITIONAL TIME BASED ON A SHOWING OF GOOD CAUSE to relinquish a firearm or ~~up to five days to relinquish ammunition pursuant to this paragraph (b)~~ if the defendant demonstrates to the satisfaction of the court that he or she THE DEFENDANT is unable to comply within ~~twenty-four hours. To satisfy this requirement, the defendant may:~~ THE TIME FRAME SET FORTH IN THIS SUBSECTION (9)(b).

(c) **Additional time to comply if defendant is in custody.** If a defendant is unable to satisfy the provisions of ~~paragraph (b)~~ of this subsection (9) because ~~he or she~~ THE DEFENDANT is incarcerated or otherwise held in the custody of a law enforcement agency, the court shall require the defendant to satisfy ~~such~~ THE PROVISIONS OF THIS SUBSECTION (9) not more than twenty-four hours, EXCLUDING LEGAL HOLIDAYS AND WEEKENDS, after ~~his or her~~ THE DEFENDANT'S release from incarceration or custody or be held in contempt of court. Notwithstanding any provision of this ~~paragraph (c)~~ SUBSECTION (9)(c), the court may, in its discretion, require the defendant to relinquish any firearm or ammunition in the defendant's immediate possession or control or subject to the defendant's immediate possession or control before the end of the defendant's incarceration OR RELEASE FROM CUSTODY. In such a case, a defendant's failure to relinquish a firearm or ammunition as required ~~shall constitute~~ CONSTITUTES contempt of court.

(d) **Relinquishment options.** TO SATISFY THE REQUIREMENT IN SUBSECTION (9)(b) OF THIS SECTION, THE DEFENDANT SHALL EITHER:

(I) [Formerly 18-1-1001 (9)(b)(I)] Sell or transfer possession of the firearm or ammunition to a federally licensed firearms dealer described in 18 U.S.C. sec. 923, as amended; except that this provision ~~shall~~ MUST not be interpreted to require any federally licensed firearms dealer to purchase or accept possession of any firearm or ammunition; OR

(II) [Formerly 18-1-1001 (9)(b)(II)] Arrange for the storage of the firearm or ammunition by a law enforcement agency OR BY A STORAGE FACILITY WITH WHICH THE LAW ENFORCEMENT AGENCY HAS CONTRACTED FOR THE STORAGE OF TRANSFERRED FIREARMS OR AMMUNITION, PURSUANT TO SUBSECTION (9)(g) OF THIS SECTION; except that this provision ~~shall~~ MUST not be interpreted to require any law enforcement agency to provide storage of firearms or ammunition for any person; or

(III) [Formerly 18-1-1001 (9)(b)(III)] Sell or otherwise transfer the firearm or ammunition to a private party who may legally possess the firearm or ammunition; except that a defendant who sells or transfers a firearm pursuant to this ~~subparagraph (III)~~ SUBSECTION (9)(d)(III) shall satisfy all of the provisions of section 18-12-112 concerning private firearms transfers, including but not limited to the performance of a criminal background check of the transferee.

(e) **Compliance hearing, conditions of release on bond, and affidavit.** (I) THE COURT SHALL CONDUCT A COMPLIANCE HEARING TO ENSURE THE DEFENDANT HAS COMPLIED WITH THIS SUBSECTION (9) BY REQUIRING THE DEFENDANT TO COMPLY WITH SUBSECTION (9)(e)(II) OF THIS SECTION. THE COURT MAY CONSIDER THE ISSUE IN OTHER PROCEEDINGS BEFORE THE COURT IN THE CRIMINAL CASE. THE HEARING IS CONSIDERED A COURT ACTION INVOLVING A BOND REDUCTION OR MODIFICATION AS DESCRIBED IN SECTION 24-4.1-302 (2)(c). A DEFENDANT SHALL COMPLY WITH SECTION 16-4-105 (4.1) AS IT RELATES TO THE CONDITIONS OF RELEASE ON BOND. THE COURT MAY VACATE THE HEARING IF THE COURT DETERMINES THAT THE DEFENDANT HAS COMPLETED THE AFFIDAVIT DESCRIBED IN SUBSECTION (9)(e)(II) OF THIS SECTION. FAILURE TO APPEAR AT A HEARING DESCRIBED IN THIS SUBSECTION (9)(e)(I) CONSTITUTES CONTEMPT OF COURT.

(II) THE DEFENDANT SHALL COMPLETE AN AFFIDAVIT, WHICH MUST BE FILED IN THE COURT RECORD WITHIN SEVEN BUSINESS DAYS AFTER THE ORDER IS ISSUED, STATING THE NUMBER OF FIREARMS IN THE DEFENDANT'S IMMEDIATE POSSESSION OR CONTROL OR SUBJECT TO THE DEFENDANT'S IMMEDIATE POSSESSION OR CONTROL, THE MAKE AND MODEL OF EACH FIREARM, ANY REASON THE DEFENDANT IS STILL IN IMMEDIATE POSSESSION OR CONTROL OF SUCH FIREARM, AND THE LOCATION OF EACH FIREARM. IF THE DEFENDANT DOES NOT POSSESS A FIREARM AT THE TIME THE ORDER IS ISSUED PURSUANT TO SUBSECTION (9)(a) OF THIS SECTION, THE DEFENDANT SHALL INDICATE SUCH NONPOSSESSION IN THE AFFIDAVIT.

