

# STATE OF NEW YORK

S. 2451

A. 2689

2019-2020 Regular Sessions

## SENATE - ASSEMBLY

January 24, 2019

IN SENATE -- Introduced by Sens. KAVANAGH, ADDABBO, BAILEY, BENJAMIN, BIAGGI, BRESLIN, BROOKS, CARLUCCI, COMRIE, GAUGHRAN, GIANARIS, GOUNARDES, HARCKHAM, HOYLMAN, JACKSON, KAMINSKY, KAPLAN, KRUEGER, LIU, MARTINEZ, MAYER, MONTGOMERY, MYRIE, PARKER, PERSAUD, RAMOS, RIVERA, SALAZAR, SANDERS, SAVINO, SEPULVEDA, SERRANO, STAVISKY, STEWART-COUSINS, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

IN ASSEMBLY -- Introduced by M. of A. SIMON, LENTOL, HEASTIE, PEOPLES-STOKES, ORTIZ, DICKENS, PICHARDO, GOTTFRIED, MOSLEY, GALEF, GLICK, JOYNER, L. ROSENTHAL, O'DONNELL, FAHY, SEAWRIGHT, D'URSO, ENGLEBRIGHT, QUART, CARROLL, PAULIN, MAGNARELLI, HUNTER, DE LA ROSA, TAYLOR, ABINANTI, LAVINE, RIVERA, BARRON, VANEL, ZEBROWSKI, NIOU, STECK, DINOWITZ, SIMOTAS, BLAKE, JAFFEE, ROZIC, AUBRY, WRIGHT, OTIS, WEPRIN, DAVILA, BICHOTTE, ARROYO, BUCHWALD, BURKE, GRIFFIN, JACOBSON, McMAHON, STERN, BRONSON, CRUZ, REYES, SAYEGH, FRONTUS -- Multi-Sponsored by -- M. of A. EPSTEIN, THIELE -- read once and referred to the Committee on Codes

AN ACT to amend the civil practice law and rules and the penal law, in relation to establishing extreme risk protection orders as court-issued orders of protection prohibiting a person from purchasing, possessing or attempting to purchase or possess a firearm, rifle or shotgun

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The civil practice law and rules is amended by adding a new  
2 article 63-A to read as follows:

3 ARTICLE 63-A  
4 EXTREME RISK PROTECTION ORDERS  
5 Section 6340. Definitions.  
6 6341. Application for an extreme risk protection order.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

SA

LBD08628-02-9

1 6342. Issuance of a temporary extreme risk protection order.

2 6343. Issuance of a final extreme risk protection order.

3 6344. Surrender and removal of firearms, rifles and shotguns  
4 pursuant to an extreme risk protection order.

5 6345. Request for renewal of an extreme risk protection order.

6 6346. Expiration of an extreme risk protection order.

7 6347. Effect of findings and determinations in subsequent  
8 proceedings.

9 § 6340. Definitions. For the purposes of this article:

10 1. "Extreme risk protection order" means a court-issued order of  
11 protection prohibiting a person from purchasing, possessing or attempt-  
12 ing to purchase or possess a firearm, rifle or shotgun.

13 2. "Petitioner" means: (a) a police officer, as defined in section  
14 1.20 of the criminal procedure law, or district attorney with jurisdic-  
15 tion in the county or city where the person against whom the order is  
16 sought resides; (b) a family or household member, as defined in subdivi-  
17 sion two of section four hundred fifty-nine-a of the social services  
18 law, of the person against whom the order is sought; or (c) a school  
19 administrator as defined in section eleven hundred twenty-five of the  
20 education law, or a school administrator's designee, of any school in  
21 which the person against whom the order is sought is currently enrolled  
22 or has been enrolled in the six months immediately preceding the filing  
23 of the petition. For purposes of this article, a school administrator's  
24 designee shall be employed at the same school as the school administra-  
25 tor and shall be any of the following who has been designated in writing  
26 to file a petition with respect to the person against whom the order is  
27 sought: a school teacher, school guidance counselor, school psychol-  
28 ogist, school social worker, school nurse, or other school personnel  
29 required to hold a teaching or administrative license or certificate,  
30 and full or part-time compensated school employee required to hold a  
31 temporary coaching license or professional coaching certificate.

