

115TH CONGRESS
2D SESSION

S. 2607

To provide family members of an individual who they fear is a danger to himself, herself, or others, or law enforcement, with new tools to prevent gun violence.

IN THE SENATE OF THE UNITED STATES

MARCH 22, 2018

Mr. RUBIO (for himself, Mr. NELSON, and Mr. REED) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide family members of an individual who they fear is a danger to himself, herself, or others, or law enforcement, with new tools to prevent gun violence.

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 “Extreme Risk Protec-
5 tion Order and Violence Prevention Act of 2018”.

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of Congress that—

8 (1) each State and Indian tribe should enact ex-
9 treme risk protection order legislation described in

1 part NN of title I of the Omnibus Crime Control
2 and Safe Streets Act of 1968, as added by section
3 3; and

4 (2) such extreme risk protection order legisla-
5 tion is an important tool in the efforts of States and
6 Indian tribes to ensure that firearms and ammuni-
7 tion are kept out of the hands of individuals whom
8 a court has determined to be a significant danger to
9 themselves or others.

10 **SEC. 3. EXTREME RISK PROTECTION ORDER GRANT PRO-**
11 **GRAM.**

12 (a) IN GENERAL.—Title I of the Omnibus Crime
13 Control and Safe Streets Act of 1968 (34 U.S.C. 10101
14 et seq.) is amended by adding at the end the following:

15 **“PART NN—EXTREME RISK PROTECTION ORDER**
16 **GRANT PROGRAM**

17 **“SEC. 3041. DEFINITIONS.**

18 “In this title—

19 “(1) the terms ‘ammunition’ and ‘firearm’ have
20 the meanings given those terms in section 921(a) of
21 title 18, United States Code;

22 “(2) the term ‘extreme risk protection order’
23 means a written order, issued by a State or tribal
24 court or signed by a magistrate that, for a period
25 not to exceed 12 months—

1 “(A) prohibits the individual named in the
2 order from having under the custody or control
3 of the individual, purchasing, possessing, or re-
4 ceiving any firearms; and

5 “(B) requires a firearm be removed;

6 “(3) the term ‘family or household member’
7 means, with respect to an individual, any—

8 “(A) individual related by blood, marriage,
9 or adoption to the respondent;

10 “(B) dating partner (as defined in section
11 2266 of title 18, United States Code) of the re-
12 spondent;

13 “(C) individual who has a child in common
14 with the respondent, regardless of whether the
15 individual has—

16 “(i) been married to the respondent;

17 or

18 “(ii) lived together with the respond-
19 ent at any time;

20 “(D) an individual who resides or has re-
21 sided with the respondent during the past year;

22 “(E) a spouse or intimate partner (as de-
23 fined in section 2266 of title 18, United States
24 Code) of the respondent;

1 “(F) individual who has a biological or
2 legal parent-child relationship with the respond-
3 ent, including a stepparent-stepchild and grand-
4 parent-grandchild relationship; and

5 “(G) any individual who is acting or has
6 acted as the legal guardian of the respondent;

7 “(4) the term ‘Indian tribe’ has the meaning
8 given the term in section 4 of the Indian Self-Deter-
9 mination and Education Assistance Act (25 U.S.C.
10 5304);

11 “(5) the term ‘petitioner’ means the family or
12 household member, or law enforcement officer, who
13 submits a petition for an extreme risk protection
14 order under section 3042(b)(1);

15 “(6) the term ‘qualifying State or tribal law’
16 means a law of a State or Indian tribe that the At-
17 torney General has determined to be in compliance
18 with the minimum requirements described in section
19 3042;

20 “(7) the term ‘respondent’ means an individual
21 who is named in a petition for an extreme risk pro-
22 tection order under section 3042(b)(1);

23 “(8) the term ‘State’ means—

24 “(A) a State;

25 “(B) the District of Columbia;

1 “(C) the Commonwealth of Puerto Rico;
2 and

3 “(D) any other territory or possession of
4 the United States; and

5 “(9) the term ‘temporary ex parte extreme risk
6 protection order’ means a written order, issued by a
7 State court or signed by a magistrate prohibiting a
8 named individual from possessing, purchasing, re-
9 ceiving, or transporting a firearm after the date on
10 which the order is issued until the date on which the
11 hearing for the extreme risk protection order is held.