(III) IF THE DEFENDANT POSSESSED A FIREARM AT THE TIME OF THE QUALIFYING INCIDENT GIVING RISE TO THE DUTY TO RELINQUISH THE FIREARM PURSUANT TO THIS SUBSECTION (9) BUT TRANSFERRED OR SOLD THE FIREARM TO A PRIVATE PARTY PRIOR TO THE COURT'S ISSUANCE OF THE ORDER, THE DEFENDANT SHALL DISCLOSE THE SALE OR TRANSFER OF THE FIREARM TO THE PRIVATE PARTY IN THE AFFIDAVIT DESCRIBED IN SUBSECTION (9)(e)(II) OF THIS SECTION. THE DEFENDANT, WITHIN SEVEN BUSINESS DAYS AFTER THE RELINQUISHMENT PERIOD ESTABLISHED BY THE COURT PURSUANT TO THIS SUBSECTION (9), SHALL ACQUIRE A WRITTEN RECEIPT AND SIGNED DECLARATION THAT COMPLIES WITH SUBSECTION (9)(h)(I)(A) OF THIS SECTION, AND THE DEFENDANT SHALL FILE THE SIGNED DECLARATION AT THE SAME TIME THE DEFENDANT FILES THE AFFIDAVIT PURSUANT TO SUBSECTION (9)(e)(II) OF THIS SECTION.

(IV) NO TESTIMONY OR OTHER INFORMATION COMPELLED PURSUANT TO THIS SUBSECTION (9), OR ANY INFORMATION DIRECTLY OR INDIRECTLY DERIVED FROM SUCH TESTIMONY OR OTHER INFORMATION, MAY BE USED AGAINST THE DEFENDANT IN ANY CRIMINAL CASE, EXCEPT PROSECUTION FOR PERJURY PURSUANT TO SECTION 18-8-503.

(V) THE STATE COURT ADMINISTRATOR SHALL DEVELOP THE AFFIDAVIT DESCRIBED IN SUBSECTION (9)(e)(II) OF THIS SECTION AND ALL OTHER FORMS NECESSARY TO IMPLEMENT THIS SUBSECTION (9) NO LATER THAN JANUARY 1, 2022. STATE COURTS MAY USE THE FORMS DEVELOPED BY THE STATE COURT ADMINISTRATOR PURSUANT TO THIS SUBSECTION (9)(e) OR ANOTHER FORM OF THE COURT'S CHOOSING, SO LONG AS THE FORMS COMPLY WITH THE REQUIREMENTS OF THIS SUBSECTION (9)(e).

(VI) UPON THE SWORN STATEMENT OR TESTIMONY OF THE PETITIONER OR OF ANY LAW ENFORCEMENT OFFICER ALLEGING THERE IS PROBABLE CAUSE TO BELIEVE THE RESPONDENT HAS FAILED TO COMPLY WITH THE PROVISIONS OF THIS SECTION, THE COURT SHALL DETERMINE WHETHER PROBABLE CAUSE EXISTS TO BELIEVE THAT THE RESPONDENT HAS FAILED TO RELINQUISH ALL FIREARMS OR A CONCEALED CARRY PERMIT IN THE RESPONDENT'S CUSTODY, CONTROL, OR POSSESSION. IF PROBABLE CAUSE EXISTS, THE COURT SHALL ISSUE A SEARCH WARRANT THAT STATES WITH PARTICULARITY THE PLACES TO BE SEARCHED AND THE ITEMS TO BE TAKEN INTO CUSTODY.

~~(d)~~ (f) **Relinquishment to a federally licensed firearms dealer.** A federally licensed firearms dealer who takes possession of a firearm or ammunition pursuant to this ~~section~~ SUBSECTION (9) shall issue a WRITTEN receipt AND SIGNED DECLARATION to the defendant at the time of relinquishment. THE DECLARATION

MUST MEMORIALIZE THE SALE OR TRANSFER OF THE FIREARM. The federally licensed firearms dealer shall not return the firearm or ammunition to the defendant unless the dealer:

(I) Contacts the ~~bureau~~ COLORADO BUREAU OF INVESTIGATION, REFERRED TO IN THIS SUBSECTION (9) AS "THE BUREAU", to request that a CRIMINAL background check of the defendant be performed; and

(II) Obtains approval of the transfer from the bureau after the performance of the CRIMINAL background check.

~~(e)~~ (g) **Storage by a law enforcement agency or storage facility.** (I) A local law enforcement agency may elect to store firearms or ammunition for ~~persons~~ A DEFENDANT pursuant to this subsection (9). THE LAW ENFORCEMENT AGENCY MAY ENTER INTO AN AGREEMENT WITH ANY OTHER LAW ENFORCEMENT AGENCY OR STORAGE FACILITY FOR THE STORAGE OF TRANSFERRED FIREARMS OR AMMUNITION. If ~~an~~ A LAW ENFORCEMENT agency ~~so~~ elects TO STORE FIREARMS OR AMMUNITION FOR A DEFENDANT:

~~(f)~~ (A) The LAW ENFORCEMENT agency may charge a fee for ~~such~~ THE storage, the amount of which ~~shall~~ MUST not exceed the direct and indirect costs incurred by the LAW ENFORCEMENT agency in providing ~~such~~ THE storage;

~~(h)~~ (B) The LAW ENFORCEMENT agency ~~may~~ SHALL establish policies for disposal of abandoned or stolen firearms or ammunition; and

~~(hh)~~ (C) The LAW ENFORCEMENT agency shall issue a WRITTEN receipt AND SIGNED DECLARATION to ~~each~~ THE defendant at the time ~~the defendant relinquishes possession of a firearm or ammunition~~ OF RELINQUISHMENT. THE DECLARATION MUST MEMORIALIZE THE SALE OR TRANSFER OF THE FIREARM.

