

TITLE

An Ordinance amending and supplementing the Pittsburgh Code of Ordinances at Title VI: Conduct, Article I: Regulated Actions and Rights, by adding Chapter 630: Extreme Risk Protection Orders, to provide for appropriate injunctive actions for the preservation of public safety in extreme circumstances.

BODY

The Council of the City of Pittsburgh hereby enacts:

SECTION 1. The Pittsburgh Code of Ordinances is hereby amended and supplemented as follows at Title VI: Conduct, Article I: Regulated Actions and Rights:

§630.01 DEFINITIONS.

A. Concealed Carry License. A license issued under 18 Pa.C.S. § 6109 or a similar license issued pursuant to the laws of another state.

B. Extreme Bodily Injury. Bodily injury that creates a substantial risk of death or causes serious, permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ.

C. Extreme Risk Protection Order. A court order prohibiting a person from having in the person's possession or control, purchasing or receiving, or attempting to purchase or receive, a firearm, based upon a finding by clear and convincing evidence that the person presents a danger of suicide or of causing extreme bodily injury to another person.

D. Family or Household Member. A spouse or person who has a spouse, person living as a spouse or who lived as a spouse, parent or child, other person related by consanguinity or affinity, current or former sexual or intimate partner or person who shares biological parenthood.

E. Firearm. Any pistol, handgun, rifle, machine gun, air rifle, air pistol, blank gun, BB gun, or other instrument from which steel or metal projectiles are propelled, or which may be readily converted to expel a projectile, or other instruments propelling projectiles which are designed or normally used for no other primary purpose than as a weapon, including, for the purposes of this Chapter, the frame or receiver of the weapon.

F. Firearms Dealer or Dealer. A person licensed to sell firearms under 18 Pa.C.S. § 6113.

G. Law Enforcement Officer. An officer of the United States, of another state or political subdivision thereof or of the Commonwealth or political subdivision thereof, who is empowered by law to conduct investigations of or to make an arrest for an offense enumerated in this chapter or an equivalent crime in another jurisdiction and an attorney authorized by law to prosecute or participate in the prosecution of such offense.

§630.02 ACCESS TO COURTS.

A. The following individuals shall have standing to file a petition requesting the issuance or renewal of an extreme risk protection order:

1. A law enforcement officer; or
2. A family or household member of a person alleged to present a danger of suicide or of causing extreme bodily injury to another person may file a petition requesting that the court issue or renew an extreme risk protection order.

B. No fee may be charged for the filing of a petition for a proceeding under this Chapter.

§630.03 PETITION FOR EXTREME RISK PROTECTION ORDER

A. A petition for an extreme risk protection order shall be supported by a written affidavit signed under oath and shall specify facts that support the issuance of an order and information concerning firearms known or believed to be in the respondent's possession or control.

B. In determining whether to issue an extreme risk protection order, the court shall consider evidence of the following factors:

1. A history of any of the following:
 - a. Threats or acts or acts of violence, or attempted acts of violence;
 - b. Threats or acts of suicide or self-harm, or attempted acts of suicide or self-harm;
 - c. Domestic or intimate partner violence;
 - d. Cruelty to animals;
 - e. Driving under the influence of alcohol or a controlled substance; or

- f. Violent or emotionally unstable conduct;
2. Recent unlawful use of controlled substances;
3. Past use, display, or brandishing of a firearm that constituted illegality or recklessness;
4. A prior violation of a protection from abuse order under 23 Pa.C.S. Ch. 61;
5. Medically-unsupervised cessation of voluntary or consistent use of prescription medication necessary to treat a mental illness, or failure to voluntarily or consistently use prescription medication necessary to treat a mental illness;
6. Acquisition or attempted acquisition of a firearm within the previous 180 days of the filing of a petition for an extreme risk protection order.
7. Supplementary factors or information not enumerated herein but that which is deemed to be reliable and appropriate of consideration by the court, including a statement by the respondent.

