

REFERENCE TITLE: order of protection; firearm possession

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1662

Introduced by
Senators Gonzales: Hatathlie

AN ACT

AMENDING TITLE 12, CHAPTER 10, ARIZONA REVISED STATUTES, BY ADDING ARTICLE
5; RELATING TO PUBLIC SAFETY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 12, chapter 10, Arizona Revised Statutes, is
3 amended by adding article 5, to read:

4 ARTICLE 5. SEVERE THREAT ORDER OF PROTECTION

5 12-1881. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "EX PARTE SEVERE THREAT ORDER OF PROTECTION" MEANS AN INJUNCTION
8 ISSUED BY A COURT PURSUANT TO SECTION 12-1883 THAT PROHIBITS THE
9 RESPONDENT FROM OWNING, PURCHASING, POSSESSING OR RECEIVING OR HAVING IN
10 THE RESPONDENT'S CUSTODY OR CONTROL A FIREARM OR AMMUNITION UNTIL THE
11 COURT-SCHEDULED HEARING FOR A ONE-YEAR SEVERE THREAT ORDER OF PROTECTION.

12 2. "FAMILY OR HOUSEHOLD MEMBER" MEANS ANY PERSON WHO:

13 (a) IS RELATED BY BLOOD, MARRIAGE OR ADOPTION TO THE RESPONDENT.

14 (b) IS THE RESPONDENT'S CURRENT OR FORMER DATING PARTNER.

15 (c) IS ACTING OR HAS ACTED AS THE RESPONDENT'S LEGAL GUARDIAN.

16 (d) HAS REGULARLY RESIDED IN THE SAME HOUSEHOLD AS THE RESPONDENT
17 WITHIN THE PREVIOUS YEAR.

18 3. "ONE-YEAR SEVERE THREAT ORDER OF PROTECTION" MEANS AN INJUNCTION
19 THAT IS ISSUED BY A COURT PURSUANT TO SECTION 12-1884 AND THAT PROHIBITS
20 THE RESPONDENT FROM OWNING, PURCHASING, POSSESSING OR RECEIVING OR HAVING
21 IN THE RESPONDENT'S CUSTODY OR CONTROL A FIREARM OR AMMUNITION FOR A
22 PERIOD OF UP TO ONE YEAR.

23 4. "PETITIONER" MEANS A PERSON WHO IS AT LEAST EIGHTEEN YEARS OF
24 AGE AND WHO IS EITHER A LAW ENFORCEMENT OFFICER, A FAMILY OR HOUSEHOLD
25 MEMBER, A SCHOOL ADMINISTRATOR OR TEACHER OR A LICENSED BEHAVIORAL HEALTH
26 PROFESSIONAL WHO HAS PERSONAL KNOWLEDGE THAT THE RESPONDENT IS A DANGER TO
27 SELF OR OTHERS.

28 5. "RESPONDENT" MEANS THE PERSON WHO IS IDENTIFIED IN THE PETITION
29 THAT IS FILED PURSUANT TO SECTION 12-1883 OR 12-1884.

30 12-1882. Severe threat order of protection; commencing
31 action; form

32 A. A PETITIONER MAY FILE A VERIFIED PETITION IN THE SUPERIOR COURT
33 REQUESTING THE COURT TO ISSUE A SEVERE THREAT ORDER OF PROTECTION.
34 NOTWITHSTANDING THE LOCATION OF THE PETITIONER OR RESPONDENT, ANY SUPERIOR
35 COURT MAY ISSUE OR ENFORCE A SEVERE THREAT ORDER OF PROTECTION.

36 B. THE PETITION FOR A SEVERE THREAT ORDER OF PROTECTION MUST
37 INCLUDE ALL OF THE FOLLOWING:

38 1. THE NAME OF THE PETITIONER. THE PETITIONER SHALL DISCLOSE THE
39 PETITIONER'S ADDRESS TO THE COURT FOR PURPOSES OF SERVICE. IF THE ADDRESS
40 OF THE PETITIONER IS UNKNOWN TO THE RESPONDENT, THE PETITIONER MAY REQUEST
41 THAT THE ADDRESS BE PROTECTED. ON THE PETITIONER'S REQUEST, THE ADDRESS
42 SHALL NOT BE LISTED ON THE PETITION. WHETHER OR NOT THE COURT ISSUES A
43 SEVERE THREAT ORDER OF PROTECTION, THE PROTECTED ADDRESS SHALL BE
44 MAINTAINED IN A SEPARATE DOCUMENT OR AUTOMATED DATABASE AND IS NOT SUBJECT

1 TO RELEASE OR DISCLOSURE BY THE COURT OR ANY FORM OF PUBLIC ACCESS EXCEPT
2 AS ORDERED BY THE COURT.

3 2. THE RESPONDENT'S NAME AND ADDRESS, IF KNOWN.