12 **“SEC. 3042. EXTREME RISK PROTECTION ORDER LEGISLA-**
13 **TION.**

14 “(a) ENACTMENT OF EXTREME RISK PROTECTION
15 ORDER LEGISLATION.—In order to receive a grant under
16 section 3043, each State or Indian tribe shall have in ef-
17 fect a qualifying State or tribal law.

18 “(b) MINIMUM REQUIREMENTS FOR EXTREME RISK
19 PROTECTION ORDERS.—A qualifying State or tribal law
20 shall have in effect the following minimum requirements
21 for the issuance of an extreme risk protection order:

22 “(1) PETITION FOR EXTREME RISK PROTEC-
23 TION ORDER.—

24 “(A) IN GENERAL.—A family or household
25 member of an individual, or a law enforcement

1 officer, may submit a petition to a State or
2 tribal court, on a form designed by the courts
3 administrator of the State or similar office,
4 that—

5 “(i) describes the facts and cir-
6 cumstances necessitating that an extreme
7 risk protection order be issued against the
8 respondent because the respondent poses a
9 significant danger of causing personal in-
10 jury to himself or herself or others by—

11 “(I) having a firearm or ammuni-
12 tion in his or her custody or control;
13 or

14 “(II) purchasing, possessing, or
15 receiving a firearm or ammunition;

16 “(ii) is accompanied by a sworn affi-
17 davit, signed by the petitioner, stating the
18 specific facts that give rise to reasonable
19 fear of significant dangerous acts by the
20 respondent;

21 “(iii) identifies the quantities, types,
22 and locations of all firearms and ammuni-
23 tion the petitioner believes to be in the cur-
24 rent ownership, possession, custody, or
25 control of the respondent; and

1 “(iv) identifies whether there is a
2 known extreme risk protection order al-
3 ready in effect against the respondent.

4 “(B) GOOD FAITH NOTICE.—A petitioner
5 who submits a petition under subparagraph (A)
6 shall be required to make a good faith effort to
7 provide notice to other family or household
8 members of the respondent, or to any other
9 known third party, who may be at risk of vio-
10 lence because of the submission of such peti-
11 tion.

12 “(2) ISSUANCE OF EXTREME RISK PROTECTION
13 ORDERS.—

14 “(A) HEARING.—

15 “(i) IN GENERAL.—Upon receipt of a
16 petition under paragraph (1), the court
17 shall—

18 “(I) order a hearing to be held
19 not later than 14 days after the date
20 of such order; and

21 “(II) issue a notice of the hear-
22 ing ordered under subclause (I) to the
23 respondent.

24 “(ii) TELEPHONE HEARING.—A court
25 may conduct the hearing required under

1 clause (i) by telephone, pursuant to local
2 court rules.

3 “(iii) DETERMINATION.—If the court
4 finds by clear and convincing evidence that
5 the respondent poses a significant danger
6 of causing personal injury to himself or
7 herself or others by having in his or her
8 custody or control, or by purchasing, pos-
9 sessed, or receiving, a firearm or ammuni-
10 tion, the court shall issue an extreme risk
11 protection order for a period the court de-
12 termines is appropriate, which may not ex-
13 ceed 12 months.

14 “(B) CONSIDERATION OF EVIDENCE.—

15 “(i) IN GENERAL.—In determining
16 whether to issue an extreme risk protection
17 order, the court—

18 “(I) may consider relevant evi-
19 dence, such as—

20 “(aa) a recent threat or act
21 of violence by the respondent
22 against himself or herself or oth-
23 ers;

24 “(bb) a threat or act of vio-
25 lence by the respondent against

1 himself or herself or others in the
2 past 12 months;

3 “(cc) evidence of a serious
4 mental illness;

5 “(dd) a previously issued ex-
6 treme risk protection order or a
7 violation of a previously issued
8 extreme risk protection order;

9 “(ee) whether the respond-
10 ent has been convicted of a crime
11 of domestic violence or other vio-
12 lence;

13 “(ff) whether the respondent
14 has used or threatened to use
15 weapons against himself or her-
16 self or others;

17 “(gg) the unlawful use of a
18 firearm by the respondent;

19 “(hh) the recurring use or
20 threat of use of physical force
21 against another person or stalk-
22 ing another person;

23 “(ii) corroborated evidence
24 of the abuse of controlled sub-

1 stances or alcohol by the re-
2 spondent;

3 “(jj) relevant information
4 from family or household mem-
5 bers concerning the respondent;
6 and

7 “(kk) witness testimony
8 taken while the witness is under
9 oath relating to the matter before
10 the court; and

11 “(II) shall consider whether a
12 mental health evaluation or chemical
13 dependency evaluation is appropriate.

