

118TH CONGRESS
1ST SESSION

H. R. 3018

To authorize the issuance of extreme risk protection orders.

IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2023

Mrs. MCBATH (for herself and Mr. CARBAJAL) introduced the following bill;
which was referred to the Committee on the Judiciary

A BILL

To authorize the issuance of extreme risk protection orders.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Extreme Risk
5 Protection Order Act of 2023”.

6 **SEC. 2. FEDERAL EXTREME RISK PROTECTION ORDERS.**

7 (a) IN GENERAL.—Chapter 44 of title 18, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

10 **“§ 935. Extreme risk protection orders**

11 **“(a) DEFINITIONS.—In this section—**

1 “(1) the term ‘court’ means a district court of
2 the United States;

3 “(2) the term ‘designated law enforcement offi-
4 cer’ means a law enforcement officer, designated by
5 a United States marshal, who agrees to receive fire-
6 arms, ammunition, and permits, as applicable, sur-
7 rendered under subsection (f);

8 “(3) the term ‘Director’ means the Director of
9 the Administrative Office of the United States
10 Courts;

11 “(4) the term ‘ex parte Federal extreme risk
12 protection order’ or ‘ex parte Federal order’ means
13 a Federal extreme risk protection order issued under
14 subsection (c);

15 “(5) the term ‘Federal extreme risk protection
16 order’ means an order issued by a Federal court
17 that enjoins an individual from purchasing, pos-
18 sessing, or receiving, in or affecting interstate and
19 foreign commerce, a firearm or ammunition;

20 “(6) the term ‘family or household member’,
21 with respect to a Federal order respondent, means
22 any—

23 “(A) parent, spouse, sibling, or child re-
24 lated by blood, marriage, or adoption to the re-
25 spondent;

1 “(B) dating partner of the respondent;

2 “(C) individual who has a child in common
3 with the respondent, regardless of whether the
4 individual has—

5 “(i) been married to the respondent;

6 or

7 “(ii) lived together with the respond-
8 ent at any time;

9 “(D) individual who resides or has resided
10 with the respondent during the past year;

11 “(E) domestic partner of the respondent;

12 “(F) individual who has a legal parent-
13 child relationship with the respondent, including
14 a stepparent-stepchild and grandparent-grand-
15 child relationship; and

16 “(G) individual who is acting or has acted
17 as the legal guardian of the respondent;

18 “(7) the term ‘Federal order petitioner’ means
19 an individual authorized to petition for an ex parte
20 or long-term Federal extreme risk protection order
21 under subsection (b)(1);

22 “(8) the term ‘Federal order respondent’ means
23 an individual named in the petition for an ex parte
24 or long-term Federal extreme risk protection order

1 or subject to an ex parte or long-term Federal ex-
2 treme risk protection order;

3 “(9) the term ‘long-term Federal extreme risk
4 protection order’ or ‘long-term Federal order’ means
5 a Federal extreme risk protection order issued under
6 subsection (d);

7 “(10) the term ‘mental health agency’ means
8 an agency of a State, Tribal, or local government or
9 its contracted agency that is responsible for mental
10 health services or co-occurring mental health and
11 substance abuse services; and

12 “(11) the term ‘national instant criminal back-
13 ground check system’ means the national instant
14 criminal background check system established under
15 section 103 of the Brady Handgun Violence Preven-
16 tion Act (34 U.S.C. 40901).

17 “(b) PETITION.—

18 “(1) IN GENERAL.—A family or household
19 member of the applicable individual, or a law en-
20 forcement officer, may submit to an appropriate dis-
21 trict court of the United States a petition requesting
22 that the court issue an ex parte Federal extreme
23 risk protection order or long-term Federal extreme
24 risk protection order with respect to an individual.

1 “(2) NO FEES.—A court or law enforcement
2 agency may not charge a petitioner or respondent
3 any fee for—

4 “(A) filing, issuing, serving, or reporting
5 an extreme risk protection order;

6 “(B) a petition for an extreme risk protec-
7 tion order or any pleading, subpoena, warrant,
8 or motion in connection with an extreme risk
9 protection order; or

10 “(C) any order or order to show cause nec-
11 essary to obtain or give effect to this section.

12 “(3) CONFIDENTIALITY.—A Federal order peti-
13 tioner who is a law enforcement officer may provide
14 the identity of the petitioner’s sources, and any iden-
15 tifying information, to the court under seal.

16 “(c) EX PARTE ORDERS.—

17 “(1) TIMING.—

18 “(A) IN GENERAL.—Except as provided in
19 subparagraph (B), a court that receives a peti-
20 tion for an ex parte Federal order under sub-
21 section (b) shall grant or deny the petition on
22 the date on which the petition is submitted.

23 “(B) LATE PETITIONS.—If a court receives
24 a petition for an ex parte Federal order sub-
25 mitted under subsection (b) too late in the day

1 to permit effective review, the court shall grant
2 or deny the petition on the next day of judicial
3 business at a time early enough to permit the
4 court to file an order with the clerk of the court
5 during that day.

6 “(2) EVIDENCE REQUIRED.—Before issuing an
7 ex parte Federal order, a court shall require that the
8 petitioner for such order submit a signed affidavit,
9 sworn to before the court, that—

10 “(A) explains why such petitioner believes
11 that the Federal order respondent poses a risk
12 of imminent personal injury to self or another
13 individual, by purchasing, possessing, or receiv-
14 ing a firearm or ammunition; and

15 “(B) describes the interactions and con-
16 versations of the petitioner with—

17 “(i) the respondent; or

18 “(ii) another individual, if such peti-
19 tioner believes that information obtained
20 from that individual is credible and reli-
21 able.

22 “(3) STANDARD FOR ISSUANCE OF ORDER.—A
23 court may issue an ex parte Federal order only upon
24 a finding of probable cause to believe that—

1 “(A) the Federal order respondent poses a
2 risk of imminent personal injury to self or an-
3 other individual, by purchasing, possessing, or
4 receiving a firearm or ammunition; and

5 “(B) the order is necessary to prevent the
6 injury described in subparagraph (A).