4 3. A SPECIFIC STATEMENT SETTING FORTH THE GROUNDS FOR ISSUING THE
5 SEVERE THREAT ORDER OF PROTECTION, INCLUDING DETAILED ALLEGATIONS BASED ON
6 PERSONAL KNOWLEDGE THAT THE RESPONDENT POSES A SIGNIFICANT DANGER OF
7 CAUSING PHYSICAL INJURY TO SELF OR OTHERS BY HAVING IN THE RESPONDENT'S
8 CUSTODY OR CONTROL OR OWNING, PURCHASING, POSSESSING OR RECEIVING A
9 FIREARM OR AMMUNITION.

10 4. THE NUMBER, TYPE AND LOCATION OF ANY FIREARM OR AMMUNITION THAT
11 THE PETITIONER PRESENTLY BELIEVES THE RESPONDENT POSSESSES OR CONTROLS.

12 5. A DESCRIPTION OF THE RELATIONSHIP BETWEEN THE PARTIES AND
13 WHETHER THERE IS OR HAS BEEN A SEVERE THREAT ORDER OF PROTECTION, A
14 DOMESTIC VIOLENCE PROTECTIVE ORDER, AN INJUNCTION AGAINST HARASSMENT OR AN
15 INJUNCTION AGAINST WORKPLACE HARASSMENT IN PLACE BETWEEN THE PARTIES OR
16 AGAINST THE RESPONDENT.

17 6. WHETHER THERE IS ANY OTHER PENDING LAWSUIT, COMPLAINT, PETITION
18 OR OTHER ACTION BETWEEN THE PARTIES PURSUANT TO THE LAWS OF THIS STATE.
19 THE COURT ADMINISTRATOR SHALL VERIFY THE TERMS OF ANY EXISTING ORDER
20 GOVERNING THE PARTIES. THE COURT MAY NOT DELAY GRANTING RELIEF BECAUSE OF
21 THE EXISTENCE OF A PENDING ACTION BETWEEN THE PARTIES OR THE NECESSITY OF
22 VERIFYING THE TERMS OF AN EXISTING ORDER. A PETITION FOR A SEVERE THREAT
23 ORDER OF PROTECTION MAY BE GRANTED WHETHER OR NOT THERE IS A PENDING
24 ACTION BETWEEN THE PARTIES.

25 C. THE COURT SHALL PROVIDE FORMS, WITHOUT CHARGE, TO ASSIST PARTIES
26 WITHOUT COUNSEL. THE PETITIONER MAY NOT BE CHARGED A FEE FOR FILING A
27 PETITION FOR A SEVERE THREAT ORDER OF PROTECTION OR FOR SERVICE OF PROCESS
28 PURSUANT TO THIS ARTICLE.

29 D. ALL HEALTH RECORDS AND OTHER HEALTH INFORMATION PROVIDED IN A
30 PETITION OR CONSIDERED AS EVIDENCE IN A PROCEEDING PURSUANT TO THIS
31 ARTICLE SHALL BE PROTECTED FROM PUBLIC DISCLOSURE TO THE EXTENT THAT THE
32 INFORMATION IDENTIFIES A RESPONDENT OR PETITIONER, EXCEPT THAT THE
33 INFORMATION MAY BE PROVIDED TO A LAW ENFORCEMENT AGENCY AS PRESCRIBED IN
34 SECTION 12-1888. AGGREGATE STATISTICAL DATA REGARDING THE NUMBER OF
35 SEVERE THREAT ORDERS OF PROTECTION ISSUED, RENEWED, DENIED, DISSOLVED OR
36 TERMINATED SHALL BE AVAILABLE TO THE PUBLIC ON REQUEST.

37 E. A PERSON IS NOT SUBJECT TO CIVIL OR CRIMINAL LIABILITY FOR
38 FILING A PETITION, PROVIDING INFORMATION OR OTHERWISE PARTICIPATING IN
39 PROCEEDINGS AUTHORIZED BY THIS ARTICLE UNLESS THE PERSON ACTS WITH MALICE
40 OR INTENT TO HARASS THE RESPONDENT OR COMMITS FALSE SWEARING IN VIOLATION
41 OF SECTION 13-2703. A PERSON IS NOT SUBJECT TO CIVIL OR CRIMINAL
42 LIABILITY FOR CHOOSING NOT TO FILE A PETITION, PROVIDE INFORMATION OR
43 OTHERWISE PARTICIPATE IN PROCEEDINGS AUTHORIZED BY THIS ARTICLE.