C. The receipt of a petition shall induce the court to:

1. Issue a temporary extreme risk protection order and schedule a hearing;
 - a. The hearing shall be scheduled no fewer than three nor more than 10 days from the date of the order;
 - b. A temporary order shall be served concurrent with a warrant to search for and seize any firearm or concealed carry license in the respondent's possession or control;
2. Issue an order for a hearing on the petition without issuing an extreme risk protection order;
 - a. A hearing on a petition shall be scheduled no fewer than three nor more than 10 days from the date of the order, provided, however, that the hearing may not be held fewer than three days after the date of service of the order over the objection of the respondent;
 - b. If the respondent fails to appear for a hearing on a petition, the court may issue a temporary extreme risk protection order and a warrant to search for and seize

any firearm or concealed carry license in the respondent's possession or control;
or

3. Dismiss the matter.

§630.04 EFFECTIVE DATE OF EXTREME RISK PROTECTION ORDER

A. An extreme risk protection order shall be effective immediately upon issuance.

§630.05 NOTICE TO LAW ENFORCEMENT

A. At the time of issuance of an extreme risk protection order, the court shall properly notify both the relevant local enforcement agencies and the Pennsylvania State Police;

B. The Pennsylvania State Police shall enter the order into the Pennsylvania Instant Check System and request that the order be entered into the Federal Bureau of Investigation National Instant Criminal Background Check System.

C. Law enforcement agencies shall establish appropriate and adequate procedures to ensure that an officer at the scene of an alleged violation of the order is informed of the existence and terms of the order.

D. Service of an extreme risk protection order or an order for a hearing shall be made in person by a law enforcement officer, as directed by the court.

E. Immediately upon completion of service of an order under this Chapter, the law enforcement agency completing service shall make a return of service to the court and shall provide a copy of the return or service and of the order to the petitioner, the local law enforcement agency and the Pennsylvania State Police.

§630.06 EXTREME RISK PROTECTION ORDER

A. The court shall issue a temporary extreme risk protection order upon probable cause to believe that the respondent presents a danger of suicide or of causing extreme bodily injury to another person.

B. A temporary order shall be effective for one year unless, after a hearing, the court vacates or terminates the order or establishes a shorter effective period, which shall be no fewer than three

months.

C. A temporary order shall include:

1. The date and time the order was issued;
2. A statement of the grounds supporting the issuance of the order;
3. The duration of the order;
4. The date and time of the hearing scheduled on the temporary order;
5. Instructions on how to waive the hearing or request a continuance; and
6. A statement in substantially the following form:
 - a. An extreme risk protection order has been issued by the court and is now in effect. You are required to relinquish all firearms and any concealed carry license currently in your possession or control. Failure to relinquish all firearms in your possession or control is punishable by a fine and term of imprisonment under 18 Pa.C.S. § 6105. While this order is in effect, you may not have in your possession or control, or attempt to gain possession or control of, firearms. Failure to do so is punishable by a fine and term of imprisonment under 18 Pa.C.S. § 6105. If you own any other firearm that is not within your immediate possession or control at the time that you receive this order, you must deliver that firearm to law enforcement within 72 hours. A hearing is scheduled on this order. If you choose to waive your right to a hearing, the order will be effective for one year. If you choose to exercise your right to a hearing, you may present evidence and testimony on your behalf. You are entitled to be represented by an attorney. If you cannot afford an attorney, the court will appoint an attorney to represent you.

D. A respondent shall have the right to a hearing on a temporary extreme risk protection order. The court shall ensure that the respondent is given adequate time to prepare for the hearing. If the respondent fails to appear for a scheduled hearing, the court shall make the order effective for a period of one year. A hearing on a temporary order shall be in addition to and shall not affect the right to a termination hearing.

E. If, after conducting a hearing, the court finds by clear and convincing evidence that the respondent presents a danger of suicide or of causing extreme bodily injury to another person, the court shall issue an extreme risk protection order and a warrant to search for and seize any firearm or concealed carry license in the respondent's possession or control.

1. An order entered after a hearing shall be in effect no fewer than three months and no longer than one year from the date of the order.

