

HOUSE BILL 1302

D4

8lr0310
CF 8lr3222

By: **Delegates Valentino-Smith, Dumais, Atterbeary, Barve, Frush, Gutierrez, Jones, R. Lewis, Pena-Melnyk, Sanchez, Tarlau, and A. Washington**

Introduced and read first time: February 9, 2018

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Violence – Seizure of Lethal Weapons – Lethal Violence Protective Order**

3 FOR the purpose of authorizing certain persons to seek an ex parte lethal violence
4 protective order by filing a certain petition; specifying the contents of the petition;
5 requiring that certain records provided in a certain petition or considered as evidence
6 in a proceeding under this Act be protected from public disclosure under certain
7 circumstances; requiring a court to set a certain hearing within a certain period of
8 time under certain circumstances; requiring a certain notice to be served by a law
9 enforcement officer or in accordance with the Maryland Rules; requiring a court to
10 issue or deny a petition for an ex parte lethal violence protective order on the same
11 day that the petition is filed; requiring a court to consider certain evidence in
12 determining whether to issue an ex parte lethal violence protective order; requiring
13 a court to issue an ex parte lethal violence protective order under certain
14 circumstances; requiring an ex parte lethal violence protective order to contain
15 certain information; requiring an ex parte lethal violence protective order to be
16 served by a law enforcement officer or in accordance with the Maryland Rules;
17 requiring a court to hold a certain hearing subsequent to the issuance of an ex parte
18 lethal violence protective order within a certain period of time; requiring a court to
19 consider certain information at a hearing for a 1-year lethal violence protective
20 order; requiring a court to issue a 1-year lethal violence protective order under
21 certain circumstances; requiring a 1-year lethal violence protective order to contain
22 certain information; requiring a 1-year lethal violence protective order to be served
23 by a law enforcement officer or in accordance with the Maryland Rules; authorizing
24 a respondent to request a hearing to terminate a 1-year lethal violence protective
25 order within a certain period of time; requiring the court to schedule a certain
26 hearing in accordance with certain requirements; requiring a court to terminate a
27 1-year lethal violence protective order under certain circumstances; authorizing an
28 individual to request an extension of a 1-year lethal violence protective order within
29 a certain period of time; authorizing a court to extend a 1-year lethal violence
30 protective order under certain circumstances; specifying the duration of a certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



extended lethal violence protective order; providing procedures for the surrender, seizure, and storage of certain items in connection with a lethal violence protective order; authorizing a law enforcement officer to seize certain firearms and ammunition under certain circumstances; authorizing a court to issue a warrant to search for certain firearms and ammunition under certain circumstances; authorizing a law enforcement agency holding firearms or ammunition in connection with a lethal violence protective order to charge a certain fee; providing for the return, sale, or destruction of firearms and ammunition after the termination of a lethal violence protective order under certain circumstances; providing that filing a petition for a lethal violence protective order under certain circumstances is a misdemeanor; providing that violating a lethal violence protective order under certain circumstances is a misdemeanor and establishing a certain penalty; providing that this Act does not affect certain other authority of a law enforcement officer; providing that this Act does not impose criminal or civil liability on certain persons under certain circumstances; defining certain terms; and generally relating to lethal violence protective orders.

BY adding to

Article – Family Law

Section 4–533 through 4–542 to be under the new part “Part V. Lethal Violence Protective Order”

Annotated Code of Maryland

(2012 Replacement Volume and 2017 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Family Law

4–531. RESERVED.

4–532. RESERVED.

PART V. LETHAL VIOLENCE PROTECTIVE ORDER.

4–533.