1 12-1883. Ex parte severe threat order of protection:
2 issuance; hearing; notice

3 A. A PETITIONER, WITHOUT NOTICE TO THE RESPONDENT, MAY REQUEST THAT
4 AN EX PARTE SEVERE THREAT ORDER OF PROTECTION BE ISSUED BEFORE A HEARING
5 FOR A ONE-YEAR SEVERE THREAT ORDER OF PROTECTION BY INCLUDING IN THE
6 PETITION DETAILED ALLEGATIONS BASED ON PERSONAL KNOWLEDGE THAT THE
7 RESPONDENT POSES AN IMMEDIATE AND PRESENT DANGER OF CAUSING PHYSICAL
8 INJURY TO SELF OR OTHERS BY HAVING IN THE RESPONDENT'S CUSTODY OR CONTROL
9 OR OWNING, PURCHASING, POSSESSING OR RECEIVING A FIREARM OR AMMUNITION.

10 B. THE COURT SHALL REVIEW THE PETITION, ANY OTHER PLEADINGS ON FILE
11 AND ANY EVIDENCE OFFERED BY THE PETITIONER, INCLUDING ANY THREAT OF HARM
12 TO THE PETITIONER OR OTHERS BY ELECTRONIC CONTACT OR COMMUNICATION, TO
13 DETERMINE WHETHER THE COURT SHOULD ISSUE AN EX PARTE SEVERE THREAT ORDER
14 OF PROTECTION. RULES 65(a)(1) AND 65(e) OF THE ARIZONA RULES OF CIVIL
15 PROCEDURE DO NOT APPLY TO EX PARTE SEVERE THREAT ORDERS OF PROTECTION THAT
16 ARE REQUESTED PURSUANT TO THIS SECTION.

17 C. THE COURT SHALL ISSUE OR DENY AN EX PARTE SEVERE THREAT ORDER OF
18 PROTECTION ON THE SAME DAY THAT THE PETITION IS SUBMITTED TO THE COURT
19 UNLESS THE PETITION IS FILED TOO LATE IN THE DAY TO ALLOW EFFECTIVE
20 REVIEW, IN WHICH CASE THE COURT SHALL ISSUE OR DENY THE ORDER ON THE NEXT
21 DAY OF JUDICIAL BUSINESS.

22 D. IN DETERMINING WHETHER GROUNDS FOR AN EX PARTE SEVERE THREAT
23 ORDER OF PROTECTION EXIST, THE JUDGE SHALL CONSIDER ALL RELEVANT EVIDENCE
24 PRESENTED BY THE PETITIONER AND MAY ALSO CONSIDER OTHER RELEVANT EVIDENCE,
25 INCLUDING EVIDENCE RELATING TO THE RESPONDENT'S:

26 1. UNLAWFUL, RECKLESS OR NEGLIGENT USE, DISPLAY, STORAGE,
27 POSSESSION OR BRANDISHING OF A FIREARM.

28 2. ACTS OR THREATS OF VIOLENCE TO SELF OR OTHERS, WHETHER OR NOT
29 THIS VIOLENCE INVOLVES A FIREARM.

30 3. VIOLATION OF A SEVERE THREAT ORDER OF PROTECTION, A DOMESTIC
31 VIOLENCE PROTECTIVE ORDER, AN INJUNCTION AGAINST HARASSMENT OR AN
32 INJUNCTION AGAINST WORKPLACE HARASSMENT OR A VIOLATION OF A SIMILAR ORDER
33 IN ANOTHER STATE.

34 4. ABUSE OF A CONTROLLED SUBSTANCE OR ALCOHOL OR ANY CRIMINAL
35 OFFENSE THAT INVOLVES A CONTROLLED SUBSTANCE OR ALCOHOL.

36 5. RECENT ACQUISITION OF A FIREARM, AMMUNITION OR ANOTHER DEADLY
37 WEAPON.

38 6. CRUEL MISTREATMENT OF AN ANIMAL.

39 7. HISTORY OF USING, ATTEMPTING TO USE OR THREATENING TO USE
40 PHYSICAL FORCE AGAINST ANOTHER PERSON OR OF STALKING ANOTHER PERSON.

41 E. THE COURT SHALL ALSO CONSIDER THE TIME THAT HAS ELAPSED SINCE
42 THE EVENTS DESCRIBED IN SUBSECTION D OF THIS SECTION.