2. The order shall include:

- a. The date and time the order was issued;
- b. A statement of the grounds supporting the issuance of the order;
- c. The timeframe and manner in which the respondent may request a termination hearing;
- d. The address of the court to which a request for a hearing must be sent;
- e. Instructions for relinquishment of firearms remaining in the respondent's possession or control;
- f. Notification of the penalties for violating the order; and
- g. A statement in substantially the following form:

i. An extreme risk protection order has been issued by the court and is now in effect. You are required to relinquish all firearms and any concealed carry license currently in your possession or control. Failure to relinquish all firearms in your possession or control is punishable by a fine and term of imprisonment under 18 Pa.C.S. § 6105. While this order is in effect, you may not have in your possession or control, or attempt to gain possession or control of, firearms. Failure to do so is punishable by a fine and term of imprisonment under 18 Pa.C.S. § 6105. If you own any other firearm that is not within your immediate possession or control at the time that you receive this order, you must deliver that firearm to law enforcement within 72 hours. A hearing is scheduled on this order. If you choose to waive your right to a hearing, the order will be effective for one year. If you choose to exercise your right to a hearing, you may present evidence and testimony on your behalf. You are entitled to be represented by an attorney. If you cannot afford an attorney, the court will appoint an attorney to represent you.

§ 630.07. TERMINATION, RENEWAL OF EXTREME RISK PROTECTION ORDER

A. A person subject to an extreme risk protection order shall have the right to one hearing during the effective period of the order for the purpose of determining whether the order should be terminated earlier than the expiration date specified in the order. A termination hearing is in addition to a hearing on a temporary order.

B. The court shall provide notice of the termination hearing to the person requesting the hearing, the petitioner, and both the relevant local enforcement agencies and the Pennsylvania State

Police.

C. At a termination hearing, the person subject to the order shall have the burden of proving, by clear and convincing evidence, that the person does not present a danger of suicide or of causing extreme bodily injury to another person.

D. A petition to renew an extreme risk protection order shall be supported by a written affidavit, signed by the petitioner under oath and shall specify facts that support the issuance of an order. The court may deny the petition or may schedule a hearing.

E. A renewal hearing shall take place no more than 30 days before the expiration of an existing order. The court shall provide notice of the hearing to the petitioner, the respondent, the local law enforcement agency and the Pennsylvania State Police.

F. If the court finds by clear and convincing evidence that the respondent presents a danger of suicide or of causing serious extreme injury to another person, the court may renew the extreme risk protection order for a duration of up to one year.

§ 630.08. SURRENDER OF FIREARMS

A. The surrender of firearms made necessary by the issuance of an extreme risk protection order shall be performed by the following procedures:

1. Immediately upon service of an extreme risk protection order, the respondent shall relinquish to the law enforcement agency a firearm or concealed carry license in the respondent's immediate possession or control.
2. Intentional or knowing failure to comply with paragraph § 630.08(A)(1) shall be a violation of 18 Pa.C.S. § 6105.
3. Within 24 hours of the time of service, the respondent shall deliver to the law enforcement agency any firearm that is in the possession of a third party or not otherwise in the respondent's immediate possession or control at the time of service.
4. If, after a hearing or at any other time an extreme risk protection order is in effect, the court finds probable cause to believe that an additional firearm or concealed carry license remains in the respondent's possession or control, the court shall issue a warrant to search for and seize the firearm or license.

B. The receipt of surrendered firearms shall be performed by the following procedures:

1. At the time of surrender of a firearm or concealed carry license, the law enforcement agency taking possession shall issue a receipt identifying all relinquished items and provide a copy of the receipt to the respondent.

2. Within 72 hours after service of the order, the law enforcement agency serving the order shall file the original receipt with the court.

C. The transfer of surrendered firearms to a firearms dealer shall be performed by the following procedures:

1. A respondent who has relinquished a firearm in compliance with an extreme risk protection order may request that the firearm be transferred to a firearms dealer for consignment sale, lawful transfer or safekeeping.

2. Upon receiving the request, the law enforcement agency shall transport the firearm to a dealer at no cost to the respondent or the dealer.