(A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “EX PARTE LETHAL VIOLENCE PROTECTIVE ORDER” MEANS AN ORDER ISSUED BY A COURT UNDER § 4–535 OF THIS SUBTITLE, PROHIBITING THE RESPONDENT FROM HAVING IN THE RESPONDENT’S CUSTODY OR CONTROL OR FROM OWNING, PURCHASING, POSSESSING, OR RECEIVING ANY FIREARMS OR AMMUNITION UNTIL THE COURT-SCHEDULED HEARING FOR A 1-YEAR LETHAL

1 VIOLENCE PROTECTIVE ORDER.

2 (C) "FAMILY MEMBER" INCLUDES:

3 (1) ANY PERSON RELATED TO THE RESPONDENT BY BLOOD,
4 MARRIAGE, OR ADOPTION;

5 (2) A CURRENT DATING PARTNER OF THE RESPONDENT;

6 (3) A FORMER DATING PARTNER OF THE RESPONDENT SEPARATED BY
7 1 YEAR OR LESS;

8 (4) ANY PERSON WHO RESIDES WITH THE RESPONDENT;

9 (5) ANY PERSON WHO HAS RESIDED WITH THE RESPONDENT WITHIN
10 1 YEAR BEFORE THE FILING OF A PETITION UNDER THIS SUBTITLE; OR

11 (6) A CURRENT OR FORMER LEGAL GUARDIAN FOR THE
12 RESPONDENT.

13 (D) "1-YEAR LETHAL VIOLENCE PROTECTIVE ORDER" MEANS AN ORDER
14 ISSUED BY A COURT UNDER § 4-536 OF THIS SUBTITLE, PROHIBITING THE
15 RESPONDENT FROM HAVING IN THE RESPONDENT'S CUSTODY OR CONTROL OR
16 FROM OWNING, PURCHASING, POSSESSING, OR RECEIVING ANY FIREARMS OR
17 AMMUNITION FOR A PERIOD OF 1 YEAR.

18 (E) "PETITIONER" MEANS A LAW ENFORCEMENT OFFICER OR A FAMILY
19 MEMBER WHO FILES A PETITION UNDER § 4-534 OF THIS SUBTITLE.

20 (F) "RESPONDENT" MEANS A PERSON AGAINST WHOM A PETITION IS FILED
21 UNDER § 4-534 OF THIS SUBTITLE.

22 4-534.

23 (A) A PETITIONER MAY SEEK AN EX PARTE LETHAL VIOLENCE PROTECTIVE
24 ORDER BY FILING WITH THE COURT A PETITION THAT ALLEGES, BASED ON
25 PERSONAL KNOWLEDGE, THAT THE RESPONDENT POSES AN IMMEDIATE AND
26 PRESENT DANGER OF CAUSING INJURY TO HIMSELF OR HERSELF OR TO OTHERS BY
27 HAVING IN THE RESPONDENT'S CUSTODY OR CONTROL OR BY OWNING,
28 PURCHASING, POSSESSING, OR RECEIVING A FIREARM OR AMMUNITION.

29 (B) THE PETITION SHALL SET FORTH THE GROUNDS FOR ISSUANCE OF THE
30 ORDER AND DESCRIBE THE NUMBER, TYPES, AND LOCATIONS OF ANY FIREARMS OR

1 AMMUNITION BELIEVED BY THE PETITIONER TO BE CURRENTLY POSSESSED OR
2 CONTROLLED BY THE RESPONDENT.

3 (C) ALL HEALTH RECORDS AND OTHER HEALTH INFORMATION PROVIDED
4 IN A PETITION OR CONSIDERED AS EVIDENCE IN A PROCEEDING UNDER THIS PART
5 SHALL BE PROTECTED FROM PUBLIC DISCLOSURE TO THE EXTENT THAT THE
6 INFORMATION IDENTIFIES A RESPONDENT OR PETITIONER.

7 (D) (1) A COURT SHALL SET A HEARING ON A 1-YEAR LETHAL VIOLENCE
8 PROTECTIVE ORDER NOT LATER THAN 14 DAYS AFTER RECEIPT OF A PETITION,
9 REGARDLESS OF WHETHER THE COURT ISSUES AN EX PARTE LETHAL VIOLENCE
10 PROTECTIVE ORDER UNDER § 4-535 OF THIS SUBTITLE.