43 F. IF THE COURT FINDS REASONABLE CAUSE TO BELIEVE THAT THE
44 RESPONDENT POSES AN IMMEDIATE AND PRESENT DANGER OF CAUSING PHYSICAL
45 INJURY TO SELF OR OTHERS BY HAVING IN THE RESPONDENT'S CUSTODY OR CONTROL

1 OR OWNING, PURCHASING, POSSESSING OR RECEIVING A FIREARM OR AMMUNITION,
2 THE COURT SHALL ISSUE AN EX PARTE SEVERE THREAT ORDER OF PROTECTION.

3 G. AN EX PARTE SEVERE THREAT ORDER OF PROTECTION MUST INCLUDE ALL
4 OF THE FOLLOWING:

5 1. A STATEMENT THAT THE RESPONDENT MAY NOT HAVE IN THE RESPONDENT'S
6 CUSTODY OR CONTROL OR OWN, PURCHASE, POSSESS OR RECEIVE OR ATTEMPT TO
7 PURCHASE OR RECEIVE A FIREARM OR AMMUNITION WHILE THE ORDER IS IN EFFECT.

8 2. A DESCRIPTION OF THE REQUIREMENTS FOR THE RELINQUISHMENT OF A
9 FIREARM AND AMMUNITION PURSUANT TO SECTION 12-1886.

10 3. A STATEMENT OF THE GROUNDS ASSERTED FOR THE ORDER.

11 4. A NOTICE OF THE HEARING PURSUANT TO SECTION 12-1884 TO DETERMINE
12 WHETHER TO ISSUE A ONE-YEAR SEVERE THREAT ORDER OF PROTECTION, INCLUDING
13 THE ADDRESS OF THE COURT AND THE DATE AND TIME WHEN THE HEARING IS
14 SCHEDULED.

15 5. A STATEMENT THAT AT THE HEARING, THE COURT MAY EXTEND THE ORDER
16 FOR UP TO ONE YEAR.

17 6. A STATEMENT THAT THE RESPONDENT MAY SEEK THE ADVICE OF AN
18 ATTORNEY AS TO ANY MATTER CONNECTED WITH THE ORDER AND THAT THE ATTORNEY
19 SHOULD BE CONSULTED PROMPTLY SO THAT THE ATTORNEY MAY ASSIST THE
20 RESPONDENT IN ANY MATTER CONNECTED WITH THE ORDER.

21 H. IF THE COURT GRANTS THE PETITIONER'S REQUEST FOR AN EX PARTE
22 SEVERE THREAT ORDER OF PROTECTION, THE COURT SHALL SCHEDULE A HEARING
23 WITHIN FOURTEEN DAYS AFTER GRANTING THE REQUEST TO DETERMINE IF A ONE-YEAR
24 SEVERE THREAT ORDER OF PROTECTION SHOULD BE ISSUED. A RESPONDENT MAY SEEK
25 AN EXTENSION OF TIME BEFORE THE HEARING DATE. THE COURT SHALL DISSOLVE AN
26 EX PARTE SEVERE THREAT ORDER OF PROTECTION IN EFFECT AGAINST THE
27 RESPONDENT WHEN THE COURT HOLDS THE HEARING.

28 I. THE COURT SHALL ENSURE THAT NOTICE OF THE HEARING IS SERVED ON
29 THE RESPONDENT WITH THE EX PARTE SEVERE THREAT ORDER OF PROTECTION AS SOON
30 AS PRACTICABLE. NOTICE SHALL BE PERSONALLY SERVED BY A PEACE OFFICER OR,
31 IF NECESSARY, BY ANOTHER PERSON WHO IS AUTHORIZED TO SERVE PROCESS
32 PURSUANT TO RULE 4(d) OF THE ARIZONA RULES OF CIVIL PROCEDURE.

33 J. IF THE COURT DENIES THE PETITIONER'S REQUEST FOR AN EX PARTE
34 SEVERE THREAT ORDER OF PROTECTION, THE COURT MAY SCHEDULE A FURTHER
35 HEARING WITHIN TEN DAYS AFTER THE DENIAL, WITH REASONABLE NOTICE TO THE
36 RESPONDENT, TO DETERMINE WHETHER TO ISSUE A ONE-YEAR SEVERE THREAT ORDER
37 OF PROTECTION PURSUANT TO SECTION 12-1884.

