§ 530.14 Suspension and revocation of a license to carry, possess, repair or dispose of a firearm or firearms pursuant to section 400.00 of the penal law and ineligibility for such a license; order to surrender firearms; order to seize firearms.

1. Suspension of firearms license and ineligibility for such a license upon issuance of temporary order of protection. Whenever a temporary order of protection is issued pursuant to subdivision one of section 530.12 or subdivision one of section 530.13 of this article the court shall inquire of the defendant and the prosecutor as to the existence and location of any firearm, rifle or shotgun reasonably believed to be owned or possessed by the defendant, and the prosecutor will make reasonable efforts to obtain such information regarding the same and present it to the court and:

(a) the court shall suspend any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender of any or all firearms, rifles and shotguns owned or possessed where the court receives information that gives the court good cause to believe that (i) the defendant has a prior conviction of any violent felony offense as defined in section 70.02 of the penal law; (ii) the defendant has previously been found to have willfully failed to obey a prior order of protection and such willful failure involved (A) the infliction of physical injury, as defined in subdivision nine of section 10.00 of the penal law, (B) the use or threatened use of a deadly weapon or dangerous instrument as those terms are defined in subdivisions twelve and thirteen of section 10.00 of the penal law, or (C) behavior constituting any violent felony offense as defined in section 70.02 of the penal law; or (iii) the defendant has a prior conviction for stalking in the first degree as defined in section 120.60 of the penal law, stalking in the second degree as defined in section 120.55 of the penal law, stalking in the third degree as defined in section 120.50 of the penal law or stalking in the fourth degree as defined in section 120.45 of such law;

(b) the court shall where the court finds a substantial risk that the defendant may use or threaten to use a firearm, rifle or shotgun unlawfully against the person or persons for whose protection the

temporary order of protection is issued, suspend any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed; and

(c) the court shall where the defendant willfully refuses to surrender such firearm, rifle or shotgun pursuant to paragraphs (a) and (b) of this subdivision, or may for other good cause shown, order the immediate seizure of such firearm, rifle or shotgun, and search therefor, pursuant to an order issued in accordance with article six hundred ninety of this part, consistent with such rights as the defendant may derive from this article or the constitution of this state or the United States.

2. Revocation or suspension of firearms license and ineligibility for such a license upon issuance of an order of protection. Whenever an order of protection is issued pursuant to subdivision five of section 530.12 or subdivision four of section 530.13 of this article the court shall inquire of the defendant and the prosecutor as to the existence and location of any firearm, rifle or shotgun reasonably believed to be owned or possessed by the defendant, and the prosecutor will make reasonable efforts to obtain such information regarding the same and present it to the court and:

(a) the court shall revoke any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender of any or all firearms, rifles and shotguns owned or possessed where such action is required by section 400.00 of the penal law;

(b) the court shall where the court finds a substantial risk that the defendant may use or threaten to use a firearm, rifle or shotgun unlawfully against the person or persons for whose protection the order of protection is issued, (i) revoke any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender of any or all firearms, rifles and shotguns owned or possessed or (ii) suspend or continue to suspend any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender pursuant

to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed; and

(c) the court shall where the defendant willfully refuses to surrender such firearm, rifle or shotgun pursuant to paragraphs (a) and (b) of this subdivision, or may for other good cause shown, order the immediate seizure of such firearm, rifle or shotgun, and search therefor, pursuant to an order issued in accordance with article six hundred ninety of this part, consistent with such rights as the defendant may derive from this article or the constitution of this state or the United States.

3. Revocation or suspension of firearms license and ineligibility for such a license upon a finding of a willful failure to obey an order of protection. Whenever a defendant has been found pursuant to subdivision eleven of section 530.12 or subdivision eight of section 530.13 of this article to have willfully failed to obey an order of protection issued by a court of competent jurisdiction in this state or another state, territorial or tribal jurisdiction, in addition to any other remedies available pursuant to subdivision eleven of section 530.12 or subdivision eight of section 530.13 of this article the court shall inquire of the defendant and the prosecutor as to the existence and location of any firearm, rifle or shotgun reasonably believed to be owned or possessed by the defendant, and the prosecutor will make reasonable efforts to obtain such information regarding the same and present it to the court and:

(a) the court shall revoke any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender of any or all firearms, rifles and shotguns owned or possessed where the willful failure to obey such order involved (i) the infliction of physical injury, as defined in subdivision nine of section 10.00 of the penal law, (ii) the use or threatened use of a deadly weapon or dangerous instrument as those terms are defined in subdivisions twelve and thirteen of section 10.00 of the penal law, (iii) behavior constituting any violent felony offense as defined in section 70.02 of the penal law; or (iv) behavior constituting stalking in the first degree as defined in section 120.60 of the penal law, stalking in the second degree as defined in section 120.55 of the penal

law, stalking in the third degree as defined in section 120.50 of the penal law or stalking in the fourth degree as defined in section 120.45 of such law;