11 (2) IF THE COURT ISSUES AN EX PARTE LETHAL VIOLENCE
12 PROTECTIVE ORDER UNDER § 4-535 OF THIS SUBTITLE, NOTICE OF THE HEARING
13 SHALL BE SERVED ON THE RESPONDENT AT THE SAME TIME AS THE EX PARTE
14 ORDER.

15 (3) NOTICE OF THE HEARING SHALL BE PERSONALLY SERVED ON THE
16 RESPONDENT BY A LAW ENFORCEMENT OFFICER OR, IF PERSONAL SERVICE BY A
17 LAW ENFORCEMENT OFFICER IS NOT PRACTICABLE, IN ACCORDANCE WITH THE
18 MARYLAND RULES.

19 4-535.

20 (A) A COURT SHALL ISSUE OR DENY A PETITION FOR AN EX PARTE LETHAL
21 VIOLENCE PROTECTIVE ORDER FILED UNDER § 4-534 OF THIS SUBTITLE ON THE
22 SAME DAY THAT THE PETITION IS FILED.

23 (B) IN DETERMINING WHETHER TO ISSUE AN EX PARTE LETHAL VIOLENCE
24 PROTECTIVE ORDER, THE COURT SHALL CONSIDER ALL RELEVANT EVIDENCE
25 PRESENTED BY THE PETITIONER, AND MAY ALSO CONSIDER EVIDENCE PERTAINING
26 TO THE RESPONDENT'S:

27 (1) UNLAWFUL, RECKLESS, OR NEGLIGENT USE, DISPLAY, STORAGE,
28 POSSESSION, OR BRANDISHING OF A FIREARM;

29 (2) ACT OR THREAT OF VIOLENCE AGAINST HIMSELF OR HERSELF OR
30 AGAINST ANOTHER, WHETHER OR NOT THE THREAT OF VIOLENCE INVOLVED A
31 FIREARM;

32 (3) VIOLATION OF ANY OTHER PROTECTIVE ORDER IN THE STATE OR
33 IN ANOTHER STATE;

1 (4) ABUSE OF CONTROLLED SUBSTANCES OR ALCOHOL OR ANY
2 CONVICTION FOR A CRIMINAL OFFENSE THAT INVOLVED CONTROLLED SUBSTANCES
3 OR ALCOHOL; AND

4 (5) RECENT ACQUISITION OF A FIREARM, AMMUNITION, OR ANOTHER
5 DEADLY WEAPON.

6 (C) THE COURT SHALL ALSO CONSIDER THE TIME THAT HAS ELAPSED SINCE
7 ANY EVENTS DESCRIBED IN SUBSECTION (B) OF THIS SECTION OCCURRED.

8 (D) IF THE COURT FINDS REASONABLE CAUSE TO BELIEVE THAT THE
9 RESPONDENT POSES AN IMMEDIATE AND PRESENT DANGER OF CAUSING INJURY TO
10 HIMSELF OR HERSELF OR TO ANOTHER BY HAVING IN THE RESPONDENT'S CUSTODY
11 OR CONTROL OR BY OWNING, PURCHASING, POSSESSING, OR RECEIVING A FIREARM
12 OR AMMUNITION, THE COURT SHALL ISSUE AN EX PARTE LETHAL VIOLENCE
13 PROTECTIVE ORDER.

14 (E) AN EX PARTE LETHAL VIOLENCE PROTECTIVE ORDER SHALL INCLUDE:

15 (1) A STATEMENT THAT THE RESPONDENT MAY NOT HAVE IN THE
16 RESPONDENT'S CUSTODY OR CONTROL OR OWN, PURCHASE, POSSESS, RECEIVE, OR
17 ATTEMPT TO PURCHASE OR RECEIVE A FIREARM OR AMMUNITION WHILE THE
18 ORDER IS IN EFFECT;

19 (2) A DESCRIPTION OF THE REQUIREMENTS FOR RELINQUISHMENT
20 OF FIREARMS AND AMMUNITION UNDER § 4-538 OF THIS SUBTITLE;