38 12-1884. One-year severe threat order of protection;
39 issuance; notice; hearing

40 A. A PETITIONER WHO REQUESTS A ONE-YEAR SEVERE THREAT ORDER OF
41 PROTECTION SHALL INCLUDE IN THE PETITION DETAILED ALLEGATIONS BASED ON
42 PERSONAL KNOWLEDGE THAT THE RESPONDENT POSES A SIGNIFICANT DANGER OF
43 CAUSING PHYSICAL INJURY TO SELF OR OTHERS BY HAVING IN THE RESPONDENT'S
44 CUSTODY OR CONTROL OR OWNING, PURCHASING, POSSESSING OR RECEIVING A
45 FIREARM OR AMMUNITION.

1 B. ON RECEIPT OF THE PETITION, THE COURT SHALL SET A DATE FOR A
2 HEARING WITHIN TEN DAYS AFTER THE REQUEST. THE COURT SHALL ENSURE THAT
3 NOTICE OF THE HEARING IS SERVED ON THE RESPONDENT AS SOON AS PRACTICABLE.
4 NOTICE SHALL BE PERSONALLY SERVED BY A PEACE OFFICER OR, IF NECESSARY, BY
5 ANOTHER PERSON WHO IS AUTHORIZED TO SERVE PROCESS PURSUANT TO RULE 4(d) OF
6 THE ARIZONA RULES OF CIVIL PROCEDURE.

7 C. IN DETERMINING WHETHER TO ISSUE A ONE-YEAR SEVERE THREAT ORDER
8 OF PROTECTION, THE COURT SHALL CONSIDER ALL RELEVANT EVIDENCE PRESENTED BY
9 THE PETITIONER AND RESPONDENT AND MAY ALSO CONSIDER OTHER RELEVANT
10 EVIDENCE, INCLUDING EVIDENCE RELATING TO THE RESPONDENT'S:

11 1. UNLAWFUL, RECKLESS OR NEGLIGENT USE, DISPLAY, STORAGE,
12 POSSESSION OR BRANDISHING OF A FIREARM.

13 2. ACTS OR THREATS OF VIOLENCE TO SELF OR OTHERS, WHETHER OR NOT
14 THIS VIOLENCE INVOLVES A FIREARM.

15 3. VIOLATION OF A SEVERE THREAT ORDER OF PROTECTION, A DOMESTIC
16 VIOLENCE PROTECTIVE ORDER, AN INJUNCTION AGAINST HARASSMENT OR AN
17 INJUNCTION AGAINST WORKPLACE HARASSMENT OR A VIOLATION OF A SIMILAR ORDER
18 IN ANOTHER STATE.

19 4. ABUSE OF A CONTROLLED SUBSTANCE OR ALCOHOL OR ANY CRIMINAL
20 OFFENSE THAT INVOLVES A CONTROLLED SUBSTANCE OR ALCOHOL.

21 5. RECENT ACQUISITION OF A FIREARM, AMMUNITION OR ANOTHER DEADLY
22 WEAPON.

23 6. CRUEL MISTREATMENT OF AN ANIMAL.

24 7. HISTORY OF USING, ATTEMPTING TO USE OR THREATENING TO USE
25 PHYSICAL FORCE AGAINST ANOTHER PERSON OR OF STALKING ANOTHER PERSON.

26 D. THE COURT SHALL ALSO CONSIDER THE TIME THAT HAS ELAPSED SINCE
27 THE EVENTS DESCRIBED IN SUBSECTION C OF THIS SECTION.

28 E. IF THE COURT FINDS BY A PREPONDERANCE OF THE EVIDENCE AT THE
29 HEARING THAT THE RESPONDENT POSES A SIGNIFICANT DANGER OF CAUSING PHYSICAL
30 INJURY TO SELF OR OTHERS BY HAVING IN THE RESPONDENT'S CUSTODY OR CONTROL
31 OR OWNING, PURCHASING, POSSESSING OR RECEIVING A FIREARM OR AMMUNITION,
32 THE COURT SHALL ISSUE A ONE-YEAR SEVERE THREAT ORDER OF PROTECTION.

33 F. A ONE-YEAR SEVERE THREAT ORDER OF PROTECTION MUST INCLUDE ALL OF
34 THE FOLLOWING:

35 1. A STATEMENT THAT THE RESPONDENT MAY NOT HAVE IN THE RESPONDENT'S
36 CUSTODY OR CONTROL OR OWN, PURCHASE, POSSESS OR RECEIVE OR ATTEMPT TO
37 PURCHASE OR RECEIVE A FIREARM OR AMMUNITION WHILE THE ORDER IS IN EFFECT.

38 2. A DESCRIPTION OF THE REQUIREMENTS FOR THE RELINQUISHMENT OF A
39 FIREARM AND AMMUNITION PURSUANT TO SECTION 12-1886.

40 3. A STATEMENT OF THE GROUNDS SUPPORTING THE ISSUANCE OF THE ORDER.