32 3. "Respondent" means the person against whom an extreme risk  
33 protection order is or may be sought under this article.

34 4. "Possess" shall have the same meaning as defined in subdivision  
35 eight of section 10.00 of the penal law.

36 § 6341. Application for an extreme risk protection order. In accord-  
37 ance with this article, a petitioner may file an application, which  
38 shall be sworn, and accompanying supporting documentation, setting forth  
39 the facts and circumstances justifying the issuance of an extreme risk  
40 protection order. Such application and supporting documentation shall be  
41 filed in the supreme court in the county in which the respondent  
42 resides. The chief administrator of the courts shall adopt forms that  
43 may be used for purposes of such applications and the court's consider-  
44 ation of such applications. Such application form shall include inquiry  
45 as to whether the petitioner knows, or has reason to believe, that the  
46 respondent owns, possesses or has access to a firearm, rifle or shotgun  
47 and if so, a request that the petitioner list or describe such firearms,  
48 rifles and shotguns, and the respective locations thereof, with as much  
49 specificity as possible.

50 § 6342. Issuance of a temporary extreme risk protection order. 1.  
51 Upon application of a petitioner pursuant to this article, the court may  
52 issue a temporary extreme risk protection order, ex parte or otherwise,  
53 to prohibit the respondent from purchasing, possessing or attempting to  
54 purchase or possess a firearm, rifle or shotgun, upon a finding that  
55 there is probable cause to believe the respondent is likely to engage in  
56 conduct that would result in serious harm to himself, herself or others,

1 as defined in paragraph one or two of subdivision (a) of section 9.39 of  
2 the mental hygiene law. Such application for a temporary order shall be  
3 determined in writing on the same day the application is filed.

4 2. In determining whether grounds for a temporary extreme risk  
5 protection order exist, the court shall consider any relevant factors  
6 including, but not limited to, the following acts of the respondent:

7 (a) a threat or act of violence or use of physical force directed  
8 toward self, the petitioner, or another person;

9 (b) a violation or alleged violation of an order of protection;

10 (c) any pending charge or conviction for an offense involving the use  
11 of a weapon;

12 (d) the reckless use, display or brandishing of a firearm, rifle or  
13 shotgun;

14 (e) any history of a violation of an extreme risk protection order;

15 (f) evidence of recent or ongoing abuse of controlled substances or  
16 alcohol; or

17 (g) evidence of recent acquisition of a firearm, rifle, shotgun or  
18 other deadly weapon or dangerous instrument, or any ammunition therefor.

19 In considering the factors under this subdivision, the court shall  
20 consider the time that has elapsed since the occurrence of such act or  
21 acts and the age of the person at the time of the occurrence of such act  
22 or acts.

23 For the purposes of this subdivision, "recent" means within the six  
24 months prior to the date the petition was filed.

25 3. The application of the petitioner and supporting documentation, if  
26 any, shall set forth the factual basis for the request and probable  
27 cause for issuance of a temporary order. The court may conduct an exam-  
28 ination under oath of the petitioner and any witness the petitioner may  
29 produce.

30 4. A temporary extreme risk protection order, if warranted, shall  
31 issue in writing, and shall include:

32 (a) a statement of the grounds found for the issuance of the order;

33 (b) the date and time the order expires;

34 (c) the address of the court that issued the order;

35 (d) a statement to the respondent: (i) directing that the respondent  
36 may not purchase, possess or attempt to purchase or possess a firearm,  
37 rifle or shotgun while the order is in effect and that any firearm,  
38 rifle or shotgun possessed by such respondent shall be promptly surren-  
39 dered to any authorized law enforcement official in the same manner as  
40 set forth in subdivision five of section 530.14 of the criminal proce-  
41 dure law;

42 (ii) informing the respondent that the court will hold a hearing no  
43 sooner than three nor more than six business days after service of the  
44 temporary order, to determine whether a final extreme risk protection  
45 order will be issued and the date, time and location of such hearing,  
46 provided that the respondent shall be entitled to more than six days  
47 upon request in order to prepare for the hearing; and (iii) informing  
48 the respondent the he or she may seek the advice of an attorney and that  
49 an attorney should be consulted promptly; and

50 (e) a form to be completed and executed by the respondent at the time  
51 of service of the temporary extreme risk protection order which elicits  
52 a list of all firearms, rifles and shotguns possessed by the respondent  
53 and the particular location of each firearm, rifle or shotgun listed.