14 “(ii) PRESENTATION OF EVIDENCE.—
15 Anyone who offers evidence or recommen-
16 dations relating to the petition submitted
17 under paragraph (1) shall—

18 “(I) present the evidence or rec-
19 ommendations in writing to the court
20 and submit a copy of such evidence or
21 recommendations to each party or the
22 attorney for a party; or

23 “(II) present the evidence under
24 oath at a hearing at which all parties
25 are present.

1 “(iii) MENTAL HEALTH AND CHEM-
2 ICAL DEPENDENCY EVALUATIONS.—If a
3 court determines that a mental health eval-
4 uation or chemical dependency evaluation
5 is appropriate under clause (i)(II), the
6 court may order the appropriate evalua-
7 tion.

8 “(C) CONTENTS OF ORDER.—If a court
9 issues an extreme risk protection order, the
10 order shall contain—

11 “(i) a statement on the grounds sup-
12 porting the issuance of the order;

13 “(ii) the date on which the order was
14 issued;

15 “(iii) the date on which the order ex-
16 pires;

17 “(iv) whether a mental health evalua-
18 tion or chemical dependency evaluation of
19 the respondent is required;

20 “(v) the address of the court in which
21 a responsive pleading may be filed;

22 “(vi) a description of the requirements
23 for surrender of all firearms and ammuni-
24 tion owned by the respondent; and

1 “(vii) a clear statement of instruction
2 on surrendering to the appropriate local
3 law enforcement agency all firearms and
4 ammunition owned by the respondent or in
5 the custody, control, or possession of the
6 respondent and any license to carry a con-
7 cealed weapon or firearm issued pursuant
8 to the laws of the State or Indian tribe,
9 which shall include—

10 “(I) a clear statement that the
11 respondent may not, during the period
12 for which the order is in effect—

13 “(aa) have in the control or
14 custody of the respondent a fire-
15 arm or ammunition; or

16 “(bb) purchase, possess, or
17 receive, or attempt to do so, a
18 firearm or ammunition; and

19 “(II) a clear description of the
20 right of the respondent to request not
21 less than 1 hearing to vacate the
22 order and, if the order is renewed, to
23 request a hearing to vacate such re-
24 newal.

1 “(D) DENIAL OF EXTREME RISK PROTEC-
2 TION ORDER.—If a court declines to issue an
3 extreme risk protection order applied for under
4 this paragraph, the court shall issue a written
5 statement describing the specific reasons for de-
6 clining to issue such order.

7 “(3) TEMPORARY EX PARTE EXTREME RISK
8 PROTECTION ORDER.—

9 “(A) IN GENERAL.—Upon receipt of a pe-
10 tition under paragraph (1), the court may issue
11 a temporary ex parte extreme risk protection
12 order before conducting the hearing required
13 under paragraph (2), if—

14 “(i) a request for a temporary ex
15 parte extreme risk protection order is in-
16 cluded in the petition and includes detailed
17 allegations based on personal knowledge
18 that the respondent poses a significant
19 danger of causing personal injury to him-
20 self or herself or others in the near future
21 by having in his or her custody or control,
22 or by purchasing, possessing, or receiving,
23 a firearm or ammunition; and

24 “(ii) the court finds there is probable
25 cause to believe that the respondent poses

1 a significant danger of causing personal in-
2 jury to himself or herself or others in the
3 near future by having in his or her custody
4 or control, or by purchasing, possessing, or
5 receiving, a firearm or ammunition.