41 4. THE DATE AND TIME THE ORDER EXPIRES, WHICH IS NOT MORE THAN ONE
42 YEAR AFTER THE DATE THE ORDER WAS GRANTED UNLESS THE COURT SPECIFIES AN
43 ALTERNATE DATE WITHIN ONE YEAR.

44 5. THE ADDRESS OF THE COURT THAT ISSUED THE ORDER.

1 6. A STATEMENT THAT THE RESPONDENT HAS THE RIGHT TO REQUEST ONE
2 HEARING TO TERMINATE THE ORDER AT ANY TIME DURING THE ORDER'S EFFECTIVE
3 PERIOD.

4 7. A STATEMENT THAT THE RESPONDENT MAY SEEK THE ADVICE OF AN
5 ATTORNEY REGARDING ANY MATTER CONNECTED WITH THE ORDER.

6 G. IF THE RESPONDENT FAILS TO APPEAR AT THE HEARING, A ONE-YEAR
7 SEVERE THREAT ORDER OF PROTECTION SHALL BE PERSONALLY SERVED ON THE
8 RESPONDENT BY A PEACE OFFICER OR, IF NECESSARY, BY ANOTHER PERSON WHO IS
9 AUTHORIZED TO SERVE PROCESS PURSUANT TO RULE 4(d) OF THE ARIZONA RULES OF
10 CIVIL PROCEDURE.

11 12-1885. Termination and renewal of one-year severe threat
12 order of protection; hearing

13 A. THE RESPONDENT WHO IS SUBJECT TO A ONE-YEAR SEVERE THREAT ORDER
14 OF PROTECTION THAT IS ISSUED PURSUANT TO SECTION 12-1884 MAY SUBMIT ONE
15 WRITTEN REQUEST AT ANY TIME DURING THE EFFECTIVE PERIOD OF THE ORDER FOR A
16 HEARING TO TERMINATE THE ORDER. ON RECEIPT OF THE REQUEST FOR
17 TERMINATION, THE COURT SHALL SET A DATE FOR A HEARING. NOTICE OF THE
18 REQUEST SHALL BE SERVED ON THE PETITIONER. THE HEARING SHALL BE HELD AT
19 LEAST FOURTEEN DAYS AFTER THE DATE OF SERVICE OF THE REQUEST ON THE
20 PETITIONER. THE RESPONDENT WHO SEEKS TO TERMINATE THE ORDER HAS THE
21 BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT THE RESPONDENT
22 DOES NOT POSE A SIGNIFICANT DANGER OF CAUSING PHYSICAL INJURY TO SELF OR
23 OTHERS BY HAVING IN THE RESPONDENT'S CUSTODY OR CONTROL OR OWNING,
24 PURCHASING, POSSESSING OR RECEIVING A FIREARM OR AMMUNITION.

25 B. IF THE COURT FINDS AFTER THE HEARING THAT THE RESPONDENT HAS MET
26 THE BURDEN, THE COURT SHALL TERMINATE THE ORDER.

27 C. A PETITIONER MAY REQUEST A RENEWAL OF A ONE-YEAR SEVERE THREAT
28 ORDER OF PROTECTION AT ANY TIME WITHIN THREE MONTHS BEFORE THE EXPIRATION
29 OF THE ORDER.

30 D. THE COURT, AFTER NOTICE AND A HEARING, MAY RENEW A ONE-YEAR
31 SEVERE THREAT ORDER OF PROTECTION IF THE COURT FINDS BY A PREPONDERANCE OF
32 THE EVIDENCE THAT THE RESPONDENT CONTINUES TO POSE A SIGNIFICANT DANGER OF
33 CAUSING PHYSICAL INJURY TO SELF OR OTHERS BY HAVING IN THE RESPONDENT'S
34 CUSTODY OR CONTROL OR OWNING, PURCHASING, POSSESSING OR RECEIVING A
35 FIREARM OR AMMUNITION. IN DETERMINING WHETHER TO RENEW A ONE-YEAR SEVERE
36 THREAT ORDER OF PROTECTION, THE COURT SHALL CONSIDER ALL RELEVANT EVIDENCE
37 PRESENTED BY THE PETITIONER AND MAY ALSO CONSIDER OTHER RELEVANT EVIDENCE,
38 INCLUDING EVIDENCE IDENTIFIED IN SECTION 12-1884, SUBSECTION C.