21 (3) A STATEMENT OF THE GROUNDS ASSERTED FOR THE ORDER;

22 (4) A NOTICE OF THE HEARING REQUIRED UNDER § 4-534(D) OF THIS
23 SUBTITLE TO DETERMINE WHETHER TO ISSUE A 1-YEAR LETHAL VIOLENCE
24 PROTECTIVE ORDER, INCLUDING THE ADDRESS OF THE COURT AND THE DATE AND
25 TIME THE HEARING IS SCHEDULED;

26 (5) A STATEMENT THAT AT THE HEARING THE COURT MAY EXTEND
27 THE ORDER FOR UP TO 1 YEAR; AND

28 (6) A STATEMENT THAT THE RESPONDENT MAY SEEK THE ADVICE OF
29 AN ATTORNEY AS TO ANY MATTER RELATED TO THE ORDER, AND THAT THE
30 ATTORNEY SHOULD BE CONSULTED PROMPTLY SO THAT THE ATTORNEY MAY ASSIST
31 THE RESPONDENT.

(F) AN EX PARTE LETHAL VIOLENCE PROTECTIVE ORDER SHALL BE PERSONALLY SERVED ON THE RESPONDENT BY A LAW ENFORCEMENT OFFICER OR, IF PERSONAL SERVICE BY A LAW ENFORCEMENT OFFICER IS NOT PRACTICABLE, IN ACCORDANCE WITH THE MARYLAND RULES.

(G) (1) THE COURT SHALL SCHEDULE A HEARING WITHIN 14 DAYS AFTER THE ISSUANCE OF AN EX PARTE LETHAL VIOLENCE PROTECTIVE ORDER TO DETERMINE WHETHER A 1-YEAR LETHAL VIOLENCE PROTECTIVE ORDER SHALL BE ISSUED.

(2) A RESPONDENT MAY SEEK TO RESCHEDULE THE HEARING ON A DATE NOT LATER THAN 30 DAYS AFTER THE INITIAL SCHEDULED HEARING.

(3) THE COURT SHALL DISMISS ANY EX PARTE LETHAL VIOLENCE PROTECTIVE ORDER IN EFFECT AGAINST THE RESPONDENT AT THE SUBSEQUENT HEARING.

4-536.

(A) AT A HEARING TO DETERMINE WHETHER TO ISSUE A 1-YEAR LETHAL VIOLENCE PROTECTIVE ORDER UNDER THIS SECTION, THE COURT SHALL CONSIDER ALL RELEVANT EVIDENCE PRESENTED BY THE PETITIONER AND MAY ALSO CONSIDER OTHER RELEVANT EVIDENCE, INCLUDING THE FACTORS DESCRIBED IN § 4-535(B) OF THIS SUBTITLE.

(B) IF THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT THE RESPONDENT POSES A SIGNIFICANT DANGER OF INJURY TO HIMSELF OR HERSELF OR TO OTHERS BY HAVING IN THE RESPONDENT'S CUSTODY OR CONTROL OR BY OWNING, PURCHASING, POSSESSING, OR RECEIVING A FIREARM OR AMMUNITION, THE COURT SHALL ISSUE A 1-YEAR LETHAL VIOLENCE PROTECTIVE ORDER.

(C) A 1-YEAR LETHAL VIOLENCE PROTECTIVE ORDER ISSUED UNDER THIS SECTION SHALL INCLUDE:

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

(2) A DESCRIPTION OF THE REQUIREMENTS FOR RELINQUISHMENT OF FIREARMS AND AMMUNITION UNDER § 4-538 OF THIS SUBTITLE;

(3) A STATEMENT OF THE GROUNDS SUPPORTING THE ISSUANCE OF

1 THE ORDER;

2 (4) THE DATE AND TIME THE ORDER EXPIRES;

3 (5) THE ADDRESS OF THE COURT THAT ISSUED THE ORDER;

4 (6) A STATEMENT THAT THE RESPONDENT SHALL HAVE THE RIGHT TO
5 REQUEST ONE HEARING TO TERMINATE THE ORDER WITHIN THE FIRST 6 MONTHS
6 AFTER THE ORDER'S EFFECTIVE DATE, OR AFTER THE FIRST 6 MONTHS OF A
7 RENEWED ORDER'S EFFECTIVE DATE; AND

8 (7) A STATEMENT THAT THE RESPONDENT MAY SEEK THE ADVICE OF
9 AN ATTORNEY AS TO ANY MATTER RELATED TO THE ORDER.