7 “(4) DURATION.—An ex parte Federal order
8 shall expire on the earlier of—

9 “(A) the date that is 14 days after the
10 date of issuance; or

11 “(B) the date on which the court deter-
12 mines whether to issue a long-term Federal
13 order with respect to the respondent.

14 “(d) LONG-TERM FEDERAL ORDERS.—

15 “(1) HEARING REQUIRED.—If a court receives
16 a petition for a long-term Federal extreme risk pro-
17 tection order for a respondent under subsection (b),
18 the court shall hold a hearing to determine whether
19 to issue a long-term Federal order with respect to
20 the respondent either—

21 “(A)(i) if the court issues an ex parte
22 order with respect to the respondent, not later
23 than 72 hours after the ex parte order is served
24 on the respondent; or

1 “(ii) if the respondent waives the right to
2 a hearing within the 72-hour period under
3 clause (i), or the court does not issue an ex
4 parte order, within 14 days after the date on
5 which the court receives the petition; or

6 “(B) in no event later than 14 days after
7 the date on which the court receives the peti-
8 tion.

9 “(2) NOTICE AND OPPORTUNITY TO BE
10 HEARD.—

11 “(A) IN GENERAL.—The court shall pro-
12 vide the Federal order respondent with notice
13 and the opportunity to be heard at a hearing
14 under this subsection, sufficient to protect the
15 due process rights of the respondent.

16 “(B) RIGHT TO COUNSEL.—

17 “(i) IN GENERAL.—At a hearing
18 under this subsection, the Federal order
19 respondent may be represented by counsel
20 who is—

21 “(I) chosen by the respondent;

22 and

23 “(II) authorized to practice at
24 such a hearing.

1 “(ii) COURT-PROVIDED COUNSEL.—If
2 the Federal order respondent is financially
3 unable to obtain representation by counsel,
4 the court, at the request of the respondent,
5 shall ensure, to the extent practicable, that
6 the respondent is represented by an attor-
7 ney with respect to the petition.

8 “(3) BURDEN OF PROOF; STANDARD.—At a
9 hearing under this subsection, the Federal order pe-
10 titioner—

11 “(A) shall have the burden of proving all
12 material facts; and

13 “(B) shall be required to demonstrate, by
14 clear and convincing evidence, that—

15 “(i) the respondent to such order
16 poses a risk of personal injury to self or
17 another individual, during the period to be
18 covered by the proposed Federal extreme
19 risk protection order, by purchasing, pos-
20 sessing, or receiving a firearm or ammuni-
21 tion; and

22 “(ii) the order is necessary to prevent
23 the injury described in clause (i).

24 “(4) ISSUANCE.—Upon a showing of clear and
25 convincing evidence under paragraph (3), the court

1 shall issue a long-term Federal order with respect to
2 the respondent that shall be in effect for a period of
3 not more than 180 days.

4 “(5) DENIAL.—If the court finds that there is
5 not clear and convincing evidence to support the
6 issuance of a long-term Federal order, the court
7 shall dissolve any ex parte Federal order then in ef-
8 fect with respect to the respondent.

9 “(6) RENEWAL.—

10 “(A) NOTICE OF SCHEDULED EXPIRA-
11 TION.—Thirty days before the date on which a
12 long-term Federal order is scheduled to expire,
13 the court that issued the order shall—

14 “(i) notify the petitioner and the re-
15 spondent to such order that the order is
16 scheduled to expire; and

17 “(ii) advise the petitioner and the re-
18 spondent of the procedures for seeking a
19 renewal of the order under this paragraph.

20 “(B) PETITION.—If a family or household
21 member of the Federal order respondent, or a
22 law enforcement officer, believes that the condi-
23 tions under paragraph (3)(B) continue to apply
24 with respect to a respondent who is subject to
25 a long-term Federal order, the family or house-

1 hold member or law enforcement officer may
2 submit to the court that issued the order a peti-
3 tion for a renewal of the order.

4 “(C) HEARING.—A court that receives a
5 petition submitted under subparagraph (B)
6 shall hold a hearing to determine whether to
7 issue a renewed long-term Federal order with
8 respect to the respondent.

9 “(D) APPLICABLE PROCEDURES.—The re-
10 quirements under paragraphs (2) through (5)
11 shall apply to the consideration of a petition for
12 a renewed long-term Federal order submitted
13 under subparagraph (B) of this paragraph.

14 “(E) ISSUANCE.—Upon a showing by clear
15 and convincing evidence that the conditions
16 under paragraph (3)(B) continue to apply with
17 respect to the respondent, the court shall issue
18 a renewed long-term Federal order with respect
19 to the respondent.

20 “(e) FACTORS TO CONSIDER.—In determining
21 whether to issue a Federal extreme risk protection order,
22 a court—

23 “(1) shall consider factors including—

1 “(A) a recent threat or act of violence by
2 the respondent directed toward another indi-
3 vidual;

4 “(B) a recent threat or act of violence by
5 the respondent directed toward self;

6 “(C) a recent act of cruelty to an animal
7 by the respondent; and

8 “(D) evidence of ongoing abuse of a con-
9 trolled substance or alcohol by the respondent
10 that has led to a threat or act of violence di-
11 rected to self or another individual; and

12 “(2) may consider other factors, including—

13 “(A) the reckless use, display, or bran-
14 dishing of a firearm by the respondent;

15 “(B) a history of violence or attempted vio-
16 lence by the respondent against another indi-
17 vidual; and

18 “(C) evidence of an explicit or implicit
19 threat made by the person through any medium
20 that demonstrate that the person poses a risk
21 of personal injury to self or another individual.

22 “(f) RELINQUISHMENT OF FIREARMS AND AMMUNI-
23 TION.—

24 “(1) ORDER OF SURRENDER.—Upon issuance
25 of an ex parte Federal order or long-term Federal

1 order, the court shall order the respondent to such
2 order to surrender all firearms and ammunition that
3 the respondent possesses or owns, in or affecting
4 interstate commerce, as well as any permit author-
5 izing the respondent to purchase or possess firearms
6 (including a concealed carry permit), to—

7 “(A) the United States Marshals Service;

8 or

9 “(B) a designated law enforcement officer.