39 12-1886. Relinquishment of firearms and ammunition; storage
40 fee

41 A. ON ISSUANCE OF AN EX PARTE SEVERE THREAT ORDER OF PROTECTION OR
42 A ONE-YEAR SEVERE THREAT ORDER OF PROTECTION, THE COURT SHALL ORDER THE
43 RESPONDENT TO RELINQUISH TO A LOCAL LAW ENFORCEMENT AGENCY ALL FIREARMS
44 AND AMMUNITION IN THE RESPONDENT'S CUSTODY OR CONTROL OR THAT THE
45 RESPONDENT POSSESSES OR OWNS.

1 B. A PEACE OFFICER WHO SERVES A SEVERE THREAT ORDER OF PROTECTION
2 SHALL REQUEST THAT ALL FIREARMS AND AMMUNITION THAT BELONG TO THE
3 RESPONDENT BE IMMEDIATELY RELINQUISHED AND SHALL TAKE POSSESSION OF ALL
4 FIREARMS AND AMMUNITION THAT BELONG TO THE RESPONDENT AND THAT ARE IN
5 PLAIN SIGHT OR THAT ARE DISCOVERED PURSUANT TO A LAWFUL SEARCH.
6 ALTERNATIVELY, IF PERSONAL SERVICE BY A PEACE OFFICER IS NOT POSSIBLE, THE
7 RESPONDENT SHALL RELINQUISH THE FIREARMS AND AMMUNITION IN A SAFE MANNER
8 TO THE CONTROL OF LOCAL LAW ENFORCEMENT OFFICIALS WITHIN TWENTY-FOUR HOURS
9 AFTER BEING SERVED WITH THE ORDER.

10 C. AT THE TIME OF RELINQUISHMENT OR REMOVAL, A PEACE OFFICER WHO
11 TAKES POSSESSION OF A FIREARM OR AMMUNITION PURSUANT TO A SEVERE THREAT
12 ORDER OF PROTECTION SHALL ISSUE A RECEIPT THAT IDENTIFIES ALL FIREARMS AND
13 AMMUNITION THAT HAVE BEEN RELINQUISHED OR REMOVED AND PROVIDE A COPY OF
14 THE RECEIPT TO THE RESPONDENT. WITHIN SEVENTY-TWO HOURS AFTER BEING
15 SERVED WITH THE ORDER, THE OFFICER WHO SERVES THE ORDER SHALL FILE THE
16 ORIGINAL RECEIPT WITH THE COURT THAT ISSUED THE SEVERE THREAT ORDER OF
17 PROTECTION AND SHALL ENSURE THAT THE LAW ENFORCEMENT AGENCY RETAINS A COPY
18 OF THE RECEIPT.

19 D. A COURT THAT HAS PROBABLE CAUSE TO BELIEVE THAT A RESPONDENT HAS
20 IN THE RESPONDENT'S CUSTODY OR CONTROL OR OWNS OR POSSESSES A FIREARM OR
21 AMMUNITION THAT THE RESPONDENT HAS FAILED TO RELINQUISH PURSUANT TO THIS
22 SECTION OR HAS PROBABLE CAUSE TO BELIEVE THAT A RESPONDENT HAS RECEIVED OR
23 PURCHASED A FIREARM OR AMMUNITION WHILE SUBJECT TO THE ORDER SHALL ISSUE A
24 SEARCH WARRANT DESCRIBING THE FIREARM OR AMMUNITION AND AUTHORIZING A
25 SEARCH OF THE LOCATION WHERE THE FIREARMS OR AMMUNITION ARE REASONABLY
26 BELIEVED TO BE AND THE REMOVAL OF ANY FIREARMS OR AMMUNITION DISCOVERED
27 PURSUANT TO THE SEARCH.

28 E. A LOCAL LAW ENFORCEMENT AGENCY MAY CHARGE THE RESPONDENT A FEE
29 THAT DOES NOT EXCEED THE REASONABLE AND ACTUAL COSTS INCURRED BY THE LOCAL
30 LAW ENFORCEMENT AGENCY TO STORE A FIREARM OR AMMUNITION THAT IS
31 RELINQUISHED PURSUANT TO THIS SECTION FOR THE DURATION OF THE SEVERE
32 THREAT ORDER OF PROTECTION AND ANY ADDITIONAL PERIODS NECESSARY PURSUANT
33 TO SECTION 12-1887.

34 12-1887. Return and disposal of relinquished firearms and
35 ammunition

36 A. AT LEAST THIRTY DAYS BEFORE A ONE-YEAR SEVERE THREAT ORDER OF
37 PROTECTION EXPIRES, A LAW ENFORCEMENT AGENCY THAT IS HOLDING ANY FIREARM
38 OR AMMUNITION THAT HAS BEEN RELINQUISHED PURSUANT TO THE ORDER SHALL
39 NOTIFY THE PETITIONER THAT THE ORDER IS SET TO EXPIRE. THE NOTICE MUST
40 ADVISE THE PETITIONER OF THE PROCEDURES TO RENEW THE ORDER PURSUANT TO
41 SECTION 12-1885, SUBSECTION C.