(b) the court shall where the court finds a substantial risk that the defendant may use or threaten to use a firearm, rifle or shotgun unlawfully against the person or persons for whose protection the order of protection was issued, (i) revoke any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed or (ii) suspend any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed; and

(c) the court shall where the defendant willfully refuses to surrender such firearm, rifle or shotgun pursuant to paragraphs (a) and (b) of this subdivision, or may for other good cause shown, order the immediate seizure of such firearm, rifle or shotgun, and search therefor, pursuant to an order issued in accordance with article six hundred ninety of this part, consistent with such rights as the defendant may derive from this article or the constitution of this state or the United States.

4. Suspension. Any suspension order issued pursuant to this section shall remain in effect for the duration of the temporary order of protection or order of protection, unless modified or vacated by the court.

5. Surrender. (a) Where an order to surrender one or more firearms, rifles and shotguns has been issued, the temporary order of protection or order of protection shall specify the place where such weapons shall be surrendered, shall specify a date and time by which the surrender shall be completed and, to the extent possible, shall describe such weapons to be surrendered, and shall direct the authority receiving such surrendered weapons to immediately notify the court of such surrender.

(b) The prompt surrender of one or more firearms, rifles or shotguns pursuant to a court order issued pursuant to this section shall be considered a voluntary surrender for purposes of subparagraph (f) of paragraph one of subdivision a of section 265.20 of the penal law. The disposition of any such weapons, including weapons ordered to be seized pursuant to this section and section eight hundred forty-two-a of the family court act, shall be in accordance with the provisions of subdivision six of section 400.05 of the penal law; provided, however, that upon termination of any suspension order issued pursuant to this section or section eight hundred forty-two-a of the family court act, upon written application of the subject of the order, with notice and opportunity to be heard to the district attorney, the county attorney, the protected party, and every licensing officer responsible for issuance of a firearms license to the subject of the order pursuant to article four hundred of the penal law, and upon a written finding that there is no legal impediment to the subject's possession of a surrendered firearm, rifle or shotgun, any court of record exercising criminal jurisdiction may order the return of a firearm, rifle or shotgun not otherwise disposed of in accordance with subdivision six of section 400.05 of the penal law. When issuing such order in connection with any firearm subject to a license requirement under article four hundred of the penal law, if the licensing officer informs the court that he or she will seek to revoke the license, the order shall be stayed by the court until the conclusion of any license revocation proceeding.

(c) The provisions of this section shall not be deemed to limit, restrict or otherwise impair the authority of the court to order and direct the surrender of any or all firearms, rifles and shotguns owned or possessed by a defendant pursuant to sections 530.12 or 530.13 of this article.

(d) If any other person demonstrates that such person is the lawful owner of any weapon taken into custody pursuant to this section or section eight hundred forty-two-a of the family court act, and provided that the court has made a written finding that there is no legal impediment to the person's possession of such a weapon, such court shall direct that such weapon be returned to such lawful owner.

6. Notice. (a) Where an order requiring surrender, revocation, suspension, seizure or ineligibility has been issued pursuant to this section, any temporary order of protection or order of protection issued shall state that such firearm license has been suspended or revoked or that the defendant is ineligible for such license, as the case may be, and that the defendant is prohibited from possessing any firearm, rifle or shotgun.

(b) The court revoking or suspending the license, ordering the defendant ineligible for such a license, or ordering the surrender or seizure of any firearm, rifle or shotgun shall immediately notify the duly constituted police authorities of the locality concerning such action and, in the case of orders of protection and temporary orders of protection issued pursuant to section 530.12 of this article, shall immediately notify the statewide registry of orders of protection.

(c) The court revoking or suspending the license or ordering the defendant ineligible for such a license shall give written notice thereof without unnecessary delay to the division of state police at its office in the city of Albany.

(d) Where an order of revocation, suspension, ineligibility, surrender or seizure is modified or vacated, the court shall immediately notify the statewide registry of orders of protection and the duly constituted police authorities of the locality concerning such action and shall give written notice thereof without unnecessary delay to the division of state police at its office in the city of Albany.

7. Hearing. The defendant shall have the right to a hearing before the court regarding any revocation, suspension, ineligibility, surrender or seizure order issued pursuant to this section, provided that nothing in this subdivision shall preclude the court from issuing any such order prior to a hearing. Where the court has issued such an order prior to a hearing, it shall commence such hearing within fourteen days of the date such order was issued.

8. Nothing in this section shall delay or otherwise interfere with the issuance of a temporary order of protection or the timely arraignment of a defendant in custody.