6 “(B) REQUIREMENTS.—In determining
7 whether to issue a temporary ex parte extreme
8 risk protection order, the court shall—

9 “(i) conduct a hearing, either in per-
10 son or by telephone, pursuant to local
11 court rules, on the date on which the peti-
12 tion is filed or on the business day imme-
13 diately following such date; and

14 “(ii) consider all relevant evidence,
15 such as—

16 “(I) a recent threat or act of vio-
17 lence by the respondent against him-
18 self or herself or others;

19 “(II) a threat or act of violence
20 by the respondent against himself or
21 herself or others in the past 12
22 months;

23 “(III) evidence of a serious men-
24 tal illness;

1 “(IV) a previously issued extreme
2 risk protection order or a violation of
3 a previously issued extreme risk pro-
4 tection order;

5 “(V) whether the respondent has
6 been convicted of a crime of domestic
7 violence or other violence;

8 “(VI) whether the respondent
9 has used or threatened to use weap-
10 ons against himself or herself or oth-
11 ers;

12 “(VII) the unlawful use of a fire-
13 arm by the respondent;

14 “(VIII) the recurring use or
15 threat of use of physical force against
16 another person or stalking another
17 person;

18 “(IX) corroborated evidence of
19 the abuse of controlled substances or
20 alcohol by the respondent;

21 “(X) relevant information from
22 family or household members con-
23 cerning the respondent; and

1 “(XI) witness testimony taken
2 while the witness is under oath relat-
3 ing to the matter before the court.

4 “(C) NOTICE.—If a court issues a tem-
5 porary ex parte extreme risk protection order,
6 the court shall provide notice of the temporary
7 ex parte firearm violence order to the respond-
8 ent concurrently with the notice of hearing re-
9 quired under paragraph (2)(A)(i)(II).

10 “(D) CONTENTS OF ORDER.—If a court
11 issues a temporary ex parte extreme risk pro-
12 tection order, the order shall include, at a min-
13 imum—

14 “(i) a statement for the grounds of
15 the order;

16 “(ii) the date on which the order was
17 issued;

18 “(iii) the date and time of the hearing
19 on the extreme risk protection order;

20 “(iv) the address of the court in which
21 a responsive pleading may be filed;

22 “(v) a clear description of the require-
23 ments and process for surrender of fire-
24 arms and ammunition; and

1 “(vi) a clear statement outlining the
2 prohibitions and rights of the respondent
3 under the order, including—

4 “(I) a clear statement that the
5 respondent may consult an attorney;
6 and

7 “(II) a clear statement that fail-
8 ure of the respondent to appear at the
9 hearing described in clause (iii) may
10 result in an extreme risk protection
11 order being issued for a period not to
12 exceed 12 months.

13 “(4) TERMINATION AND EXTENSION OF EX-
14 TREME RISK PROTECTION ORDERS.—

15 “(A) HEARING TO VACATE ORDER.—

16 “(i) IN GENERAL.—A respondent may
17 request not less than 1 hearing to vacate
18 an extreme risk protection order issued
19 against the respondent.

20 “(ii) HEARING.—Not later than 30
21 days after the date on which a petitioner
22 is notified of the request of the respondent
23 to vacate an extreme risk protection order,
24 the court shall conduct a hearing on the
25 request.

1 “(iii) DETERMINATION.—

2 “(I) IN GENERAL.—The court
3 shall vacate an extreme risk protec-
4 tion order if the respondent dem-
5 onstrates by clear and convincing evi-
6 dence that the respondent does not
7 pose a significant danger of causing
8 personal injury to himself or herself
9 or others by having in his or her cus-
10 tody or control, or by purchasing, pos-
11 sessed, or receiving, a firearm or am-
12 munition.

13 “(II) CONSIDERATIONS.—In
14 making a determination under this
15 subparagraph, the court may consider
16 relevant evidence, such as—

17 “(aa) a recent threat or act
18 of violence by the respondent
19 against himself or herself or oth-
20 ers;

21 “(bb) a threat or act of vio-
22 lence by the respondent against
23 himself or herself or others in the
24 past 12 months;

1 “(cc) evidence of a serious
2 mental illness;

3 “(dd) a previously issued ex-
4 treme risk protection order or a
5 violation of a previously issued
6 extreme risk protection order;

7 “(ee) whether the respond-
8 ent has been convicted of a crime
9 of domestic violence or other vio-
10 lence;

11 “(ff) whether the respondent
12 has used or threatened to use
13 weapons against himself or her-
14 self or others;

15 “(gg) the unlawful use of a
16 firearm by the respondent;

17 “(hh) the recurring use or
18 threat of use of physical force
19 against another person or stalk-
20 ing another person;

21 “(ii) corroborated evidence
22 of the abuse of controlled sub-
23 stances or alcohol by the re-
24 spondent;

1 “(jj) relevant information
2 from family or household mem-
3 bers concerning the respondent;
4 and

5 “(kk) witness testimony
6 taken while the witness is under
7 oath relating to the matter before
8 the court.