54 5. If the application for a temporary extreme risk protection order is  
55 not granted, the court shall notify the petitioner and, unless the  
56 application is voluntarily withdrawn by the petitioner, nonetheless

1 schedule a hearing on the application for a final extreme risk  
2 protection order. Such hearing shall be scheduled to be held promptly,  
3 but in any event no later than ten business days after the date on which  
4 such application is served on the respondent, provided, however, that  
5 the respondent may request, and the court may grant, additional time to  
6 allow the respondent to prepare for the hearing. A notice of such hear-  
7 ing shall be prepared by the court and shall include the date and time  
8 of the hearing, the address of the court, and the subject of the hear-  
9 ing.

10 6. (a) The court shall, in the manner specified in paragraph (b) of  
11 this subdivision, arrange for prompt service of a copy of the temporary  
12 extreme risk protection order, if any, the application therefor and, if  
13 separately applied for or if a temporary extreme risk protection order  
14 was not granted, the application for an extreme risk protection order,  
15 any notice of hearing prepared by the court, along with any associated  
16 papers including the petition and any supporting documentation,  
17 provided, that the court may redact the address and contact information  
18 of the petitioner from such application and papers where the court finds  
19 that disclosure of such address or other contact information would pose  
20 an unreasonable risk to the health or safety of the petitioner.

21 (b) The court shall provide copies of such documents to the appropri-  
22 ate law enforcement agency serving the jurisdiction of the respondent's  
23 residence with a direction that such documents be promptly served, at no  
24 cost to the petitioner, on the respondent; provided, however, that the  
25 petitioner may voluntarily arrange for service of copies of such order  
26 and associated papers through a third party, such as a licensed process  
27 server.

28 7. (a) The court shall notify the division of state police, any other  
29 law enforcement agency with jurisdiction, all applicable licensing offi-  
30 cers, and the division of criminal justice services of the issuance of a  
31 temporary extreme risk protection order and provide a copy of such order  
32 no later than the next business day after issuing the order to such  
33 persons or agencies. The court also shall promptly notify such persons  
34 and agencies and provide a copy of any order amending or revoking such  
35 protection order or restoring the respondent's ability to own or possess  
36 firearms, rifles or shotguns no later than the next business day after  
37 issuing the order to restore such right to the respondent. The court  
38 also shall report such demographic data as required by the state divi-  
39 sion of criminal justice services at the time such order is transmitted  
40 thereto. Any notice or report submitted pursuant to this subdivision  
41 shall be in an electronic format, in a manner prescribed by the division  
42 of criminal justice services.

43 (b) Upon receiving notice of the issuance of a temporary extreme risk  
44 protection order, the division of criminal justice services shall imme-  
45 diately report the existence of such order to the federal bureau of  
46 investigation to allow the bureau to identify persons prohibited from  
47 purchasing firearms, rifles or shotguns. The division shall also imme-  
48 diately report to the bureau the expiration of any such protection  
49 order, any court order amending or revoking such protection order or  
50 restoring the respondent's ability to purchase a firearm, rifle or shot-  
51 gun.

52 8. A law enforcement officer serving a temporary extreme risk  
53 protection order shall request that the respondent immediately surrender  
54 to the officer all firearms, rifles and shotguns in the respondent's  
55 possession and the officer shall conduct any search permitted by law for  
56 such firearms. The law enforcement officer shall take possession of all

1 firearms, rifles and shotguns that are surrendered, that are in plain  
2 sight, or that are discovered pursuant to a lawful search. As part of  
3 the order, the court may also direct a police officer to search for  
4 firearms, rifles and shotguns in the respondent's possession in a manner  
5 consistent with the procedures of article six hundred ninety of the  
6 criminal procedure law.