10 “(2) SURRENDER AND REMOVAL.—

11 “(A) MANNER OF SERVICE.—

12 “(i) PERSONAL SERVICE.—Except as
13 provided in clause (ii), a United States
14 marshal or designated law enforcement of-
15 ficer shall serve a Federal extreme risk
16 protection order on a respondent by hand-
17 ing the order to the respondent to such
18 order.

19 “(ii) ALTERNATIVE SERVICE.—If the
20 respondent cannot reasonably be located
21 for service as described in clause (i), a
22 Federal extreme risk protection order may
23 be served on the respondent in any manner
24 authorized under the Federal Rules of
25 Civil Procedure.

1 “(B) REMOVAL.—Except as provided in
2 subparagraph (C), a United States marshal or
3 designated law enforcement officer serving a
4 Federal extreme risk protection order personally
5 on the respondent shall—

6 “(i) request that all firearms and am-
7 munition, in or affecting interstate com-
8 merce, as well as any permit authorizing
9 the respondent to purchase or possess fire-
10 arms (including a concealed carry permit),
11 that the respondent possesses or owns—

12 “(I) be immediately surrendered
13 to the United States marshal or des-
14 ignated law enforcement officer; or

15 “(II) at the option of the re-
16 spondent, be immediately surrendered
17 and sold to a federally licensed fire-
18 arms dealer; and

19 “(ii) take possession of all firearms
20 and ammunition described in clause (i)
21 that are not sold under subclause (II) of
22 that clause, as well as any permit de-
23 scribed in that clause, that are—

24 “(I) surrendered;

25 “(II) in plain sight; or

1 “(III) discovered pursuant to a
2 lawful search.

3 “(C) ALTERNATIVE SURRENDER.—If a
4 United States marshal or designated law en-
5 forcement officer is not able to personally serve
6 a Federal extreme risk protection order under
7 subparagraph (A)(i), or is not reasonably able
8 to take custody of the firearms, ammunition,
9 and permits under subparagraph (B), the re-
10 spondent shall surrender the firearms, ammuni-
11 tion, and permits in a safe manner to the con-
12 trol of a United States marshal or designated
13 law enforcement officer not later than 48 hours
14 after being served with the order.

15 “(3) RECEIPT.—

16 “(A) ISSUANCE.—At the time of surrender
17 or removal under paragraph (2), a United
18 States marshal or designated law enforcement
19 officer taking possession of a firearm, ammuni-
20 tion, or a permit pursuant to a Federal extreme
21 risk protection order shall—

22 “(i) issue a receipt identifying all fire-
23 arms, ammunition, and permits that have
24 been surrendered or removed; and

1 “(ii) provide a copy of the receipt
2 issued under clause (i) to the respondent
3 to such order.

4 “(B) FILING.—Not later than 72 hours
5 after issuance of a receipt under subparagraph
6 (A), the United States marshal who issued the
7 receipt or designated another law enforcement
8 officer to do so shall—

9 “(i) file the original receipt issued
10 under subparagraph (A) of this paragraph
11 with the court that issued the Federal ex-
12 treme risk protection order; and

13 “(ii) ensure that the United States
14 Marshals Service retains a copy of the re-
15 ceipt.

16 “(C) DESIGNATED LAW ENFORCEMENT
17 OFFICER.—If a designated law enforcement of-
18 ficer issues a receipt under subparagraph (A),
19 the officer shall submit the original receipt and
20 a copy of the receipt to the appropriate United
21 States marshal to enable the United States
22 marshal to comply with subparagraph (B).

23 “(4) FORFEITURE.—If a respondent knowingly
24 attempts, in violation of a Federal extreme risk pro-
25 tection order, to access a firearm, ammunition, or a

1 permit that was surrendered or removed under this
2 subsection, the firearm, ammunition, or permit shall
3 be subject to seizure and forfeiture under section
4 924(d).

5 “(g) RETURN OF FIREARMS AND AMMUNITION.—

6 “(1) NOTICE.—If a Federal extreme risk pro-
7 tection order is dissolved, or expires and is not re-
8 newed, the court that issued the order shall order
9 the United States Marshals Service to—

10 “(A) confirm, through the national instant
11 criminal background check system and any
12 other relevant law enforcement databases, that
13 the respondent to such order may lawfully own
14 and possess firearms and ammunition; and

15 “(B)(i) if the respondent may lawfully own
16 and possess firearms and ammunition, notify
17 the respondent that the respondent may re-
18 trieve each firearm, ammunition, or permit sur-
19 rendered by or removed from the respondent
20 under subsection (f); or

21 “(ii) if the respondent may not lawfully
22 own or possess firearms and ammunition, notify
23 the respondent that each firearm, ammunition,
24 or permit surrendered by or removed from the
25 respondent under subsection (f) will be returned

1 only when the respondent demonstrates to the
2 United States Marshals Service that the re-
3 spondent may lawfully own and possess fire-
4 arms and ammunition.

5 “(2) RETURN.—If a Federal extreme risk pro-
6 tection order is dissolved, or expires and is not re-
7 newed, and the United States Marshals Service con-
8 firms under paragraph (1)(A) that the respondent
9 may lawfully own and possess firearms and ammuni-
10 tion, the court that issued the order shall order the
11 entity that possesses each firearm, ammunition, or
12 permit surrendered by or removed from the respond-
13 ent under subsection (f) to return those items to the
14 respondent.

15 “(h) RETURN OF FIREARMS AND AMMUNITION IM-
16 PROPERLY RECEIVED.—If a court, in a hearing under
17 subsection (d), determines that a firearm or ammunition
18 surrendered by or removed from a respondent under sub-
19 section (f) is owned by an individual other than the re-
20 spondent, the court may order the United States marshal
21 or designated law enforcement officer in possession of the
22 firearm or ammunition to transfer the firearm or ammuni-
23 tion to that individual if—

24 “(1) the individual may lawfully own and pos-
25 sess firearms and ammunition; and

1 “(2) the individual will not provide the respond-
2 ent with access to the firearm or ammunition.