9 “(iv) NOTICE TO LAW ENFORCEMENT
10 OFFICIALS.—If a court vacates an extreme
11 risk protection order under this subpara-
12 graph, the court shall provide notice to the
13 relevant law enforcement agency of such
14 determination and the law enforcement
15 agency shall promptly return any surren-
16 dered firearms and ammunition to the re-
17 spondent.

18 “(B) EXTENSION OF ORDER.—

19 “(i) NOTICE TO PETITIONER.—Not
20 later than 30 days before the date on
21 which an extreme risk protection order is
22 set to expire, the court shall provide notice
23 to the petitioner of such expiration date.

24 “(ii) REQUEST FOR EXTENSION.—
25 During the 30-day period described in

1 clause (i), a petitioner may submit a re-
2 quest to extend the extreme risk protection
3 order.

4 “(iii) HEARING.—Upon receipt of a
5 request for an extension under clause (ii),
6 the court shall schedule, provide notice for,
7 and conduct a hearing in accordance with
8 the requirements described in paragraph
9 (2)(A).

10 “(iv) DETERMINATION.—If a court
11 finds that there is clear and convincing evi-
12 dence that the respondent poses a signifi-
13 cant danger of causing personal injury to
14 himself or herself or others by having in
15 his or her custody or control, or by pur-
16 chasing, possessing, or receiving, a firearm
17 or ammunition, the court shall extend the
18 extreme risk protection order for a period
19 the court determines is appropriate, which
20 may not exceed 12 months.

21 “(c) MINIMUM REQUIREMENTS FOR SURRENDER OF
22 FIREARMS AND AMMUNITION.—A qualifying State or trib-
23 al law shall have in effect the following minimum require-
24 ments for the surrender of firearms and ammunition:

1 “(1) SURRENDER OF FIREARMS AND AMMUNI-
2 TION.—Upon issuance of a temporary ex parte ex-
3 treme risk protection order or extreme risk protec-
4 tion order under subsection (b), a respondent shall
5 surrender all firearms and ammunition in the cus-
6 tody or control of the respondent to the appropriate
7 local law enforcement agency, as determined by the
8 State or Indian tribe.

9 “(2) RECEIPT FOR SURRENDERED FIREARMS
10 AND AMMUNITION.—The local law enforcement
11 agency that takes custody of any firearms or ammu-
12 nition surrendered under paragraph (1) shall—

13 “(A) issue to the respondent a receipt
14 identifying all firearms and ammunition that
15 have been surrendered; and

16 “(B) not later than 72 hours after taking
17 custody of the firearms and ammunition, file a
18 copy of such receipt with the court.

19 “(3) ISSUANCE OF WARRANT.—If a court re-
20 ceives sworn testimony from an individual alleging
21 that not all firearms required to be surrendered by
22 a respondent under a temporary ex parte extreme
23 risk protection order or extreme risk protection
24 order have been surrendered, the court shall issue a
25 warrant for the seizure of the remaining firearms or

1 ammunition if the court determines that probable
2 cause exists to believe the respondent has failed to
3 surrender any firearms or ammunition.

4 “(d) OTHER REQUIREMENTS.—A qualifying State or
5 tribal law shall—

6 “(1) make clear accommodations for the case in
7 which an individual other than the respondent
8 claims title to any firearms or ammunition required
9 to be surrendered under a temporary ex parte ex-
10 treme risk protection order or extreme risk protec-
11 tion order;

12 “(2) have clear instruction about the immediate
13 return of firearms to a respondent upon the expira-
14 tion of a temporary ex parte extreme risk protection
15 order or extreme risk protection order;

16 “(3) provide clear instructions for the reporting
17 of a temporary ex parte extreme risk protection
18 order or extreme risk protection order to the appro-
19 priate Federal, State, and tribal databases;

20 “(4) establish a felony criminal offense for
21 knowingly making a false statement under oath in a
22 hearing relating to a temporary ex parte extreme
23 risk protection order or extreme risk protection
24 order regarding any material matter;

1 “(5) establish a felony criminal offense for an
2 individual to receive or possess a firearm or ammu-
3 nition with knowledge that the individual is subject
4 to a temporary ex parte extreme risk protection
5 order or extreme risk protection order;

6 “(6) a clear statement that use of the authority
7 in the qualifying State or tribal law does not affect
8 the ability of a law enforcement officer to use any
9 other lawful authority to effect the surrender of a
10 firearm, ammunition, or concealed carry permit; and

11 “(7) clear direction for State or tribal courts to
12 implement the procedures described in this section.