42 B. IF A SEVERE THREAT ORDER OF PROTECTION IS TERMINATED OR EXPIRES
43 AND IS NOT RENEWED, A LAW ENFORCEMENT AGENCY THAT IS HOLDING ANY FIREARM
44 OR AMMUNITION THAT HAS BEEN RELINQUISHED PURSUANT TO THIS ARTICLE SHALL
45 NOTIFY THE RESPONDENT THAT THE RESPONDENT MAY REQUEST THE RETURN OF THE

1 FIREARM OR AMMUNITION. A LAW ENFORCEMENT AGENCY SHALL RETURN ANY
2 RELINQUISHED FIREARM OR AMMUNITION REQUESTED BY A RESPONDENT ONLY AFTER
3 CONFIRMING THAT THE RESPONDENT IS NOT CURRENTLY PROHIBITED FROM OWNING OR
4 POSSESSING A FIREARM AND AMMUNITION.

5 C. A RESPONDENT WHO HAS RELINQUISHED ANY FIREARM OR AMMUNITION TO A
6 LOCAL LAW ENFORCEMENT AGENCY PURSUANT TO THIS ARTICLE AND WHO DOES NOT
7 WISH TO HAVE THE FIREARM OR AMMUNITION RETURNED OR WHO IS NOT ELIGIBLE TO
8 OWN OR POSSESS A FIREARM OR AMMUNITION MAY SELL OR TRANSFER TITLE OF THE
9 FIREARM OR AMMUNITION TO A FEDERALLY LICENSED FIREARMS DEALER. THE LOCAL
10 LAW ENFORCEMENT AGENCY SHALL TRANSFER POSSESSION OF THE FIREARM OR
11 AMMUNITION TO A FEDERALLY LICENSED FIREARMS DEALER ONLY AFTER THE DEALER
12 HAS PROVIDED WRITTEN PROOF OF TRANSFER OF THE FIREARM OR AMMUNITION FROM
13 THE RESPONDENT TO THE DEALER AND THE LAW ENFORCEMENT AGENCY HAS VERIFIED
14 THE TRANSFER WITH THE RESPONDENT.

15 D. THE LAW ENFORCEMENT AGENCY SHALL RETURN THE FIREARM OR
16 AMMUNITION TO A PERSON OTHER THAN THE RESPONDENT IF THE OTHER PERSON
17 CLAIMS TITLE TO ANY FIREARM OR AMMUNITION RELINQUISHED PURSUANT TO THIS
18 ARTICLE AND THE LAW ENFORCEMENT AGENCY DETERMINES THAT THE PERSON IS THE
19 LAWFUL OWNER OF THE FIREARM OR AMMUNITION.

20 12-1888. Reporting of severe threat orders of protection

21 A. THE COURT SHALL NOTIFY THE DEPARTMENT OF PUBLIC SAFETY WITHIN
22 ONE COURT DAY AFTER ISSUING, RENEWING, DISSOLVING OR TERMINATING AN
23 EX PARTE SEVERE THREAT ORDER OF PROTECTION OR ONE-YEAR SEVERE THREAT ORDER
24 OF PROTECTION. THE NOTICE SHALL INCLUDE THE RESPONDENT'S IDENTIFYING
25 INFORMATION, THE DATE THAT THE ORDER WAS ISSUED, RENEWED, DISSOLVED OR
26 TERMINATED AND, FOR A ONE-YEAR SEVERE THREAT ORDER OF PROTECTION, THE DATE
27 THAT THE ORDER WILL EXPIRE.

28 B. THE DEPARTMENT OF PUBLIC SAFETY SHALL IMMEDIATELY TRANSMIT
29 INFORMATION ABOUT ISSUED, RENEWED OR TERMINATED EX PARTE SEVERE THREAT
30 ORDERS OF PROTECTION OR ONE-YEAR SEVERE THREAT ORDERS OF PROTECTION TO THE
31 NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM FOR FIREARM PURCHASER
32 BACKGROUND CHECKS.

33 12-1889. Peace officer authority to seize firearms and
34 ammunition

35 THIS ARTICLE DOES NOT AFFECT THE ABILITY OF A PEACE OFFICE TO REMOVE
36 A FIREARM OR AMMUNITION FROM ANY PERSON PURSUANT TO LAW.