10 (D) IF THE RESPONDENT FAILS TO APPEAR AT THE HEARING, A 1-YEAR
11 LETHAL VIOLENCE PROTECTIVE ORDER ISSUED UNDER THIS SECTION SHALL BE
12 PERSONALLY SERVED ON THE RESPONDENT BY A LAW ENFORCEMENT OFFICER OR,
13 IF PERSONAL SERVICE BY A LAW ENFORCEMENT OFFICER IS NOT PRACTICABLE, IN
14 ACCORDANCE WITH THE MARYLAND RULES.

15 4-537.

16 (A) (1) A RESPONDENT TO A 1-YEAR LETHAL VIOLENCE PROTECTIVE
17 ORDER ISSUED UNDER § 4-536 OF THIS SUBTITLE MAY SUBMIT ONE WRITTEN
18 REQUEST WITHIN THE FIRST 6 MONTHS AFTER THE ORDER'S EFFECTIVE DATE FOR
19 A HEARING TO TERMINATE THE ORDER.

20 (2) (I) ON RECEIPT OF THE REQUEST FOR TERMINATION, THE
21 COURT SHALL SET A DATE FOR A HEARING.

22 (II) NOTICE OF THE REQUEST SHALL BE SERVED ON THE
23 PETITIONER IN ACCORDANCE WITH THE MARYLAND RULES.

24 (III) THE HEARING MAY NOT BE SCHEDULED EARLIER THAN 14
25 DAYS AFTER THE DATE OF SERVICE OF THE REQUEST ON THE PETITIONER.

26 (3) AT THE HEARING, IF THE COURT FINDS BY CLEAR AND
27 CONVINCING EVIDENCE THAT THE RESPONDENT DOES NOT POSE A SIGNIFICANT
28 DANGER OF CAUSING INJURY TO HIMSELF OR HERSELF OR TO OTHERS BY HAVING
29 IN THE RESPONDENT'S CUSTODY OR CONTROL OR BY OWNING, PURCHASING,
30 POSSESSING, OR RECEIVING A FIREARM OR AMMUNITION, THE COURT SHALL
31 TERMINATE THE ORDER.

(4) THE RESPONDENT BEARS THE BURDEN OF PROVING THAT THE RESPONDENT DOES NOT POSE A DANGER UNDER THE PROVISIONS OF PARAGRAPH (3) OF THIS SUBSECTION.

(B) (1) A PETITIONER MAY REQUEST AN EXTENSION OF A 1-YEAR LETHAL VIOLENCE PROTECTIVE ORDER AT ANY TIME WITHIN 3 MONTHS BEFORE THE EXPIRATION DATE OF THE ORDER.

(2) A COURT MAY, AFTER NOTICE AND A HEARING, EXTEND A 1-YEAR LETHAL VIOLENCE PROTECTIVE ORDER ISSUED UNDER THIS PART IF THE COURT FINDS, BY CLEAR AND CONVINCING EVIDENCE, THAT THE RESPONDENT CONTINUES TO POSE A SIGNIFICANT DANGER OF CAUSING INJURY TO HIMSELF OR HERSELF OR TO ANOTHER BY HAVING IN THE RESPONDENT'S CUSTODY OR CONTROL OR BY OWNING, PURCHASING, POSSESSING, OR RECEIVING A FIREARM OR AMMUNITION.