13 “(e) ADDITIONAL AUTHORITY.—A qualifying State
14 or tribal law may provide for—

15 “(1) notice and hearing requirements in addi-
16 tion to the requirements described in this section;

17 “(2) a timely background check under Federal
18 and State law before a law enforcement agency re-
19 turns any surrendered firearms and ammunition to
20 a respondent after the expiration of a temporary ex
21 parte extreme risk protection order or extreme risk
22 protection order;

23 “(3) a requirement that family or household
24 members of a respondent be notified before a law

1 enforcement agency returns any surrendered fire-
2 arms and ammunition to the respondent; and

3 “(4) an option for a respondent to elect to
4 transfer all firearms and ammunition owned by the
5 respondent that have been ordered to be surrendered
6 or seized to another individual who is willing to re-
7 ceive them, if such individual—

8 “(A) is currently eligible to own or possess
9 such firearms and ammunition under Federal
10 and State law, and a background check is con-
11 ducted;

12 “(B) attests to storing the firearms or am-
13 munition in a manner so that respondent does
14 not have access; and

15 “(C) attests to not transfer the firearms or
16 ammunition back to respondent until after the
17 date on which the order expires or is vacated.

18 “(f) LIMITATIONS.—A qualifying State or tribal law
19 may not—

20 “(1) at any point require or allow for the sur-
21 render of any firearm or ammunition without the
22 issuance of a court order;

23 “(2) provide for the issuance of a temporary ex
24 parte extreme risk protection order or extreme risk

1 protection order without sworn affidavits or testi-
2 mony;

3 “(3) establish criminal penalties for false allega-
4 tions or false testimony in connection with a tem-
5 porary ex parte extreme risk protection order or ex-
6 treme risk protection order that are less than a fel-
7 ony under State or tribal law;

8 “(4) allow for witness testimony in connection
9 with a temporary ex parte extreme risk protection
10 order or extreme risk protection order that is not
11 sworn or under oath;

12 “(5) prohibit or otherwise discourage the re-
13 spondent from consulting or retaining an attorney;

14 “(6) allow a law enforcement officer or other
15 custodian of a firearm or any ammunition surren-
16 dered pursuant to a court order under the qualifying
17 State or tribal law to destroy, disable, sell, assert
18 ownership over, dispose of, use or otherwise employ,
19 harm, or dispense with the firearm or ammunition;
20 or

21 “(7) allow for the ordering of a sequential se-
22 ries of ex parte extreme risk protection orders
23 against a respondent based on the same evidence
24 used to order the initial ex parte extreme risk pro-
25 tection order against the respondent.

1 “(g) RULE OF CONSTRUCTION.—Nothing in sub-
2 section (f)(1) shall be construed to limit or have an effect
3 on any State or Federal law other than a qualifying State
4 or tribal law.

5 **“SEC. 3043. VIOLENCE PREVENTION GRANT PROGRAM.**

6 “(a) IN GENERAL.—The Assistant Attorney General
7 shall make grants to an eligible State or Indian tribe to
8 assist the State or Indian tribe in carrying out the provi-
9 sions of a qualifying State or tribal law.

10 “(b) ELIGIBLE STATE OR INDIAN TRIBE.—

11 “(1) IN GENERAL.—Except as provided in para-
12 graph (2), a State or Indian tribe shall be eligible
13 to receive grants under this section on and after the
14 date on which—

15 “(A) the State or Indian tribe enacts a
16 qualifying State or tribal law; and

17 “(B) the Attorney General determines that
18 the State or tribal law complies with the re-
19 quirements of section 3042.