~~(f)~~ (II) If a local law enforcement agency elects to store firearms or ammunition for a defendant pursuant to this ~~subsection (9)~~ SUBSECTION (9)(g), the law enforcement agency shall not return the firearm or ammunition to the defendant unless the LAW ENFORCEMENT agency:

~~(f)~~ (A) Contacts the bureau to request that a CRIMINAL background check of the defendant be performed; and

~~(h)~~ (B) Obtains approval of the transfer from the bureau after the performance of the CRIMINAL background check.

~~(g)~~ ~~(f)~~ (III) (A) A law enforcement agency that elects to store a firearm or ammunition for a defendant pursuant to this subsection (9) may elect to cease storing the firearm or ammunition. A law enforcement agency that elects to cease storing a firearm or ammunition for a defendant shall notify the defendant of ~~such~~ THE decision and request that the defendant immediately make arrangements for the transfer of the possession of the firearm or ammunition to the defendant or, if the defendant is prohibited from possessing a firearm, to another person who is legally permitted to possess a firearm.

~~(H)~~ (B) If a law enforcement agency elects to cease storing a firearm or ammunition for a ~~person~~ DEFENDANT and notifies the defendant as described in ~~subparagraph (f) of this paragraph (g)~~ SUBSECTION (9)(g)(III)(A) OF THIS SECTION, the law enforcement agency may dispose of the firearm or ammunition if the defendant fails to make arrangements for the transfer of the firearm or ammunition and complete ~~said~~ THE transfer within ninety days ~~of~~ AFTER receiving ~~such~~ THE notification.

(IV) A LAW ENFORCEMENT AGENCY THAT ELECTS TO STORE A FIREARM OR AMMUNITION SHALL OBTAIN A SEARCH WARRANT TO EXAMINE OR TEST THE FIREARM OR AMMUNITION OR FACILITATE A CRIMINAL INVESTIGATION IF A LAW ENFORCEMENT AGENCY HAS PROBABLE CAUSE TO BELIEVE THE FIREARM OR AMMUNITION HAS BEEN USED IN THE COMMISSION OF A CRIME, IS STOLEN, OR IS CONTRABAND. THIS SUBSECTION (9)(g)(IV) DOES NOT PRECLUDE A LAW ENFORCEMENT AGENCY FROM CONDUCTING A ROUTINE INSPECTION OF THE FIREARM OR AMMUNITION PRIOR TO ACCEPTING THE FIREARM FOR STORAGE.

(h) Relinquishment to a private party. (I) If a defendant sells or otherwise transfers a firearm or ammunition to a private party who may legally possess the firearm or ammunition, as described in ~~subparagraph (H) of paragraph (b) of this subsection (9)~~ SUBSECTION (9)(d)(III) OF THIS SECTION, the defendant shall acquire:

~~(H)~~ (A) From the ~~transferee~~ FEDERALLY LICENSED FIREARMS DEALER, a written receipt ~~acknowledging~~ AND SIGNED DECLARATION MEMORIALIZING the transfer, which receipt ~~shall~~ MUST be dated and signed by the defendant, ~~and~~ the transferee, AND THE FEDERALLY LICENSED FIREARMS DEALER; and

~~(H)~~ (B) From the FEDERALLY licensed ~~gun~~ FIREARMS dealer who requests from the bureau a CRIMINAL background check of the transferee, as described in section 18-12-112, a written statement of the results of the CRIMINAL background check.

(II) THE DEFENDANT SHALL NOT TRANSFER THE FIREARM TO A PRIVATE PARTY LIVING IN THE SAME RESIDENCE AS THE DEFENDANT AT THE TIME OF THE TRANSFER.

(III) NOTWITHSTANDING SECTION 18-12-112, IF A PRIVATE PARTY ELECTS TO STORE A FIREARM FOR A DEFENDANT PURSUANT TO THIS SUBSECTION (9), THE PRIVATE PARTY SHALL NOT RETURN THE FIREARM TO THE DEFENDANT UNLESS THE PRIVATE PARTY ACQUIRES FROM THE FEDERALLY LICENSED FIREARMS DEALER WHO REQUESTS FROM THE BUREAU A CRIMINAL BACKGROUND CHECK OF THE DEFENDANT, A WRITTEN STATEMENT OF THE RESULTS OF THE BACKGROUND CHECK AUTHORIZING THE RETURN OF THE FIREARM TO THE DEFENDANT.