(3) IN DETERMINING WHETHER TO EXTEND A 1-YEAR LETHAL VIOLENCE PROTECTIVE ORDER ISSUED UNDER THIS PART, THE COURT SHALL CONSIDER ALL RELEVANT EVIDENCE PRESENTED BY THE PETITIONER, AND MAY ALSO CONSIDER OTHER RELEVANT EVIDENCE, INCLUDING THE FACTORS DESCRIBED IN § 4-535(B) OF THIS SUBTITLE.

(4) A 1-YEAR LETHAL VIOLENCE PROTECTIVE ORDER EXTENDED IN ACCORDANCE WITH THIS SECTION SHALL EXPIRE AFTER 1 YEAR, SUBJECT TO TERMINATION BY ORDER OF THE COURT AT A HEARING HELD IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION AND FURTHER EXTENSION BY ORDER OF THE COURT IN ACCORDANCE WITH THIS SUBSECTION.

4-538.

(A) ON THE ISSUANCE OF AN EX PARTE OR 1-YEAR LETHAL VIOLENCE PROTECTIVE ORDER, THE COURT SHALL ORDER THE RESPONDENT TO SURRENDER TO THE LOCAL LAW ENFORCEMENT AGENCY ALL FIREARMS AND AMMUNITION OWNED OR POSSESSED BY THE RESPONDENT OR IN THE RESPONDENT'S CUSTODY OR CONTROL.

(B) (1) A LAW ENFORCEMENT OFFICER SERVING A LETHAL VIOLENCE PROTECTIVE ORDER SHALL REQUEST THAT ALL FIREARMS AND AMMUNITION OWNED OR POSSESSED BY THE RESPONDENT OR IN THE RESPONDENT'S CUSTODY OR CONTROL BE IMMEDIATELY SURRENDERED AND SHALL TAKE POSSESSION OF ALL FIREARMS AND AMMUNITION THAT ARE SURRENDERED, IN PLAIN SIGHT, OR DISCOVERED IN ACCORDANCE WITH A LAWFUL SEARCH.

1 **(2) IF PERSONAL SERVICE BY A LAW ENFORCEMENT OFFICER IS NOT**
2 **PRACTICABLE, AND THE RESPONDENT IS SERVED IN ACCORDANCE WITH THE**
3 **MARYLAND RULES, THE RESPONDENT SHALL SURRENDER THE FIREARMS AND**
4 **AMMUNITION IN A SAFE MANNER TO THE CONTROL OF A LOCAL LAW ENFORCEMENT**
5 **OFFICER WITHIN 48 HOURS AFTER SERVICE OF THE ORDER.**

6 **(C) (1) AT THE TIME OF SURRENDER OR SEIZURE OF FIREARMS, A LAW**
7 **ENFORCEMENT OFFICER TAKING POSSESSION OF A FIREARM OR AMMUNITION IN**
8 **ACCORDANCE WITH A LETHAL VIOLENCE PROTECTIVE ORDER SHALL ISSUE A**
9 **RECEIPT IDENTIFYING ALL FIREARMS AND AMMUNITION THAT HAVE BEEN**
10 **SURRENDERED OR SEIZED AND PROVIDE A COPY OF THE RECEIPT TO THE**
11 **RESPONDENT.**

12 **(2) NOT LATER THAN 72 HOURS AFTER SERVICE OF THE ORDER, THE**
13 **LAW ENFORCEMENT OFFICER SHALL FILE THE ORIGINAL RECEIPT WITH THE COURT**
14 **THAT ISSUED THE LETHAL VIOLENCE PROTECTIVE ORDER AND RETAIN A COPY OF**
15 **THE RECEIPT.**