7 9. Upon issuance of a temporary extreme risk protection order, or upon  
8 setting a hearing for a final extreme risk protection order where a  
9 temporary order is denied or not requested, the court shall direct the  
10 law enforcement agency having jurisdiction to conduct a background  
11 investigation and report to the court and, subject to any appropriate  
12 redactions to protect any person, each party regarding whether the  
13 respondent:

14 (a) has any prior criminal conviction for an offense involving domes-  
15 tic violence, use of a weapon, or other violence;

16 (b) has any criminal charge or violation currently pending against him  
17 or her;

18 (c) is currently on parole or probation;

19 (d) possesses any registered firearms, rifles or shotguns; and

20 (e) has been, or is, subject to any order of protection or has  
21 violated or allegedly violated any order of protection.

22 § 6343. Issuance of a final extreme risk protection order. 1. In  
23 accordance with this article, no sooner than three business days nor  
24 later than six business days after service of a temporary extreme risk  
25 protection order and, alternatively, no later than ten business days  
26 after service of an application under this article where no temporary  
27 extreme risk protection order has been issued, the supreme court shall  
28 hold a hearing to determine whether to issue a final extreme risk  
29 protection order and, when applicable, whether a firearm, rifle or shot-  
30 gun surrendered by, or removed from, the respondent should be returned  
31 to the respondent. The respondent shall be entitled to more than six  
32 business days if a temporary extreme risk protection order has been  
33 issued and the respondent requests a reasonable period of additional  
34 time to prepare for the hearing. Where no temporary order has been  
35 issued, the respondent may request, and the court may grant, additional  
36 time beyond the ten days to allow the respondent to prepare for the  
37 hearing.

38 2. At the hearing pursuant to subdivision one of this section, the  
39 petitioner shall have the burden of proving, by clear and convincing  
40 evidence, that the respondent is likely to engage in conduct that would  
41 result in serious harm to himself, herself or others, as defined in  
42 paragraph one or two of subdivision (a) of section 9.39 of the mental  
43 hygiene law. The court may consider the petition and any evidence  
44 submitted by the petitioner, any evidence submitted by the respondent,  
45 any testimony presented, and the report of the relevant law enforcement  
46 agency submitted pursuant to subdivision nine of section sixty-three  
47 hundred forty-two of this article. The court shall also consider the  
48 factors set forth in subdivision two of section sixty-three hundred  
49 forty-two of this article.

50 3. (a) After the hearing pursuant to subdivision one of this section,  
51 the court shall issue a written order granting or denying the extreme  
52 risk protection order and setting forth the reasons for such determi-  
53 nation. If the extreme risk protection order is granted, the court shall  
54 direct service of such order in the manner and in accordance with the  
55 protections for the petitioner set forth in subdivision six of section  
56 sixty-three hundred forty-two of this article.



1     **(b) Upon issuance of an extreme risk protection order: (i) any**  
2 **firearm, rifle or shotgun removed pursuant to a temporary extreme risk**  
3 **protection order or such extreme risk protection order shall be retained**  
4 **by the law enforcement agency having jurisdiction for the duration of**  
5 **the order, unless ownership of the firearm, rifle or shotgun is legally**  
6 **transferred by the respondent to another individual permitted by law to**  
7 **own and possess such firearm, rifle or shotgun; (ii) the supreme court**  
8 **shall temporarily suspend any existing firearm license possessed by the**  
9 **respondent and order the respondent temporarily ineligible for such a**  
10 **license; (iii) the respondent shall be prohibited from purchasing or**  
11 **possessing, or attempting to purchase or possess, a firearm, rifle or**  
12 **shotgun; and (iv) the court shall direct the respondent to surrender any**  
13 **firearm, rifle or shotgun in his or her possession in the same manner as**  
14 **set forth in subdivision five of section 530.14 of the criminal proce-**  
15 **dure law.**

