

ALASKA STATE LEGISLATURE



REPRESENTATIVE GERAN TARR

House Bill 75 Gun Violence Protective Order (also called Extreme Risk Protection Orders) Sectional Analysis - 2.26.18

Section 1. AS 11.56.740(a) – Makes it a Class A misdemeanor criminal law offense for violating the new gun violence protective order that is created in section 6 of this bill.

Section 2. AS 11.56.740(c) Adds the new gun violence protective order that is created in section 6 of this bill to the list of definitions in Alaska's criminal code.

Section 3. AS 18.65.530(a) Makes arrest mandatory for a person who violates the new protective order created in section 6 of this bill.

Section 4. AS 18.65.540(a) adds a conforming amendment to existing powers of The Department of Public Safety to add this to their existing central registry for the new protective order that is created in section 6 of this bill. The registry must include, for each protective order, the names of the petitioner and respondent, their dates of birth, and the conditions and duration of the order. The Department of Public Safety shall retain a record of the protective order after it has expired.

Section 5. AS 18.65.540(b) adds a conforming amendment to existing powers of The Department of Public Safety to take reasonable steps to report that the order, modified order, or dismissal is entered into the central registry within 24 hours after being received.

NEW Section 6. AS 18.65 is amended by adding EIGHT NEW sections to Alaska Statutes, Article 11 – Firearms

Sec. 18.65.815. Creates a gun violence protective order, describes the rules for filing one.

(a) An immediate family member or a peace officer who reasonably believes that the respondent is a danger to self or others by possessing, owning, purchasing, or receiving a firearm may file a petition in the district or superior court for a protective order against a respondent. The petition shall describe the number, types, and locations of any firearms or ammunition the petitioner believes are owned or possessed by the respondent and the basis for the petition.

(b) When a petition for a protective order is filed, the court shall schedule a hearing and provide at least 10 days' notice to the respondent of the hearing and of the respondent's right to appear and be heard, either in person or through an attorney. If the court finds by clear and convincing evidence that the respondent is a danger to self or others by possessing, owning,

purchasing, or receiving a firearm, regardless of whether the respondent appears at the hearing, the court may order the relief available under (c) of this section.

The provisions of a protective order issued under this section are effective for six months unless earlier dissolved by the court.

(c) A protective order issued under this section shall prohibit the respondent from possessing, owning, purchasing, receiving, or attempting to purchase or receive a firearm or ammunition.

(d) If the court issues a protective order under this section, the court shall

- (1) make reasonable efforts to ensure that the order is understood by the petitioner and by the respondent, if present;
- (2) have the order delivered to the appropriate local law enforcement agency for expedited service;
- (3) direct the respondent to surrender to the appropriate law enforcement agency or sell to a firearms dealer all firearms and ammunition that the respondent possesses or owns within 24 hours after receipt of the order.

NEW Sec. 18.65.820. Creates a new section to allow a family member or police officer to create an emergency gun violence protective order without notifying the respondent if they believe the respondent is a danger to self or others. Defines how that order would be created.

NEW Sec. 18.65.825. Creates a new section to allow a family member or the respondent to request modification of the gun violence protective order. Defines how to modify the order.

NEW Sec. 18.65.830. Creates a new section to allow the court to order the respondent to temporarily surrender or sell all firearms and ammunition. Six months is maximum time for law enforcement to keep the firearms and ammunition under this new law. Describes the process for doing this.

NEW Sec. 18.65.835. Creates a new section to require the Alaska Court System to prepare forms to file this protective order, without charging filing fees. Establishes that violating the order is a misdemeanor, punishable by up to one year of incarceration and a fine of up to \$10,000.

NEW Sec. 18.65.840. Creates a new section to require the court to notify local law enforcement of the order so it can be enforced.

NEW Sec. 18.65.843. Requires health care providers to report any serious threats of gun violence against a reasonably identifiable victim to the Department of Health and Social Services. The Department is required to annually report to the senate secretary and the chief clerk of the house of representatives; defines health care providers.

NEW Sec. 18.65.845. defines family member as a spouse, child, stepchild, parent, or stepparent.

Section 7. AS 22.15.100 adds conforming amendment to existing powers of district judges and magistrates to be able to administer this new gun violence emergency protective order.

Section 8. Lists court rules that are affected by the bill relating to court fees and the process for issuing protective orders.

Section 9. [AS 18.65.843](#) Repeals the requirement of health care providers and the Department of Health and Social Services to report gun violence on February 1, 2020.

Section 10. Section 6 of this legislation only takes effect if Section 8 gets a two-thirds majority vote of each house of the Alaska Legislature, which is required by art. IV, sec. 15, Constitution of the State of Alaska.