16 **(D) A COURT THAT HAS PROBABLE CAUSE TO BELIEVE A RESPONDENT TO A**
17 **LETHAL VIOLENCE PROTECTIVE ORDER HAS IN THE RESPONDENT'S CUSTODY OR**
18 **CONTROL OR OWNS OR POSSESSES FIREARMS OR AMMUNITION THAT THE**
19 **RESPONDENT HAS FAILED TO SURRENDER IN ACCORDANCE WITH THIS SECTION, OR**
20 **HAS RECEIVED OR PURCHASED A FIREARM OR AMMUNITION WHILE SUBJECT TO THE**
21 **ORDER, SHALL ISSUE A WARRANT DESCRIBING THE FIREARM OR AMMUNITION AND**
22 **AUTHORIZING A SEARCH OF ANY LOCATION WHERE THE FIREARM OR AMMUNITION**
23 **IS REASONABLY BELIEVED TO BE AND THE SEIZURE OF ANY FIREARMS OR**
24 **AMMUNITION DISCOVERED IN ACCORDANCE WITH SUCH A SEARCH.**

25 **(E) A LAW ENFORCEMENT AGENCY MAY CHARGE THE RESPONDENT A FEE**
26 **NOT TO EXCEED THE REASONABLE AND ACTUAL COSTS INCURRED BY THE LAW**
27 **ENFORCEMENT AGENCY FOR STORING A FIREARM OR AMMUNITION SURRENDERED**
28 **OR SEIZED UNDER THIS SECTION FOR THE DURATION OF THE LETHAL VIOLENCE**
29 **PROTECTIVE ORDER AND ANY ADDITIONAL TIME NECESSARY UNDER § 4-539 OF**
30 **THIS SUBTITLE.**

31 **4-539.**

32 **(A) (1) IF A LETHAL VIOLENCE PROTECTIVE ORDER IS TERMINATED OR**
33 **EXPIRES AND IS NOT EXTENDED, A LAW ENFORCEMENT AGENCY HOLDING ANY**
34 **FIREARM OR AMMUNITION THAT HAS BEEN SURRENDERED OR SEIZED IN**
35 **ACCORDANCE WITH THE ORDER SHALL NOTIFY THE RESPONDENT THAT THE**
36 **RESPONDENT MAY REQUEST THE RETURN OF THE FIREARM OR AMMUNITION.**

1 **(2) A LAW ENFORCEMENT AGENCY SHALL RETURN ANY**
2 **SURRENDERED OR SEIZED FIREARM OR AMMUNITION REQUESTED BY A**
3 **RESPONDENT ONLY AFTER CONFIRMING:**

4 **(I) THROUGH A BACKGROUND CHECK, THAT THE RESPONDENT**
5 **IS CURRENTLY ELIGIBLE TO OWN OR POSSESS FIREARMS AND AMMUNITION; AND**

6 **(II) THE RESPONDENT HAS PAID THE FULL AMOUNT DUE UNDER**
7 **§ 4-538(E) OF THIS SUBTITLE.**

8 **(B) (1) A RESPONDENT WHO HAS SURRENDERED ANY FIREARM OR**
9 **AMMUNITION TO A LAW ENFORCEMENT AGENCY AND WHO DOES NOT WISH TO HAVE**
10 **THE FIREARM OR AMMUNITION RETURNED OR WHO IS NO LONGER ELIGIBLE TO OWN**
11 **OR POSSESS FIREARMS OR AMMUNITION MAY:**

12 **(I) SELL OR TRANSFER TITLE OF THE FIREARM OR**
13 **AMMUNITION TO A LICENSED FIREARMS DEALER; OR**

14 **(II) REQUEST THE DESTRUCTION OF THE FIREARMS OR**
15 **AMMUNITION.**

16 **(2) THE LAW ENFORCEMENT AGENCY SHALL TRANSFER POSSESSION**
17 **OF THE FIREARM OR AMMUNITION TO A LICENSED FIREARMS DEALER ONLY AFTER**
18 **THE DEALER HAS DISPLAYED WRITTEN PROOF OF TRANSFER OF THE FIREARM OR**
19 **AMMUNITION FROM THE RESPONDENT TO THE DEALER AND THE LAW**
20 **ENFORCEMENT AGENCY HAS VERIFIED THE TRANSFER WITH THE RESPONDENT.**