16     **(c) An extreme risk protection order issued in accordance with this**  
17 **section shall extend, as specified by the court, for a period of up to**  
18 **one year from the date of the issuance of such order; provided, however,**  
19 **that if such order was immediately preceded by the issuance of a tempo-**  
20 **rary extreme risk protection order, then the duration of the extreme**  
21 **risk protection order shall be measured from the date of issuance of**  
22 **such temporary extreme risk protection order.**

23     **(d) A law enforcement officer serving a final extreme risk protection**  
24 **order shall request that the respondent immediately surrender to the**  
25 **officer all firearms, rifles and shotguns in the respondent's possession**  
26 **and the officer shall conduct any search permitted by law for such**  
27 **firearms. The law enforcement officer shall take possession of all**  
28 **firearms, rifles and shotguns that are surrendered, that are in plain**  
29 **sight, or that are discovered pursuant to a lawful search. As part of**  
30 **the order, the court may also direct a police officer to search for**  
31 **firearms, rifles and shotguns in a respondent's possession consistent**  
32 **with the procedures of article six hundred ninety of the criminal proce-**  
33 **dure law.**

34     **4. (a) The court shall notify the division of state police, any other**  
35 **law enforcement agency with jurisdiction, all applicable licensing offi-**  
36 **cers, and the division of criminal justice services of the issuance of a**  
37 **final extreme risk protection order and provide a copy of such order to**  
38 **such persons and agencies no later than the next business day after**  
39 **issuing the order. The court also shall promptly notify such persons and**  
40 **agencies and provide a copy of any order amending or revoking such**  
41 **protection order or restoring the respondent's ability to own or possess**  
42 **firearms, rifles or shotguns no later than the next business day after**  
43 **issuing the order to restore such right to the respondent. Any notice or**  
44 **report submitted pursuant to this subdivision shall be in an electronic**  
45 **format, in a manner prescribed by the division of criminal justice**  
46 **services.**

47     **(b) Upon receiving notice of the issuance of a final extreme risk**  
48 **protection order, the division of criminal justice services shall imme-**  
49 **diately report the existence of such order to the federal bureau of**  
50 **investigation to allow the bureau to identify persons prohibited from**  
51 **purchasing firearms, rifles or shotguns. The division shall also imme-**  
52 **diately report to the bureau the expiration of such protection order and**  
53 **any court order amending or revoking such protection order or restoring**  
54 **the respondent's ability to purchase a firearm, rifle or shotgun.**

55     **5. (a) If, in accordance with a temporary extreme risk protection**  
56 **order, a firearm, rifle or shotgun has been surrendered by or removed**

1 from the respondent, and the supreme court subsequently finds that the  
2 petitioner has not met the required standard of proof, the court's find-  
3 ing shall include a written order, issued to all parties, directing that  
4 any firearm, rifle or shotgun surrendered or removed pursuant to such  
5 temporary order shall be returned to the respondent, upon a written  
6 finding that there is no legal impediment to the respondent's possession  
7 of such firearm, rifle or shotgun.

8 (b) If any other person demonstrates that he or she is the lawful  
9 owner of any firearm, rifle or shotgun surrendered or removed pursuant  
10 to a protection order issued in accordance with this article, and  
11 provided that the court has made a written finding that there is no  
12 legal impediment to the person's possession of a surrendered or removed  
13 firearm, rifle or shotgun, the court shall direct that such firearm,  
14 rifle or shotgun be returned to such lawful owner and inform such person  
15 of the obligation to safely store such firearm, rifle, or shotgun in  
16 accordance with section 265.45 of the penal law.

17 6. The respondent shall be notified on the record and in writing by  
18 the court that he or she may submit one written request, at any time  
19 during the effective period of an extreme risk protection order, for a  
20 hearing setting aside any portion of such order. The request shall be  
21 submitted in substantially the same form and manner as prescribed by the  
22 chief administrator of the courts. Upon such request, the court shall  
23 promptly hold a hearing, in accordance with this article, after provid-  
24 ing reasonable notice to the petitioner. The respondent shall bear the  
25 burden to prove, by clear and convincing evidence, any change of circum-  
26 stances that may justify a change to the order.