(i) Requirement to file signed declaration. (I) ~~Not more than three business days after the relinquishment,~~ The defendant shall file a copy of the receipt SIGNED DECLARATION issued pursuant to ~~paragraph (d), (e), or (h) of this subsection (9)~~ SUBSECTION (9)(f), (9)(g)(I)(C), OR (9)(h)(I)(A) OF THIS SECTION, and, if applicable, the written statement of the results of a CRIMINAL background check performed on the defendant, as described in ~~subparagraph (H) of paragraph (h) of this subsection (9)~~ SUBSECTION (9)(h)(I)(B) OF THIS SECTION, with the court as proof of the relinquishment AT THE SAME TIME THE DEFENDANT FILES THE SIGNED AFFIDAVIT PURSUANT TO SUBSECTION (9)(e)(II) OF THIS SECTION. THE SIGNED DECLARATION

AND WRITTEN STATEMENT FILED PURSUANT TO THIS SUBSECTION (9)(i) ARE ONLY AVAILABLE FOR INSPECTION BY THE COURT AND THE PARTIES TO THE PROCEEDING. If a defendant fails to timely TRANSFER OR SELL A FIREARM OR file a receipt THE SIGNED DECLARATION or written statement as described in this ~~paragraph (i)~~ SUBSECTION (9)(i)(I):

(A) The failure constitutes a violation of the protection order pursuant to section 18-6-803.5 (1)(c); and

(B) The court shall issue a warrant for the defendant's arrest.

(II) In any subsequent prosecution for a violation of a protection order described in this ~~paragraph (i)~~ SUBSECTION (9)(i), the court shall take judicial notice of the defendant's failure to TRANSFER OR SELL A FIREARM, OR file a receipt THE SIGNED DECLARATION or written statement, which ~~will constitute~~ CONSTITUTES prima facie evidence of a violation of the protection order pursuant to section 18-6-803.5 (1)(c), C.R.S.; and testimony of the clerk of the court or ~~his or her~~ THE CLERK OF THE COURT'S deputy is not required.

(j) Nothing in this subsection (9) ~~shall be construed to limit~~ LIMITS a defendant's right to petition the court for dismissal of a protection order.

(k) A ~~person~~ DEFENDANT subject to a mandatory protection order issued pursuant to this subsection (9) who possesses or attempts to purchase or receive a firearm or ammunition while the protection order is in effect violates the order pursuant to section 18-6-803.5 (1)(c).

(l) (I) A law enforcement agency that elects in good faith to not store a firearm or ammunition for a defendant pursuant to ~~subsection (9)(b)(II)~~ SUBSECTION (9)(g) of this section ~~shall~~ IS NOT ~~be held~~ criminally or civilly liable for such ~~election not to act~~ INACTION.

(II) A law enforcement agency that returns possession of a firearm or ammunition to a defendant in good faith as permitted by ~~paragraph (f) of this subsection (9)~~ shall SUBSECTION (9)(g) OF THIS SECTION IS NOT ~~be held~~ criminally or civilly liable for such action.

(m) **Immunity.** A FEDERALLY LICENSED FIREARMS DEALER, LAW ENFORCEMENT AGENCY, STORAGE FACILITY, OR PRIVATE PARTY THAT ELECTS TO STORE A FIREARM PURSUANT TO THIS SUBSECTION (9) IS NOT CIVILLY LIABLE FOR ANY RESULTING DAMAGES TO THE FIREARM, AS LONG AS SUCH DAMAGE DID NOT RESULT FROM THE WILLFUL AND WRONGFUL ACT OR GROSS NEGLIGENCE OF THE FEDERALLY LICENSED FIREARMS DEALER, LAW ENFORCEMENT AGENCY, STORAGE FACILITY, OR PRIVATE PARTY.

SECTION 3. In Colorado Revised Statutes, 18-6-801, **amend with relocated provisions** (8) as follows:

18-6-801. Domestic violence - sentencing. (8) (a) **Sentencing requirements.** In addition to any sentence that is imposed upon a defendant for violation of any criminal law under this ~~title~~ TITLE 18, if a defendant is convicted of any crime, the

underlying factual basis of which is found by the court on the record to be a misdemeanor crime of domestic violence, as defined in 18 U.S.C. sec. 921 (a)(33), or that is punishable by a term of imprisonment exceeding one year and includes an act of domestic violence, as defined in section 18-6-800.3 (1), the court:

(I) Shall order the defendant to:

(A) Refrain from possessing or purchasing any firearm or ammunition ~~for the duration of the order~~ UNTIL THE DEFENDANT'S SENTENCE IS SATISFIED; and

(B) Relinquish any firearm or ammunition in the defendant's immediate possession or control or subject to the defendant's immediate possession or control; and

(II) May require that before the defendant is released from custody on bond, the defendant ~~shall relinquish, for the duration of the order,~~ RELINQUISH any firearm or ammunition in the defendant's immediate possession or control or subject to the defendant's immediate possession or control; AND

(III) SHALL SCHEDULE A COMPLIANCE HEARING PURSUANT TO SUBSECTION (8)(e) OF THIS SECTION AND NOTIFY THE DEFENDANT OF THE HEARING DATE AND THAT THE DEFENDANT SHALL APPEAR AT THE HEARING IN PERSON UNLESS THE HEARING IS VACATED PURSUANT TO SUBSECTION (8)(e)(I) OF THIS SECTION.