3 “(i) PENALTY FOR FALSE REPORTING OR FRIVO-
4 LOUS PETITIONS.—An individual who knowingly submits
5 materially false information to the court in a petition for
6 a Federal extreme risk protection order under this section,
7 or who knowingly files such a petition that is frivolous,
8 unreasonable, or without foundation, shall be fined not
9 more than \$5,000, or imprisoned not more than 5 years,
10 or both, except to the extent that a greater sentence is
11 otherwise provided by any other provision of law, as the
12 court deems necessary to deter such abuse of process.

13 “(j) MODEL POLICY.—

14 “(1) IN GENERAL.—The Director shall draft a
15 model policy to maximize the accessibility of Federal
16 extreme risk protection orders.

17 “(2) CONTENTS.—In drafting the model policy
18 under paragraph (1), the Director shall—

19 “(A) ensure that State, Tribal, and local
20 law enforcement officers and members of the
21 public without legal training are able to easily
22 file petitions for Federal extreme risk protection
23 orders;

24 “(B) prescribe outreach efforts by employ-
25 ees of the district courts of the United States

1 to familiarize relevant law enforcement officers
2 and the public with the procedures for filing pe-
3 titions, either—

4 “(i) through direct outreach; or

5 “(ii) in coordination with—

6 “(I) relevant officials in the exec-
7 utive or legislative branch of the Fed-
8 eral Government; or

9 “(II) with relevant State, Tribal,
10 and local officials;

11 “(C) prescribe policies for allowing the fil-
12 ing of petitions and prompt adjudication of pe-
13 titions on weekends and outside of normal court
14 hours;

15 “(D) prescribe policies for coordinating
16 with law enforcement agencies to ensure the
17 safe, timely, and effective service of Federal ex-
18 treme risk protection orders and relinquishment
19 of firearms, ammunition, and permits, as appli-
20 cable; and

21 “(E) identify governmental and non-gov-
22 ernmental resources and partners to help offi-
23 cials of the district courts of the United States
24 coordinate with civil society organizations to en-

1 sure the safe and effective implementation of
2 this section.

3 “(k) REPORTING.—

4 “(1) INDIVIDUAL REPORTS.—

5 “(A) IN GENERAL.—Not later than 2 court
6 days after the date on which a court issues or
7 dissolves a Federal extreme risk protection
8 order under this section or a Federal extreme
9 risk protection order expires without being re-
10 newed, the court shall notify—

11 “(i) the Attorney General;

12 “(ii) each relevant mental health
13 agency in the State in which the order is
14 issued; and

15 “(iii) State and local law enforcement
16 officials in the jurisdiction in which the
17 order is issued, including the national in-
18 stant criminal background check system
19 single point of contact for the State of res-
20 idence of the respondent, where applicable.

21 “(B) FORMAT.—A court shall submit a no-
22 tice under subparagraph (A) in an electronic
23 format, in a manner prescribed by the Attorney
24 General.

1 “(C) UPDATE OF DATABASES.—As soon as
2 practicable and not later than 5 days after re-
3 ceiving a notice under subparagraph (A), the
4 Attorney General shall update the background
5 check databases of the Attorney General to re-
6 flect the prohibitions articulated in the applica-
7 ble Federal extreme risk protection order.

8 “(2) ANNUAL REPORT.—Not later than 1 year
9 after the date of enactment of the Federal Extreme
10 Risk Protection Order Act of 2023, and annually
11 thereafter, the Director shall submit to the Com-
12 mittee on the Judiciary of the Senate and the Com-
13 mittee on the Judiciary of the House of Representa-
14 tives a report that includes, with respect to the pre-
15 ceding year—

16 “(A) the number of petitions for ex parte
17 Federal orders filed, as well as the number of
18 such orders issued and the number denied,
19 disaggregated by—

20 “(i) the jurisdiction;

21 “(ii) whether the individual authorized
22 under subsection (b) to petition for a Fed-
23 eral extreme risk protection order is a law
24 enforcement officer, or a family or house-
25 hold member, and in the case of a family

1 or household member, which of subpara-
2 graphs (A) through (G) of subsection
3 (a)(6) describes the relationship; and

4 “(iii) the alleged danger posed by the
5 Federal order respondent, including wheth-
6 er the danger involved a risk of suicide,
7 unintentional injury, domestic violence, or
8 other interpersonal violence;

9 “(B) the number of petitions for long-term
10 Federal orders filed, as well as the number of
11 such orders issued and the number denied,
12 disaggregated by—

13 “(i) the jurisdiction;

14 “(ii) whether the individual authorized
15 under subsection (b) to petition for a Fed-
16 eral extreme risk protection order is a law
17 enforcement officer, or a family or house-
18 hold member, and in the case of a family
19 or household member, which of subpara-
20 graphs (A) through (G) of subsection
21 (a)(6) describes the relationship; and

22 “(iii) the alleged danger posed by the
23 Federal order respondent, including wheth-
24 er the danger involved a risk of suicide,

1 unintentional injury, domestic violence, or
2 other interpersonal violence;

3 “(C) the number of petitions for renewals
4 of long-term Federal orders filed, as well as the
5 number of such orders issued and the number
6 denied;

7 “(D) the number of cases in which a court
8 has issued a penalty for false reporting or frivo-
9 lous petitions;

10 “(E) demographic data of Federal order
11 petitioners, including race, ethnicity, national
12 origin, sex, gender, age, disability, average an-
13 nual income, and English language proficiency,
14 if available;

15 “(F) demographic data of Federal order
16 respondents, including race, ethnicity, national
17 origin, sex, gender, age, disability, average an-
18 nual income, and English language proficiency,
19 if available; and

20 “(G) the total number of firearms removed
21 pursuant to Federal extreme risk protection or-
22 ders, and, if available, the number of firearms
23 removed pursuant to each such order.