27 § 6344. Surrender and removal of firearms, rifles and shotguns pursu-  
28 ant to an extreme risk protection order. 1. When a law enforcement offi-  
29 cer takes any firearm, rifle or shotgun pursuant to a temporary extreme  
30 risk protection order or a final extreme risk protection order, the  
31 officer shall give to the person from whom such firearm, rifle or shot-  
32 gun is taken a receipt or voucher for the property taken, describing the  
33 property in detail. In the absence of a person, the officer shall leave  
34 the receipt or voucher in the place where the property was found, mail a  
35 copy of the receipt or voucher, retaining proof of mailing, to the last  
36 known address of the respondent and, if different, the owner of the  
37 firearm, rifle or shotgun, and file a copy of such receipt or voucher  
38 with the court. All firearms, rifles and shotguns in the possession of a  
39 law enforcement official pursuant to this article shall be subject to  
40 the provisions of applicable law, including but not limited to subdivi-  
41 sion six of section 400.05 of the penal law; provided, however, that any  
42 such firearm, rifle or shotgun shall be retained and not disposed of by  
43 the law enforcement agency for at least two years unless legally trans-  
44 ferred by the respondent to an individual permitted by law to own and  
45 possess such firearm, rifle or shotgun.

46 2. If the location to be searched during the execution of a temporary  
47 extreme risk protection order or extreme risk protection order is joint-  
48 ly occupied by two or more parties, and a firearm, rifle or shotgun  
49 located during the execution of such order is owned by a person other  
50 than the respondent, the court shall, upon a written finding that there  
51 is no legal impediment to the person other than the respondent's  
52 possession of such firearm, rifle or shotgun, order the return of such  
53 firearm, rifle or shotgun to such lawful owner and inform such person of  
54 their obligation to safely store their firearm, rifle, or shotgun in  
55 accordance with section 265.45 of the penal law.

1     § 6345. Request for renewal of an extreme risk protection order. 1.  
2     If a petitioner believes a person subject to an extreme risk protection  
3     order continues to be likely to engage in conduct that would result in  
4     serious harm to himself, herself, or others, as defined in paragraph one  
5     or two of subdivision (a) of section 9.39 of the mental hygiene law,  
6     such petitioner may, at any time within sixty days prior to the expira-  
7     tion of such existing extreme risk protection order, initiate a request  
8     for a renewal of such order, setting forth the facts and circumstances  
9     necessitating the request. The chief administrator of the courts shall  
10    adopt forms that may be used for purposes of such applications and the  
11    court's consideration of such applications. The court may issue a tempo-  
12    rary extreme risk protection order in accordance with section sixty-  
13    three hundred forty-two of this article, during the period that a  
14    request for renewal of an extreme risk protection order is under consid-  
15    eration pursuant to this section.

16    2. A hearing held pursuant to this section shall be conducted in the  
17    supreme court, in accordance with section sixty-three hundred forty-  
18    three of this article, to determine if a request for renewal of the  
19    order shall be granted. The respondent shall be served with written  
20    notice of an application for renewal a reasonable time before the hear-  
21    ing, and shall be afforded an opportunity to fully participate in the  
22    hearing. The court shall direct service of such application and the  
23    accompanying papers in the manner and in accordance with the protections  
24    for the petitioner set forth in subdivision six of section sixty-three  
25    hundred forty-two of this article.

26    § 6346. Expiration of an extreme risk protection order. 1. A  
27    protection order issued pursuant to this article, and all records of any  
28    proceedings conducted pursuant to this article, shall be sealed upon  
29    expiration of such order and the clerk of the court wherein such  
30    proceedings were conducted shall immediately notify the commissioner of  
31    the division of criminal justice services, the heads of all appropriate  
32    police departments, applicable licensing officers, and all other appro-  
33    priate law enforcement agencies that the order has expired and that the  
34    record of such protection order shall be sealed and not be made avail-  
35    able to any person or public or private entity, except that such records  
36    shall be made available to:

37    (a) the respondent or the respondent's designated agent;  
38    (b) courts in the unified court system;  
39    (c) police forces and departments having responsibility for enforce-  
40    ment of the general criminal laws of the state;  
41    (d) any state or local officer or agency with responsibility for the  
42    issuance of licenses to possess a firearm, rifle or shotgun, when the  
43    respondent has made application for such a license; and  
44    (e) any prospective employer of a police officer or peace officer as  
45    those terms are defined in subdivisions thirty-three and thirty-four of  
46    section 1.20 of the criminal procedure law, in relation to an applica-  
47    tion for employment as a police officer or peace officer; provided,  
48    however, that every person who is an applicant for the position of  
49    police officer or peace officer shall be furnished with a copy of all  
50    records obtained under this subparagraph and afforded an opportunity to  
51    make an explanation thereto.

52    2. Upon expiration of a protection order issued pursuant to this arti-  
53    cle and upon written application of the respondent who is the subject of  
54    such order, with notice and opportunity to be heard to the petitioner  
55    and every licensing officer responsible for issuance of a firearm  
56    license to the subject of the order pursuant to article four hundred of



1 the penal law, and upon a written finding that there is no legal imped-  
2 iment to the respondent's possession of a surrendered firearm, rifle or  
3 shotgun, the court shall order the return of a firearm, rifle or shotgun  
4 not otherwise disposed of in accordance with subdivision one of section  
5 sixty-three hundred forty-four of this article. When issuing such order  
6 in connection with any firearm subject to a license requirement under  
7 article four hundred of the penal law, if the licensing officer informs  
8 the court that he or she will seek to revoke the license, the order  
9 shall be stayed by the court until the conclusion of any license revoca-  
10 tion proceeding.

11 § 6347. Effect of findings and determinations in subsequent  
12 proceedings. Notwithstanding any contrary claim based on common law or  
13 a provision of any other law, no finding or determination made pursuant  
14 to this article shall be interpreted as binding, or having collateral  
15 estoppel or similar effect, in any other action or proceeding, or with  
16 respect to any other determination or finding, in any court, forum or  
17 administrative proceeding.

18 § 2. Section 265.45 of the penal law, as amended by section 3 of part  
19 FF of chapter 57 of the laws of 2013, is amended to read as follows:

20 § 265.45 Safe storage of rifles, shotguns, and firearms.

21 No person who owns or is custodian of a rifle, shotgun or firearm who  
22 resides with an individual who such person knows or has reason to know  
23 is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(g)  
24 (1), (4), (8) or (9), or pursuant to a temporary or final extreme risk  
25 protection order issued under article sixty-three-A of the civil prac-  
26 tice law and rules, shall store or otherwise leave such rifle, shotgun  
27 or firearm out of his or her immediate possession or control without  
28 having first securely locked such rifle, shotgun or firearm in an appro-  
29 priate safe storage depository or rendered it incapable of being fired  
30 by use of a gun locking device appropriate to that weapon. For purposes  
31 of this section "safe storage depository" shall mean a safe or other  
32 secure container which, when locked, is incapable of being opened with-  
33 out the key, combination or other unlocking mechanism and is capable of  
34 preventing an unauthorized person from obtaining access to and  
35 possession of the weapon contained therein. With respect to a person who  
36 is prohibited from possessing a firearm pursuant to 18 USC § 922(g)(9),  
37 for purposes of this section, this section applies only if such person  
38 has been convicted of a crime included in subdivision one of section  
39 370.15 of the criminal procedure law and such gun is possessed within  
40 five years from the later of the date of conviction or completion of  
41 sentence. Nothing in this section shall be deemed to affect, impair or  
42 supersede any special or local act relating to the safe storage of  
43 rifles, shotguns or firearms which impose additional requirements on the  
44 owner or custodian of such weapons.

45 A violation of this section shall constitute a class A misdemeanor.

46 § 3. Severability. If any part or provision of this act is adjudged by  
47 a court of competent jurisdiction to be unconstitutional or otherwise  
48 invalid, such judgment shall not affect or impair any other part or  
49 provision of this act, but shall be confined in its operation to such  
50 part or provision.

51 § 4. This act shall take effect on the one hundred eightieth day after  
52 it shall have become a law.