21 **(3) ON REQUEST OF THE RESPONDENT, A LAW ENFORCEMENT**
22 **AGENCY MAY DESTROY ANY FIREARMS OR AMMUNITION HELD IN ACCORDANCE WITH**
23 **A LETHAL VIOLENCE PROTECTIVE ORDER UNDER THIS PART.**

24 **(C) IF A PERSON OTHER THAN THE RESPONDENT CLAIMS TITLE TO ANY**
25 **FIREARM OR AMMUNITION SURRENDERED OR SEIZED IN ACCORDANCE WITH A**
26 **LETHAL VIOLENCE PROTECTIVE ORDER, AND THE PERSON IS DETERMINED BY THE**
27 **LAW ENFORCEMENT AGENCY TO BE THE LAWFUL OWNER OF THE FIREARM OR**
28 **AMMUNITION, THE LAW ENFORCEMENT AGENCY SHALL RETURN THE FIREARM OR**
29 **AMMUNITION TO THAT PERSON.**

30 **(D) (1) A LAW ENFORCEMENT AGENCY HOLDING ANY FIREARM OR**
31 **AMMUNITION SURRENDERED OR SEIZED IN ACCORDANCE WITH A LETHAL VIOLENCE**
32 **PROTECTIVE ORDER MAY DISPOSE OF THE FIREARM OR AMMUNITION NOT EARLIER**
33 **THAN 6 MONTHS AFTER THE DATE OF PROPER NOTICE TO THE RESPONDENT OF THE**
34 **INTENT TO DISPOSE OF THE FIREARM OR AMMUNITION, UNLESS THE FIREARM OR**

1 AMMUNITION HAS BEEN CLAIMED BY THE LAWFUL OWNER.

2 (2) IF THE FIREARM OR AMMUNITION REMAINS UNCLAIMED AFTER 6
3 MONTHS FROM THE DATE OF NOTICE, NO PARTY SHALL HAVE THE RIGHT TO ASSERT
4 OWNERSHIP OF THE FIREARM OR AMMUNITION AND THE LAW ENFORCEMENT
5 AGENCY MAY SELL, TRANSFER, OR DESTROY THE FIREARM OR AMMUNITION.

6 4-540.

7 (A) A PERSON WHO FILES A PETITION FOR A LETHAL VIOLENCE
8 PROTECTIVE ORDER, KNOWING THE INFORMATION IN THE PETITION TO BE
9 MATERIALLY FALSE OR WITH AN INTENT TO HARASS THE RESPONDENT, IS GUILTY
10 OF A MISDEMEANOR.

11 (B) A PERSON WHO HAS IN THE PERSON'S CUSTODY OR CONTROL OR WHO
12 OWNS, PURCHASES, POSSESSES, OR RECEIVES A FIREARM OR AMMUNITION WITH
13 KNOWLEDGE THAT THE PERSON IS PROHIBITED FROM DOING SO BY A LETHAL
14 VIOLENCE PROTECTIVE ORDER IS GUILTY OF A MISDEMEANOR AND ON CONVICTION
15 SHALL BE PROHIBITED FROM HAVING IN THE PERSON'S CUSTODY OR CONTROL OR
16 OWNING, PURCHASING, POSSESSING, RECEIVING, OR ATTEMPTING TO PURCHASE OR
17 RECEIVE A FIREARM OR AMMUNITION FOR A PERIOD OF 5 YEARS FROM THE DATE
18 OF CONVICTION.

19 4-541.

20 THIS PART MAY NOT BE CONSTRUED TO AFFECT THE AUTHORITY OF A LAW
21 ENFORCEMENT OFFICER TO REMOVE FIREARMS OR AMMUNITION FROM ANY
22 PERSON IN ACCORDANCE WITH ANY OTHER LAW.

23 4-542.

24 THIS PART MAY NOT BE CONSTRUED TO IMPOSE CRIMINAL OR CIVIL LIABILITY
25 ON ANY PERSON WHO DOES NOT PETITION FOR A LETHAL VIOLENCE PROTECTIVE
26 ORDER UNDER THIS PART.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2018.