24 “(I) TRAINING FOR FEDERAL LAW ENFORCEMENT
25 OFFICERS.—

1 “(1) TRAINING REQUIREMENTS.—The head of
2 each Federal law enforcement agency shall require
3 each Federal law enforcement officer employed by
4 the agency to complete training in the safe, impar-
5 tial, effective, and equitable use and administration
6 of Federal extreme risk protection orders, including
7 training to address—

8 “(A) bias based on race and racism, eth-
9 nicity, gender, sexual orientation, gender iden-
10 tity, religion, language proficiency, mental
11 health condition, disability, and classism in the
12 use and administration of Federal extreme risk
13 protection orders;

14 “(B) the appropriate use of Federal ex-
15 treme risk protection orders in cases of domes-
16 tic violence, including the applicability of other
17 policies and protocols to address domestic vio-
18 lence in situations that may also involve Fed-
19 eral extreme risk protection orders and the ne-
20 cessity of safety planning with the victim before
21 law enforcement petitions for and executes a
22 Federal extreme risk protection order, if appli-
23 cable;

24 “(C) interacting with persons with mental,
25 behavioral, or physical disabilities, or emotional

1 distress, including de-escalation techniques and
2 crisis intervention;

3 “(D) techniques for outreach to historically
4 marginalized cultural communities and the de-
5 velopment of linguistic proficiencies for law en-
6 forcement;

7 “(E) community relations; and

8 “(F) best practices for referring persons
9 subject to Federal extreme risk protection or-
10 ders and associated victims of violence to social
11 service providers that may be available in the
12 jurisdiction and appropriate for those individ-
13 uals, including health care, mental health, sub-
14 stance abuse, and legal services, employment
15 and vocational services, housing assistance, case
16 management, and veterans and disability bene-
17 fits.

18 “(2) TRAINING DEVELOPMENT.—Federal law
19 enforcement agencies developing law enforcement
20 training required under this section shall seek advice
21 from domestic violence service providers (including
22 culturally specific (as defined in section 40002 of the
23 Violence Against Women Act of 1994 (34 U.S.C.
24 12291)) providers), social service providers, suicide
25 prevention advocates, violence intervention special-

1 ists, law enforcement agencies, mental health dis-
2 ability experts, and other community groups working
3 to reduce suicides and violence, including domestic
4 violence, within the State.

5 “(m) RULE OF CONSTRUCTION.—Nothing in this sec-
6 tion shall be construed to alter the requirements of sub-
7 section (d)(8) or (g)(8) of section 922, related to domestic
8 violence protective orders.

9 “(n) PREEMPTION.—Nothing in this section may be
10 construed to preempt any State law or policy.”.

11 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

12 (1) TABLE OF SECTIONS.—The table of sections
13 for chapter 44 of title 18, United States Code, is
14 amended by adding at the end the following:

“935. Extreme risk protection orders.”.

15 (2) FORFEITURE.—Section 924(d)(3) of title
16 18, United States Code, is amended—

17 (A) in subparagraph (F), by striking
18 “and” at the end;

19 (B) in subparagraph (G), by striking the
20 period at the end and inserting “; and”; and

21 (C) by adding at the end the following:

22 “(H) any attempt to violate a Federal extreme
23 risk protection order issued under section 935.”.

1 **SEC. 3. FEDERAL FIREARMS PROHIBITION.**

2 Section 922 of title 18, United States Code, is
3 amended—

4 (1) in subsection (d)—

5 (A) in paragraph (10), by striking “or” at
6 the end;

7 (B) in paragraph (11), by striking the pe-
8 riod at the end and inserting “; or”; and

9 (C) by inserting after paragraph (11) the
10 following:

11 “(12) is subject to a court order—

12 “(A) issued under section 935; or

13 “(B) that is an extreme risk protection
14 order (as defined in section 4(a) of the Federal
15 Extreme Risk Protection Order Act of 2023).”;
16 and

17 (2) in subsection (g)—

18 (A) in paragraph (8)(C)(ii), by striking
19 “or” at the end;

20 (B) in paragraph (9), by striking the
21 comma at the end and inserting “; or”; and

22 (C) by inserting after paragraph (9) the
23 following:

24 “(10) is subject to a court order—

25 “(A) issued under section 935; or

1 “(B) that is an extreme risk protection
2 order (as defined in section 4(a) of the Federal
3 Extreme Risk Protection Order Act of 2023),”.

4 **SEC. 4. EXTREME RISK PROTECTION ORDER GRANT PRO-**
5 **GRAM.**

6 (a) DEFINITIONS.—In this section:

7 (1) ELIGIBLE ENTITY.—The term “eligible enti-
8 ty” means—

9 (A) a State or Indian Tribe—

10 (i) that enacts legislation described in
11 subsection (c);

12 (ii) with respect to which the Attorney
13 General determines that the legislation de-
14 scribed in clause (i) complies with the re-
15 quirements under subsection (c)(1); and

16 (iii) that certifies to the Attorney
17 General that the State or Indian Tribe
18 shall—

19 (I) use the grant for the purposes
20 described in subsection (b)(2); and

21 (II) allocate not less than 25 per-
22 cent and not more than 70 percent of
23 the amount received under a grant
24 under subsection (b) for the develop-
25 ment and dissemination of training

1 for law enforcement officers in accord-
2 ance with subsection (b)(4); or

3 (B) a unit of local government or other
4 public or private entity that—

5 (i) is located in a State or in the terri-
6 tory under the jurisdiction of an Indian
7 Tribe that meets the requirements de-
8 scribed in clauses (i) and (ii) of subpara-
9 graph (A); and

10 (ii) certifies to the Attorney General
11 that the unit of local government or entity
12 shall—

13 (I) use the grant for the purposes
14 described in subsection (b)(2); and

15 (II) allocate not less than 25 per-
16 cent and not more than 70 percent of
17 the amount received under a grant
18 under this section for the development
19 and dissemination of training for law
20 enforcement officers in accordance
21 with subsection (b)(4).

22 (2) EXTREME RISK PROTECTION ORDER.—The
23 term “extreme risk protection order” means a writ-
24 ten order or warrant, issued by a State or Tribal
25 court or signed by a magistrate (or other com-

1 parable judicial officer), the primary purpose of
2 which is to reduce the risk of firearm-related death
3 or injury by doing 1 or more of the following:

4 (A) Prohibiting a named individual from
5 having under the custody or control of the indi-
6 vidual, owning, purchasing, possessing, or re-
7 ceiving a firearm.

8 (B) Having a firearm removed or requiring
9 the surrender of firearms from a named indi-
10 vidual.