(b) Time period to relinquish. ~~Upon issuance of an order to relinquish one or more firearms or ammunition pursuant to paragraph (a) of this subsection (8),~~ The defendant shall relinquish, IN ACCORDANCE WITH SUBSECTION (8)(d) OF THIS SECTION, any firearm or ammunition not more than twenty-four hours, EXCLUDING LEGAL HOLIDAYS AND WEEKENDS, after ~~being served with the order~~ SENTENCING; except that a court may allow a defendant up to ~~seventy-two~~ AN ADDITIONAL TWENTY-FOUR hours to relinquish a firearm ~~or up to five days to relinquish ammunition pursuant to this paragraph (b)~~ if the defendant demonstrates to the satisfaction of the court that ~~he or she~~ THE DEFENDANT is unable to comply within ~~twenty-four hours. To satisfy this requirement, the defendant may:~~ THE TIME FRAME SET FORTH IN THIS SUBSECTION (8)(b).

(c) Additional time to comply if defendant is in custody. If a defendant is unable to satisfy the provisions of ~~paragraph (b) of this subsection (8)~~ THIS SUBSECTION (8) because ~~he or she~~ THE DEFENDANT is incarcerated or otherwise held in the custody of a law enforcement agency, the court shall require the defendant to satisfy ~~such~~ THE provisions not more than twenty-four hours, EXCLUDING LEGAL HOLIDAYS AND WEEKENDS, after ~~his or her~~ THE DEFENDANT'S release from incarceration or custody or be held in contempt of court. Notwithstanding any provision of this ~~paragraph (c)~~ SUBSECTION (8)(c), the court may, in its discretion, require the defendant to relinquish any firearm or ammunition in the defendant's immediate possession or control or subject to the defendant's immediate possession or control before the end of the defendant's incarceration. In such a case, a defendant's failure to relinquish a firearm or ammunition as required ~~shall constitute~~ CONSTITUTES contempt of court.

(d) Relinquishment options. TO SATISFY THE REQUIREMENT IN SUBSECTION

(8)(b) OF THIS SECTION, THE DEFENDANT SHALL EITHER:

(I) **[Formerly 18-6-801 (8)(b)(I)]** Sell or transfer possession of the firearm or ammunition to a federally licensed firearms dealer described in 18 U.S.C. sec. 923, as amended; except that this provision ~~shall~~ MUST not be interpreted to require any federally licensed firearms dealer to purchase or accept possession of any firearm or ammunition; OR

(II) **[Formerly 18-6-801 (8)(b)(II)]** Arrange for the storage of the firearm or ammunition by a law enforcement agency OR BY A STORAGE FACILITY WITH WHICH THE LAW ENFORCEMENT AGENCY HAS CONTRACTED FOR THE STORAGE OF TRANSFERRED FIREARMS OR AMMUNITION, PURSUANT TO SUBSECTION (8)(g) OF THIS SECTION; except that this provision ~~shall~~ MUST not be interpreted to require any law enforcement agency to provide storage of firearms or ammunition for any person; or

(III) **[Formerly 18-6-801 (8)(b)(III)]** Sell or otherwise transfer the firearm or ammunition to a private party who may legally possess the firearm or ammunition; except that a defendant who sells or transfers a firearm pursuant to this ~~subparagraph (III)~~ SUBSECTION (8)(d)(III) shall satisfy all of the provisions of section 18-12-112 concerning private firearms transfers, including but not limited to the performance of a criminal background check of the transferee.

(e) **Compliance hearing and affidavit.** (I) THE COURT SHALL CONDUCT A COMPLIANCE HEARING NOT LESS THAN EIGHT BUT NOT MORE THAN TWELVE BUSINESS DAYS AFTER SENTENCING TO ENSURE THE DEFENDANT HAS COMPLIED WITH SUBSECTION (8)(e)(II) OF THIS SECTION. THE COURT MAY VACATE THE HEARING IF THE COURT DETERMINES THE DEFENDANT HAS COMPLETED THE AFFIDAVIT DESCRIBED IN SUBSECTION (8)(e)(II) OF THIS SECTION. FAILURE TO APPEAR AT A HEARING DESCRIBED IN THIS SUBSECTION (8)(e)(I) CONSTITUTES CONTEMPT OF COURT.

(II) THE DEFENDANT SHALL COMPLETE AN AFFIDAVIT, WHICH MUST BE FILED IN THE COURT RECORD WITHIN SEVEN BUSINESS DAYS AFTER SENTENCING, STATING THE NUMBER OF FIREARMS IN THE DEFENDANT'S IMMEDIATE POSSESSION OR CONTROL OR SUBJECT TO THE DEFENDANT'S IMMEDIATE POSSESSION OR CONTROL, THE MAKE AND MODEL OF EACH FIREARM, ANY REASON THE DEFENDANT IS STILL IN IMMEDIATE POSSESSION OR CONTROL OF SUCH FIREARM, AND THE LOCATION OF EACH FIREARM. IF THE DEFENDANT DOES NOT POSSESS A FIREARM AT THE TIME OF SENTENCING, THE DEFENDANT SHALL INDICATE SUCH NONPOSSESSION IN THE AFFIDAVIT.

(III) IF THE DEFENDANT POSSESSED A FIREARM AT THE TIME OF THE QUALIFYING INCIDENT GIVING RISE TO THE DUTY TO RELINQUISH THE FIREARM PURSUANT TO THIS SECTION BUT TRANSFERRED OR SOLD THE FIREARM TO A PRIVATE PARTY PRIOR TO SENTENCING, THE DEFENDANT SHALL DISCLOSE THE SALE OR TRANSFER OF THE FIREARM TO THE PRIVATE PARTY IN THE AFFIDAVIT DESCRIBED IN SUBSECTION (8)(e)(II) OF THIS SECTION. THE DEFENDANT, WITHIN SEVEN BUSINESS DAYS AFTER SENTENCING, SHALL ACQUIRE A WRITTEN RECEIPT AND SIGNED DECLARATION THAT COMPLIES WITH SUBSECTION (8)(h)(I)(A) OF THIS SECTION, AND THE DEFENDANT SHALL FILE THE SIGNED DECLARATION AT THE SAME TIME THE DEFENDANT FILES THE AFFIDAVIT PURSUANT TO SUBSECTION (8)(e)(II) OF THIS SECTION.