3. A dealer accepting a firearm of a respondent under this section shall provide the law enforcement agency with an affidavit on a form prescribed by the Pennsylvania State Police. The form shall include, at a minimum, the following:

a. The caption of the case in which the extreme risk protection order was issued.

b. The name, address, date of birth and Social Security number of the respondent.

c. A list of all firearms of the respondent relinquished to the dealer, including, if applicable, the manufacturer, model and serial number of the firearms.

d. The name and license number of the dealer and the address of the licensed premises.

e. An acknowledgment that the dealer will not return the firearm to the respondent nor sell or transfer to another person the dealer knows is a family or household member of the respondent while the respondent is subject to an extreme risk protection order.

f. An acknowledgment that the firearm, if sold or transferred, will be sold or lawfully transferred in compliance with 18 Pa.C.S. Ch. 61.

§ 630.09. RETURN OF FIREARMS

A. If a court vacates a temporary order following a hearing, the court shall order the immediate return of all firearms and licenses to the respondent.

B. Upon termination after hearing or expiration of an extreme risk protection order, the respondent may request return of firearms and licenses, and the law enforcement agency or dealer shall return the relinquished items promptly upon receipt of the request.

C. A third party may request the return of a relinquished firearm at any time by providing proof of ownership and a sworn affidavit stating that the third party will not intentionally or knowingly return a firearm to a person subject to an extreme risk protection order or a family or household member of the person nor intentionally or knowingly allow a person subject to an extreme risk protection order to have access to a firearm prior to the time that the order expires or is vacated or terminated by order of court.

1. The affidavit must state that the third party understands that to do so would constitute a misdemeanor of the first degree under 18 Pa.C.S. § 6105(a.1) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms), punishable by up to five years imprisonment and up to a \$10,000 fine.

2. Proof of ownership may consist of a statement made in a sworn affidavit.

D. Prior to returning a firearm to a person, the law enforcement agency or dealer in possession of the firearm shall independently confirm that the person requesting return of the firearm is legally eligible to possess firearms under Federal and State law.

E. A firearm shall be deemed abandoned after a period of one year from the date that an order for relinquishment has been terminated or has expired and no owner has submitted a written request for its return, provided, however, that no law enforcement agency or firearms dealer may dispose of a firearm deemed abandoned without first providing notice to the person who relinquished the firearm.

1. If the person who relinquished the firearm fails to respond to the notice within 20 days, the law enforcement agency or firearms dealer may dispose of the firearm.

2. Notification shall be sent by certified mail to:

- a. An address where the person is known to reside;

- b. The last known address;

- c. The address provided at the time of relinquishment; or

- d. An address that is found after searching the available sources of address data maintained in the Commonwealth's databases of motor vehicle registration, motor vehicle driver licensing, occupational and professional licensure, corrections facilities and public assistance.

3. Firearms considered to be abandoned and in need of disposal shall be considered a nuisance and sold or destroyed in a manner deemed appropriate by the law enforcement agency or firearms dealer.

§ 630.10. FAILURE TO COMPLY, VIOLATIONS

A. Failure to comply with or violation of the requirements of § 630.08(A) shall be an offense under 18 Pa.C.S. § 6105.

B. A person who knowingly gives false information to a law enforcement officer with the intent to implicate another person under this Chapter shall be considered to have committed an offense under 18 Pa.C.S. § 4906.

C. A person who knowingly files a petition containing false statements or information with the intent to implicate another person under this chapter commits an offense under 18 Pa.C.S. § 4903.

D. A person convicted of false reporting or false swearing under this section shall be ordered to pay full restitution to the respondent, which shall include, but not be limited to, expenses incurred by the respondent as a result of the false reporting or false swearing.

§ 630.11 EFFECTIVE DATE

A. This Chapter shall take effect 60 days after its enactment by City Council.

§ 630.12 SEVERABILITY

A. Severability is intended throughout and within the provisions of this Chapter. If any section, subsection, sentence, clause, phrase, or portion of this Chapter is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Chapter.