11 (3) FIREARM.—The term “firearm” has the
12 meaning given the term in section 921 of title 18,
13 United States Code.

14 (4) INDIAN TRIBE.—The term “Indian Tribe”
15 has the meaning given the term “Indian tribe” in
16 section 1709 of title I of the Omnibus Crime Control
17 and Safe Streets Act of 1968 (34 U.S.C. 10389).

18 (5) LAW ENFORCEMENT OFFICER.—The term
19 “law enforcement officer” means a public servant
20 authorized by Federal, State, local, or Tribal law or
21 by a Federal, State, local, or Tribal government
22 agency to—

23 (A) engage in or supervise the prevention,
24 detection, investigation, or prosecution of an of-
25 fense; or

1 (B) supervise sentenced criminal offenders.

2 (6) PETITIONER.—The term “petitioner”
3 means an individual authorized under State or Trib-
4 al law to petition for an extreme risk protection
5 order.

6 (7) RESPONDENT.—The term “respondent”
7 means an individual named in the petition for an ex-
8 treme risk protection order or subject to an extreme
9 risk protection order.

10 (8) STATE.—The term “State” means—

11 (A) a State;

12 (B) the District of Columbia;

13 (C) the Commonwealth of Puerto Rico;

14 and

15 (D) any other territory or possession of the
16 United States.

17 (9) UNIT OF LOCAL GOVERNMENT.—The term
18 “unit of local government” has the meaning given
19 the term in section 901 of title I of the Omnibus
20 Crime Control and Safe Streets Act of 1968 (34
21 U.S.C. 10251).

22 (b) GRANT PROGRAM ESTABLISHED.—

23 (1) IN GENERAL.—The Director of the Office of
24 Community Oriented Policing Services of the De-
25 partment of Justice shall establish a program under

1 which, from amounts made available to carry out
2 this section, the Director may make grants to eligi-
3 ble entities to assist in carrying out the provisions
4 of the legislation described in subsection (c).

5 (2) USE OF FUNDS.—Funds awarded under
6 this subsection may be used by an applicant to—

7 (A) enhance the capacity of law enforce-
8 ment agencies and the courts of a State, unit
9 of local government, or Indian Tribe by pro-
10 viding personnel, training, technical assistance,
11 data collection, and other resources to carry out
12 enacted legislation described in subsection (c);

13 (B) train judges, court personnel, health
14 care and legal professionals, and law enforce-
15 ment officers to more accurately identify indi-
16 viduals whose access to firearms poses a danger
17 of causing harm to themselves or others by in-
18 creasing the risk of firearms suicide or inter-
19 personal violence;

20 (C) develop and implement law enforce-
21 ment and court protocols, forms, and orders so
22 that law enforcement agencies and the courts
23 may carry out the provisions of the enacted leg-
24 islation described in subsection (c) in a safe, eq-
25 uitable, and effective manner, including through

1 the removal and storage of firearms pursuant to
2 extreme risk protection orders under the en-
3 acted legislation; and

4 (D) raise public awareness and under-
5 standing of the enacted legislation described in
6 subsection (c), including through subgrants to
7 community-based organizations for the training
8 of community members, so that extreme risk
9 protection orders may be issued in appropriate
10 situations to reduce the risk of firearms-related
11 death and injury.

12 (3) APPLICATION.—An eligible entity desiring a
13 grant under this subsection shall submit to the At-
14 torney General an application at such time, in such
15 manner, and containing or accompanied by such in-
16 formation as the Attorney General may reasonably
17 require.

18 (4) TRAINING.—

19 (A) IN GENERAL.—A recipient of a grant
20 under this subsection shall provide training to
21 law enforcement officers, including officers of
22 relevant Federal, State, local, and Tribal law
23 enforcement agencies, in the safe, impartial, ef-
24 fective, and equitable use and administration of

1 extreme risk protection orders, including train-
2 ing to address—

3 (i) bias based on race and racism, eth-
4 nicity, gender, sexual orientation, gender
5 identity, religion, language proficiency,
6 mental health condition, disability, and
7 classism in the use and administration of
8 extreme risk protection orders;

9 (ii) the appropriate use of extreme
10 risk protection orders in cases of domestic
11 violence, including the applicability of other
12 policies and protocols to address domestic
13 violence in situations that may also involve
14 extreme risk protection orders and the ne-
15 cessity of safety planning with the victim
16 before a law enforcement officer petitions
17 for and executes an extreme risk protection
18 order, if applicable;

19 (iii) interacting with persons with
20 mental, behavioral, or physical disabilities,
21 or emotional distress, including de-esca-
22 lation techniques and crisis intervention;

23 (iv) techniques for outreach to histori-
24 cally marginalized cultural communities

1 and the development of linguistic proficien-
2 cies for law enforcement;

3 (v) community relations; and

4 (vi) best practices for referring per-
5 sons subject to extreme risk protection or-
6 ders and associated victims of violence to
7 social service providers that may be avail-
8 able in the jurisdiction and appropriate for
9 those individuals, including health care,
10 mental health, substance abuse, and legal
11 services, employment and vocational serv-
12 ices, housing assistance, case management,
13 and veterans and disability benefits.

14 (B) CONSULTATION WITH EXPERTS.—A
15 recipient of a grant under this subsection, in
16 developing law enforcement training required
17 under subparagraph (A), shall seek advice from
18 domestic violence service providers (including
19 culturally specific (as defined in section 40002
20 of the Violence Against Women Act of 1994 (34
21 U.S.C. 12291)) providers), social service pro-
22 viders, suicide prevention advocates, violence
23 intervention specialists, law enforcement agen-
24 cies, mental health disability experts, and other
25 community groups working to reduce suicides

1 and violence, including domestic violence, within
2 the State or the territory under the jurisdiction
3 of the Indian Tribe, as applicable, that enacted
4 the legislation described in subsection (c) that
5 enabled the grant recipient to be an eligible en-
6 tity.

7 (5) INCENTIVES.—For each of fiscal years 2024
8 through 2028, the Attorney General shall give af-
9 firmative preference in awarding any discretionary
10 grant awarded by the Office of Community Oriented
11 Policing Services to a State or Indian Tribe that has
12 enacted legislation described in subsection (c) or to
13 a unit of local government or other public or private
14 entity located in such a State or in the territory
15 under the jurisdiction of such an Indian Tribe.