(IV) THE STATE COURT ADMINISTRATOR SHALL DEVELOP THE AFFIDAVIT DESCRIBED IN SUBSECTION (8)(e)(II) OF THIS SECTION AND ALL OTHER FORMS NECESSARY TO IMPLEMENT THIS SUBSECTION (8) NO LATER THAN JANUARY 1, 2022. STATE COURTS MAY USE THE FORMS DEVELOPED BY THE STATE COURT ADMINISTRATOR PURSUANT TO THIS SUBSECTION (8)(e) OR ANOTHER FORM OF THE COURT'S CHOOSING, SO LONG AS THE FORMS COMPLY WITH THE REQUIREMENTS OF THIS SUBSECTION (8)(e).

(V) UPON THE SWORN STATEMENT OR TESTIMONY OF THE PETITIONER OR OF ANY LAW ENFORCEMENT OFFICER ALLEGING THERE IS PROBABLE CAUSE TO BELIEVE THE RESPONDENT HAS FAILED TO COMPLY WITH THE PROVISIONS OF THIS SECTION, THE COURT SHALL DETERMINE WHETHER PROBABLE CAUSE EXISTS TO BELIEVE THAT THE RESPONDENT HAS FAILED TO RELINQUISH ALL FIREARMS OR A CONCEALED CARRY PERMIT IN THE RESPONDENT'S CUSTODY, CONTROL, OR POSSESSION. IF PROBABLE CAUSE EXISTS, THE COURT SHALL ISSUE A SEARCH WARRANT THAT STATES WITH PARTICULARITY THE PLACES TO BE SEARCHED AND THE ITEMS TO BE TAKEN INTO CUSTODY.

(f) **Relinquishment to a federally licensed firearms dealer.** A federally licensed firearms dealer who takes possession of a firearm or ammunition pursuant to this subsection (8) shall issue a WRITTEN receipt AND SIGNED DECLARATION to the defendant at the time of relinquishment. THE DECLARATION MUST MEMORIALIZE THE SALE OR TRANSFER OF THE FIREARM. The federally licensed firearms dealer shall not return the firearm or ammunition to the defendant unless the dealer:

(I) Contacts the ~~bureau~~ COLORADO BUREAU OF INVESTIGATION, REFERRED TO IN THIS SUBSECTION (8) AS THE "BUREAU", to request that a CRIMINAL background check of the defendant be performed; and

(II) Obtains approval of the transfer from the bureau after the performance of the CRIMINAL background check.

(g) **Storage by a law enforcement agency or storage facility.** (I) A local law enforcement agency may elect to store firearms or ammunition for ~~persons~~ A DEFENDANT pursuant to this subsection (8). THE LAW ENFORCEMENT AGENCY MAY ENTER INTO AN AGREEMENT WITH ANY OTHER LAW ENFORCEMENT AGENCY OR STORAGE FACILITY FOR THE STORAGE OF TRANSFERRED FIREARMS OR AMMUNITION. If ~~an~~ A LAW ENFORCEMENT agency ~~so~~ elects TO STORE FIREARMS OR AMMUNITION FOR A DEFENDANT:

(A) The LAW ENFORCEMENT agency may charge a fee for ~~such~~ THE storage, the amount of which ~~shall~~ MUST not exceed the direct and indirect costs incurred by the LAW ENFORCEMENT agency in providing ~~such~~ THE storage;

(B) The LAW ENFORCEMENT agency ~~may~~ SHALL establish policies for disposal of abandoned or stolen firearms or ammunition; and

(C) The LAW ENFORCEMENT agency shall issue a WRITTEN receipt AND SIGNED DECLARATION to ~~each~~ THE defendant at the time ~~the defendant relinquishes possession of a firearm or ammunition~~ OF RELINQUISHMENT. THE DECLARATION MUST MEMORIALIZE THE SALE OR TRANSFER OF THE FIREARM.

~~(f)~~ (II) If a local law enforcement agency elects to store firearms or ammunition for a defendant pursuant to this ~~subsection (8)~~ SUBSECTION (8)(g), the law enforcement agency shall not return the firearm or ammunition to the defendant unless the LAW ENFORCEMENT agency:

~~(f)~~ (A) Contacts the bureau to request that a CRIMINAL background check of the defendant be performed; and

~~(f)~~ (B) Obtains approval of the transfer from the bureau after the performance of the CRIMINAL background check.

~~(g)~~ ~~(f)~~ (III) (A) A law enforcement agency that elects to store a firearm or ammunition for a defendant pursuant to this subsection (8) may elect to cease storing the firearm or ammunition. A law enforcement agency that elects to cease storing a firearm or ammunition for a defendant shall notify the defendant of ~~such~~ THE decision and request that the defendant immediately make arrangements for the transfer of the possession of the firearm or ammunition to the defendant or, if the defendant is prohibited from possessing a firearm, to another person who is legally permitted to possess a firearm.