20 “(2) FIRST YEAR ELIGIBILITY EXCEPTION.—

21 “(A) IN GENERAL.—A covered State or In-
22 dian tribe shall be eligible to receive a grant
23 under this section during the 1-year period be-
24 ginning on the date of enactment of this part.

1 “(B) COVERED STATE OR INDIAN TRIBE.—

2 In this paragraph, the term ‘covered State or
3 Indian tribe’ means a State or Indian tribe
4 that, before the date of enactment of this part,
5 enacted legislation that—

6 “(i) authorizes the issuance of a gun
7 violence restraining order or extreme risk
8 protection order similar to a violence pre-
9 vention order described in this part; and

10 “(ii) requires a standard of proof for
11 the issuance of a gun violence restraining
12 order or extreme risk protection order de-
13 scribed in clause (i) that is substantially
14 similar to the standard of proof required
15 under this part.

16 “(c) USE OF FUNDS.—Funds awarded under this
17 section may be used by a State or Indian tribe to assist
18 law enforcement agencies or the courts of the State or In-
19 dian tribe in carrying out the provisions of the qualifying
20 State or tribal law.

21 “(d) APPLICATION.—An eligible State or Indian tribe
22 desiring a grant under this section shall submit to the As-
23 sistant Attorney General an application at such time, in
24 such manner, and containing or accompanied by such in-

1 formation, as the Assistant Attorney General may reason-
2 ably require.

3 “(e) INCENTIVES.—For each of fiscal years 2019
4 through 2023, the Attorney General shall give affirmative
5 preference to all Bureau of Justice Assistance discre-
6 tionary grant applications of a State or Indian tribe that
7 has enacted a qualifying State or tribal law.

8 **“SEC. 3044. FULL FAITH AND CREDIT.**

9 “Any violence prevention order issued under a State
10 or tribal law enacted in accordance with this part shall
11 have the same full faith and credit in every court within
12 the United States as they have by law or usage in the
13 courts of such State or Indian tribe from which they are
14 issued.”.

15 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
16 1001(a) of title I of the Omnibus Crime Control and Safe
17 Streets Act of 1968 (34 U.S.C. 10261(a)) is amended by
18 adding at the end the following:

19 “(28) There are authorized to be appropriated to
20 carry out part NN \$20,000,000 for each of fiscal years
21 2019 through 2023.”.

22 **SEC. 4. FEDERAL FIREARMS PROHIBITION.**

23 Section 922 of title 18, United States Code, is
24 amended—

25 (1) in subsection (d)—

1 (A) in paragraph (8)(B)(ii), by striking
2 “or” at the end;

3 (B) in paragraph (9), by striking the pe-
4 riod at the end and inserting “; or”; and

5 (C) by inserting after paragraph (9) the
6 following:

7 “(10) is subject to a court order that—

8 “(A) was issued after a hearing of which
9 such person received actual notice, and at which
10 such person had an opportunity to participate;

11 “(B) restrains such person from possessing
12 and purchasing a firearm; and

13 “(C) includes a finding that such person
14 poses a significant danger of causing personal
15 injury to himself or herself or other persons.”;
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) who is subject to a court order that—

1 “(A) was issued after a hearing of which
2 such person received actual notice, and at which
3 such person had an opportunity to participate;

4 “(B) restrains such person from possessing
5 and purchasing a firearm; and

6 “(C) includes a finding that such person
7 poses a significant danger of causing personal
8 injury to himself or herself or other persons,”.

9 **SEC. 5. SEVERABILITY; RULES OF CONSTRUCTION.**

10 (a) SEVERABILITY.—If any provision of this Act, or
11 an amendment made by this Act, or the application of
12 such provision to any person or circumstance, is held to
13 be invalid, the remainder of this Act, or an amendment
14 made by this Act, or the application of such provision to
15 other persons or circumstances, shall not be affected.

16 (b) RULES OF CONSTRUCTION.—Nothing in this Act,
17 or an amendment made by this Act, shall be construed
18 to—

19 (1) limit the ability of a State or Indian tribe
20 to enact legislation with additional due process pro-
21 tections, additional rights for a respondent or sub-
22 ject of an extreme risk protection order, or higher
23 standards of proof; or

24 (2) supersede or contradict any State or tribal
25 law enacted before or after the date of enactment of

1 this Act relating to the removal of firearms from in-
2 dividuals determined to be a danger to themselves or
3 others.

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