16 (6) AUTHORIZATION OF APPROPRIATIONS.—
17 There are authorized to be appropriated such sums
18 as are necessary to carry out this section.

19 (c) ELIGIBILITY FOR EXTREME RISK PROTECTION
20 ORDER GRANT PROGRAM.—

21 (1) REQUIREMENTS.—Legislation described in
22 this subsection is legislation that establishes require-
23 ments that are substantially similar to the following:

24 (A) APPLICATION FOR EXTREME RISK
25 PROTECTION ORDER.—A petitioner, including a

1 law enforcement officer, may submit an applica-
2 tion to a State or Tribal court, on a form de-
3 signed by the court or a State or Tribal agency,
4 that—

5 (i) describes the facts and cir-
6 cumstances justifying that an extreme risk
7 protection order be issued against the
8 named individual; and

9 (ii) is signed by the applicant, under
10 oath.

11 (B) NOTICE AND DUE PROCESS.—The in-
12 dividual named in an application for an extreme
13 risk protection order as described in subpara-
14 graph (A) shall be given written notice of the
15 application and an opportunity to be heard on
16 the matter in accordance with this paragraph.

17 (C) ISSUANCE OF EXTREME RISK PROTEC-
18 TION ORDERS.—

19 (i) HEARING.—

20 (I) IN GENERAL.—Upon receipt
21 of an application described in sub-
22 paragraph (A) or request of an indi-
23 vidual named in such an application,
24 the court shall order a hearing to be
25 held within a reasonable time, and not

1 later than 30 days after the date of
2 the application or request.

3 (II) DETERMINATION.—If the
4 court finds at the hearing ordered
5 under subclause (I), by a preponder-
6 ance of the evidence or according to a
7 higher evidentiary standard estab-
8 lished by the State or Indian Tribe,
9 that the respondent poses a danger of
10 causing harm to self or others by hav-
11 ing access to a firearm, the court may
12 issue an extreme risk protection order.

13 (ii) DURATION OF EXTREME RISK
14 PROTECTION ORDER.—An extreme risk
15 protection order shall be in effect—

16 (I) until an order terminating or
17 superseding the extreme risk protec-
18 tion order is issued; or

19 (II) for a set period of time.

20 (D) EX PARTE EXTREME RISK PROTEC-
21 TION ORDERS.—

22 (i) IN GENERAL.—Upon receipt of an
23 application described in subparagraph (A),
24 the court may issue an ex parte extreme
25 risk protection order, if—

1 (I) the application for an extreme
2 risk protection order alleges that the
3 respondent poses a danger of causing
4 harm to self or others by having ac-
5 cess to a firearm; and

6 (II) the court finds there is rea-
7 sonable cause to believe, or makes a
8 finding according to a higher evi-
9 dentiary standard established by the
10 State or Indian Tribe, that the re-
11 spondent poses a danger of causing
12 harm to self or others by having ac-
13 cess to a firearm.

14 (ii) DURATION OF EX PARTE EX-
15 TREME RISK PROTECTION ORDER.—An ex
16 parte extreme risk protection order shall
17 remain in effect only until the hearing re-
18 quired under subparagraph (C)(i).

19 (E) STORAGE OF REMOVED FIREARMS.—

20 (i) AVAILABILITY FOR RETURN.—All
21 firearms removed or surrendered pursuant
22 to an extreme risk protection order shall
23 only be available for return to the named
24 individual when the individual has regained
25 eligibility under Federal and State law,

1 and, where applicable, Tribal law to pos-
2 sess firearms.

3 (ii) CONSENT REQUIRED FOR DIS-
4 POSAL OR DESTRUCTION.—Firearms
5 owned by a named individual may not be
6 disposed of or destroyed during the period
7 of the extreme risk protection order with-
8 out the consent of the named individual.

9 (F) NOTIFICATION.—

10 (i) IN GENERAL.—

11 (I) REQUIREMENT.—A State or
12 Tribal court that issues an extreme
13 risk protection order shall notify the
14 Attorney General or the comparable
15 State or Tribal agency, as applicable,
16 of the order as soon as practicable or
17 within a designated period of time.

18 (II) FORM AND MANNER.—A
19 State or Tribal court shall submit a
20 notification under subclause (I) in an
21 electronic format, in a manner pre-
22 scribed by the Attorney General or the
23 comparable State or Tribal agency.

24 (ii) UPDATE OF DATABASES.—As
25 soon as practicable or within the time pe-

1 riod designated by State or Tribal law
2 after receiving a notification under clause
3 (i), the Attorney General or the com-
4 parable State or Tribal agency shall ensure
5 that the extreme risk protection order is
6 reflected in the National Instant Criminal
7 Background Check System.

8 (2) ADDITIONAL PROVISIONS.—Legislation de-
9 scribed in this subsection may—

10 (A) provide procedures for the termination
11 of an extreme risk protection order;

12 (B) provide procedures for the renewal of
13 an extreme risk protection order;

14 (C) establish burdens and standards of
15 proof for issuance of orders described in para-
16 graph (1) that are substantially similar to or
17 higher than the burdens and standards of proof
18 set forth in that paragraph;

19 (D) limit the individuals who may submit
20 an application described in paragraph (1), pro-
21 vided that, at a minimum, law enforcement offi-
22 cers are authorized to do so; and

23 (E) include any other authorizations or re-
24 quirements that the State or Tribal authorities
25 determine appropriate.