~~(f)~~ (B) If a law enforcement agency elects to cease storing a firearm or ammunition for a defendant and notifies the defendant as described in ~~subparagraph (f) of this paragraph (g)~~ SUBSECTION (8)(g)(III)(A) OF THIS SECTION, the law enforcement agency may dispose of the firearm or ammunition if the defendant fails to make arrangements for the transfer of the firearm or ammunition and complete ~~said~~ THE transfer within ninety days ~~of~~ AFTER receiving ~~such~~ THE notification.

(IV) A LAW ENFORCEMENT AGENCY THAT ELECTS TO STORE A FIREARM OR AMMUNITION SHALL OBTAIN A SEARCH WARRANT TO EXAMINE OR TEST THE FIREARM OR AMMUNITION OR FACILITATE A CRIMINAL INVESTIGATION IF A LAW ENFORCEMENT AGENCY HAS PROBABLE CAUSE TO BELIEVE THE FIREARM OR AMMUNITION HAS BEEN USED IN THE COMMISSION OF A CRIME, IS STOLEN, OR IS CONTRABAND. THIS SUBSECTION (8)(g)(IV) DOES NOT PRECLUDE A LAW ENFORCEMENT AGENCY FROM CONDUCTING A ROUTINE INSPECTION OF THE FIREARM OR AMMUNITION PRIOR TO ACCEPTING THE FIREARM FOR STORAGE.

(h) **Relinquishment to a private party.** (I) If a defendant sells or otherwise transfers a firearm or ammunition to a private party who may legally possess the firearm or ammunition, as described in ~~subparagraph (III) of paragraph (b) of this subsection (8)~~ SUBSECTION (8)(d)(III) OF THIS SECTION, the defendant shall acquire:

~~(f)~~ (A) From the ~~transferee~~ FEDERALLY LICENSED FIREARMS DEALER, a written receipt ~~acknowledging~~ AND SIGNED DECLARATION MEMORIALIZING the transfer, which receipt ~~shall~~ MUST be dated and signed by the defendant, ~~and~~ the transferee, AND THE FEDERALLY LICENSED FIREARMS DEALER; and

~~(f)~~ (B) From the FEDERALLY licensed ~~gun~~ FIREARMS dealer who requests from the bureau a CRIMINAL background check of the transferee, as described in section 18-12-112, a written statement of the results of the CRIMINAL background check.

(II) THE DEFENDANT SHALL NOT TRANSFER THE FIREARM TO A PRIVATE PARTY

LIVING IN THE SAME RESIDENCE AS THE DEFENDANT AT THE TIME OF THE TRANSFER.

(III) NOTWITHSTANDING SECTION 18-12-112, IF A PRIVATE PARTY ELECTS TO STORE A FIREARM FOR A DEFENDANT PURSUANT TO THIS SUBSECTION (8), THE PRIVATE PARTY SHALL NOT RETURN THE FIREARM TO THE DEFENDANT UNLESS THE PRIVATE PARTY ACQUIRES FROM THE FEDERALLY LICENSED FIREARMS DEALER, WHO REQUESTS FROM THE BUREAU A CRIMINAL BACKGROUND CHECK OF THE DEFENDANT, A WRITTEN STATEMENT OF THE RESULTS OF THE CRIMINAL BACKGROUND CHECK AUTHORIZING THE RETURN OF THE FIREARM TO THE DEFENDANT.

(i) **Requirement to file signed declaration.** (I) ~~Not more than three business days after the relinquishment,~~ The defendant shall file a copy of the ~~receipt~~ SIGNED DECLARATION issued pursuant to ~~paragraph (d), (e), or (h) of this subsection (8)~~ SUBSECTION (8)(f), (8)(g)(I)(C), OR (8)(h)(I)(A) OF THIS SECTION, and, if applicable, the written statement of the results of a CRIMINAL background check performed on the ~~transferee~~ DEFENDANT, as described in ~~subparagraph (II) of paragraph (h) of this subsection (8)~~ SUBSECTION (8)(h)(I)(B) OF THIS SECTION, with the court as proof of the relinquishment AT THE SAME TIME THE DEFENDANT FILES THE SIGNED AFFIDAVIT PURSUANT TO SUBSECTION (8)(e)(II) OF THIS SECTION. THE SIGNED DECLARATION AND WRITTEN STATEMENT FILED PURSUANT TO THIS SUBSECTION (8)(i) ARE ONLY AVAILABLE FOR INSPECTION BY THE COURT AND THE PARTIES TO THE PROCEEDING. If a defendant fails to timely TRANSFER OR SELL A FIREARM OR ~~file a receipt~~ THE SIGNED DECLARATION or written statement as described in this ~~paragraph (i)~~ SUBSECTION (8)(i)(I):

(A) The failure constitutes a class 2 misdemeanor, and the defendant ~~shall be~~ is punished as provided in section 18-1.3-501; and

(B) The court shall issue a warrant for the defendant's arrest.

(II) In any subsequent prosecution for a violation of this ~~paragraph (i)~~ SUBSECTION (8)(i), the court shall take judicial notice of the defendant's failure to TRANSFER OR SELL A FIREARM, OR ~~file a receipt~~ THE SIGNED DECLARATION or written statement, which ~~will constitute~~ CONSTITUTES prima facie evidence that the defendant has violated this ~~paragraph (i)~~ SUBSECTION (8), and testimony of the clerk of the court or ~~his or her~~ THE CLERK OF THE COURT'S deputy is not required.