1 (3) ANNUAL REPORT.—Not later than 1 year
2 after the date on which an eligible entity receives a
3 grant under subsection (b), and annually thereafter
4 for the duration of the grant period, the entity shall
5 submit to the Attorney General a report that in-
6 cludes, with respect to the preceding year—

7 (A) the number of petitions for ex parte
8 extreme risk protection orders filed, as well as
9 the number of such orders issued and the num-
10 ber denied, disaggregated by—

11 (i) the jurisdiction;

12 (ii) the individual authorized under
13 State or Tribal law to petition for an ex-
14 treme risk protection order, including the
15 relationship of the individual to the re-
16 spondent; and

17 (iii) the alleged danger posed by the
18 respondent, including whether the danger
19 involved a risk of suicide, unintentional in-
20 jury, domestic violence, or other inter-
21 personal violence;

22 (B) the number of petitions for extreme
23 risk protection orders filed, as well as the num-
24 ber of such orders issued and the number de-
25 nied, disaggregated by—

- 1 (i) the jurisdiction;
- 2 (ii) the individual authorized under
3 State or Tribal law to petition for an ex-
4 treme risk protection order, including the
5 relationship of the individual to the re-
6 spondent; and
- 7 (iii) the alleged danger posed by the
8 respondent, including whether the danger
9 involved a risk of suicide, unintentional in-
10 jury, domestic violence, or other inter-
11 personal violence;
- 12 (C) the number of petitions for renewals of
13 extreme risk protection orders filed, as well as
14 the number of such orders issued and the num-
15 ber denied;
- 16 (D) the number of cases in which a court
17 imposed a penalty for false reporting or frivo-
18 lous petitions;
- 19 (E) demographic data of petitioners, in-
20 cluding race, ethnicity, national origin, sex, gen-
21 der, age, disability, average annual income, and
22 English language proficiency, if available;
- 23 (F) demographic data of respondents, in-
24 cluding race, ethnicity, national origin, sex, gen-

1 der, age, disability, average annual income, and
2 English language proficiency, if available; and
3 (G) the total number of firearms removed
4 pursuant to extreme risk protection orders, and,
5 if available, the number of firearms removed
6 pursuant to each such order.

7 **SEC. 5. IDENTIFICATION RECORDS.**

8 Section 534 of title 28, United States Code, is
9 amended—

10 (1) in subsection (a)—

11 (A) in paragraph (4), by striking “and” at
12 the end;

13 (B) by redesignating paragraph (5) as
14 paragraph (6); and

15 (C) by inserting after paragraph (4) the
16 following:

17 “(5)(A) subject to subparagraph (B), acquire,
18 collect, classify, and preserve records from Federal,
19 Tribal, and State courts and other agencies identi-
20 fying individuals subject to extreme risk protection
21 orders, as defined in section 4(a) of the Federal Ex-
22 treme Risk Protection Order Act of 2023; and

23 “(B) destroy each record acquired or collected
24 under subparagraph (A) when the applicable ex-

1 treme risk protection order expires or is terminated
2 or dissolved; and”;

3 (2) in subsection (b), by striking “(a)(5)” and
4 inserting “(a)(6)”; and

5 (3) by adding at the end the following:

6 “(g) EXTREME RISK PROTECTION ORDERS IN NA-
7 TIONAL CRIME INFORMATION DATABASES.—A Federal,
8 Tribal, or State criminal justice agency or criminal or civil
9 court may—

10 “(1) include extreme risk protection orders, as
11 defined in section 4 of the Federal Extreme Risk
12 Protection Order Act of 2023, and Federal extreme
13 risk protection orders, as defined in section 935 of
14 title 18, in national crime information databases, as
15 that term is defined in subsection (f)(3) of this sec-
16 tion; and

17 “(2) have access to information regarding ex-
18 treme risk protection orders and Federal extreme
19 risk protection orders through the national crime in-
20 formation databases.”.

21 **SEC. 6. FULL FAITH AND CREDIT.**

22 (a) DEFINITIONS.—In this section, the terms “ex-
23 treme risk protection order”, “Indian Tribe”, and “State”
24 have the meanings given those terms in section 4(a).

1 (b) FULL FAITH AND CREDIT REQUIRED.—Any ex-
2 tremе risk protection order issued under a State or Tribal
3 law enacted in accordance with this Act shall be accorded
4 the same full faith and credit by the court of another State
5 or Indian Tribe (referred to in this subsection as the “en-
6 forcing State or Indian Tribe”) and enforced by the court
7 and law enforcement personnel of the other State or Tribal
8 government as if it were the order of the enforcing State
9 or Indian Tribe.

10 (c) APPLICABILITY TO PROTECTION ORDERS.—

11 (1) IN GENERAL.—Subsection (b) shall apply to
12 a protection order issued by a State or Tribal court
13 if—

14 (A) the court has jurisdiction over the par-
15 ties and matter under the law of the State or
16 Indian Tribe; and

17 (B) reasonable notice and opportunity to
18 be heard is given to the person against whom
19 the order is sought sufficient to protect that
20 person’s right to due process.

21 (2) EX PARTE PROTECTION ORDERS.—For pur-
22 poses of paragraph (1)(B), in the case of an ex parte
23 protection order, notice and opportunity to be heard
24 shall be provided within the time required by State
25 or Tribal law, and in any event within a reasonable

1 time after the order is issued, sufficient to protect
2 the due process rights of the respondent.

3 (d) **TRIBAL COURT JURISDICTION.**—For purposes of
4 this section, a court of an Indian Tribe shall have full civil
5 jurisdiction to issue and enforce a protection order involv-
6 ing any person, including the authority to enforce any
7 order through civil contempt proceedings, to exclude viola-
8 tors from Indian land, and to use other appropriate mech-
9 anisms, in matters arising anywhere in the Indian country
10 (as defined in section 1151 of title 18, United States
11 Code) of the Indian Tribe or otherwise within the author-
12 ity of the Indian Tribe.

13 **SEC. 7. CONFORMING AMENDMENT.**

14 Section 3(1) of the NICS Improvement Amendments
15 Act of 2007 (34 U.S.C. 40903(1)) is amended by striking
16 “section 922(g)(8)” and inserting “paragraph (8) or (10)
17 of section 922(g)”.

18 **SEC. 8. SEVERABILITY.**

19 If any provision of this Act, or an amendment made
20 by this Act, or the application of such provision to any
21 person or circumstance, is held to be invalid, the remain-
22 der of this Act, or an amendment made by this Act, or
23 the application of such provision to other persons or cir-
24 cumstances, shall not be affected.

1 **SEC. 9. EFFECTIVE DATE.**

2 This Act and the amendments made by this Act shall
3 take effect on the date that is 180 days after the date
4 of enactment of this Act.

○