(j) (I) A law enforcement agency that elects in good faith to not store a firearm or ammunition for a defendant pursuant to ~~subsection (8)(b)(II)~~ SUBSECTION (8)(g) of this section ~~shall~~ IS NOT ~~be held~~ criminally or civilly liable for such ~~election not to act~~ INACTION.

(II) A law enforcement agency that returns possession of a firearm or ammunition to a defendant in good faith as permitted by ~~paragraph (f) of this subsection (8)~~ shall SUBSECTION (8)(g) OF THIS SECTION IS NOT ~~be held~~ criminally or civilly liable for such action.

(k) **Immunity.** A FEDERALLY LICENSED FIREARMS DEALER, LAW ENFORCEMENT AGENCY, STORAGE FACILITY, OR PRIVATE PARTY THAT ELECTS TO STORE A FIREARM PURSUANT TO THIS SUBSECTION (8) IS NOT CIVILLY LIABLE FOR ANY RESULTING DAMAGES TO THE FIREARM, AS LONG AS SUCH DAMAGE DID NOT RESULT FROM THE

WILLFUL AND WRONGFUL ACT OR GROSS NEGLIGENCE OF THE FEDERALLY LICENSED FIREARMS DEALER, LAW ENFORCEMENT AGENCY, STORAGE FACILITY, OR THIRD PARTY.

SECTION 4. In Colorado Revised Statutes, 18-6-803.5, **amend** (1)(c) introductory portion and (1)(c)(II) as follows:

18-6-803.5. Crime of violation of a protection order - penalty - peace officers' duties - definitions. (1) A person commits the crime of violation of a protection order if, after the person has been personally served with a protection order that identifies the person as a restrained person or otherwise has acquired from the court or law enforcement personnel actual knowledge of the contents of a protection order that identifies the person as a restrained person, the person:

(c) Violates a civil protection order issued pursuant to section 13-14-105.5 ~~C.R.S.~~; or a MANDATORY PROTECTION ORDER ISSUED pursuant to section 18-1-1001 (9) by:

(II) Failing to timely file a ~~receipt~~ SIGNED AFFIDAVIT or written statement with the court as described in ~~section 13-14-105.5 (9), C.R.S., or in section 18-1-1001 (9)(i) or 18-6-801 (8)(i)~~ SECTION 13-14-105.5 (10), 18-1-1001 (9)(i), OR 18-6-801 (8)(i).

SECTION 5. In Colorado Revised Statutes, 16-4-105, **add** (4.1) as follows:

16-4-105. Conditions of release on bond - definition. (4.1) NOTWITHSTANDING ANY OTHER TYPE OF BOND AND CONDITIONS OF RELEASE SET BY THE COURT, IN CASES INVOLVING DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1), OR IN CASES WHERE THE COURT SUBJECTS A DEFENDANT TO A MANDATORY PROTECTION ORDER THAT QUALIFIES AS AN ORDER DESCRIBED IN 18 U.S.C. SEC. 922 (g)(8), THE COURT SHALL ORDER THE DEFENDANT TO COMPLY WITH THE PROVISIONS OF SECTION 18-1-1001 AS IT RELATES TO FIREARM RELINQUISHMENT.

SECTION 6. In Colorado Revised Statutes, 13-14.5-113, **add** (3) as follows:

13-14.5-113. Liability. (3) A FEDERALLY LICENSED FIREARMS DEALER OR LAW ENFORCEMENT AGENCY THAT STORES A FIREARM AS PERMITTED BY THIS ARTICLE 14.5 IS NOT CIVILLY LIABLE FOR ANY RESULTING DAMAGES TO THE FIREARM, AS LONG AS SUCH DAMAGE DID NOT RESULT FROM THE WILLFUL AND WRONGFUL ACT OR GROSS NEGLIGENCE OF THE PERSON OR LAW ENFORCEMENT AGENCY STORING THE FIREARM.

SECTION 7. In Colorado Revised Statutes, 13-14.5-108, **amend** (2)(b) as follows:

13-14.5-108. Surrender of a firearm. (2) (b) If the petitioner for an extreme risk protection order is a law enforcement agency or officer, the law enforcement officer serving the extreme risk protection order shall take custody of the respondent's firearms pursuant to the search warrant for firearms possessed by a respondent in an extreme risk protection order, as described in section 16-3-301.5, if a warrant was obtained. After the law enforcement agency or officer has custody of the firearms, the respondent may inform the law enforcement officer of ~~his or her~~

THE RESPONDENT'S preference for sale, transfer, or storage of the firearms as specified in ~~section 13-14-105.5 (2)(c)~~ SECTION 13-14-105.5 (4). The law enforcement officer shall request that the respondent immediately surrender any concealed carry permit issued to the respondent and conduct any search permitted by law for the permit.

SECTION 8. Appropriation. (1) For the 2021-22 state fiscal year, \$101,050 is appropriated to the judicial department. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) \$25,749 for trial court programs, which amount is based on an assumption that the department will require an additional 0.5 FTE;

(b) \$69,101 for court costs, jury costs, and court-appointed counsel, and

(c) \$6,200 for capital outlay.

SECTION 9. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: June 22, 2021