

114TH CONGRESS
1ST SESSION

H. R. 410

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 20, 2015

Mrs. CAPPS (for herself and Mr. THOMPSON of California) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide family members and close associates of an individual who they fear is a danger to himself, herself, or others 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 “Pause for Safety Act
5 of 2015”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act—

8 (1) the term “close associate” means, with re-
9 spect to an individual—

1 (A) a dating partner, friend, co-worker, or
2 neighbor of the individual; or

3 (B) any other person who has a relation-
4 ship with the individual so as to be concerned
5 about the safety and well-being of the indi-
6 vidual, as determined by a State;

7 (2) the term “family member” means, with re-
8 spect to an individual, a spouse, child, parent, sib-
9 ling, grandchild, or grandparent of the individual;

10 (3) the term “firearm” has the meaning given
11 the term in section 921 of title 18, United States
12 Code;

13 (4) the term “gun violence prevention order”
14 means a written order, issued by a State court or
15 signed by a magistrate (or other comparable judicial
16 officer), prohibiting a named individual from having
17 under the custody or control of the individual, own-
18 ing, purchasing, possessing, or receiving any fire-
19 arms;

20 (5) the term “gun violence prevention warrant”
21 means a written order, issued by a State court or
22 signed by a magistrate (or other comparable judicial
23 officer), regarding an individual who is subject to a
24 gun violence prevention order and who is known to
25 own or possess 1 or more firearms, that directs a

1 law enforcement officer to temporarily seize and re-
2 tain any firearm in the possession of the individual;

3 (6) the term “law enforcement officer” means
4 a public servant authorized by State law or by a
5 State government agency to engage in or supervise
6 the prevention, detection, investigation, or prosecu-
7 tion of an offense; and

8 (7) the term “wellness check” means a visit
9 conducted by a law enforcement officer to the resi-
10 dence of an individual for the purpose of assessing
11 whether the individual poses a danger to the indi-
12 vidual or others due to a mental, behavioral, or
13 physical condition.

14 **SEC. 3. NATIONAL GUN VIOLENCE PREVENTION ORDER**
15 **AND WARRANT LAW.**

16 (a) ENACTMENT OF GUN VIOLENCE PREVENTION
17 ORDER LAW.—In order to receive a grant under section
18 4, on the date that is 3 years after the date of enactment
19 of this Act, each State shall have in effect legislation
20 that—

21 (1) authorizes a gun violence prevention order
22 and gun violence prevention warrant in accordance
23 with subsection (b); and

24 (2) requires each law enforcement agency of the
25 State to comply with subsection (c).

1 (b) REQUIREMENTS FOR GUN VIOLENCE PREVEN-
2 TION ORDERS AND WARRANTS.—Legislation required
3 under subsection (a) shall be subject to the following re-
4 quirements:

5 (1) APPLICATION FOR GUN VIOLENCE PREVEN-
6 TION ORDER.—A family member or close associate
7 of an individual may submit an application to a
8 State court, on a form designed by the court, that—

9 (A) describes the facts and circumstances
10 necessitating that a gun violence prevention
11 order be issued against the named individual;

12 (B) is signed by the applicant, under oath;
13 and

14 (C) includes any additional information re-
15 quired by the State court or magistrate (or
16 other comparable judicial officer) to dem-
17 onstrate that possession of a firearm by the
18 named individual poses a significant risk of per-
19 sonal injury to the named individual or others.

20 (2) EXAMINATION OF APPLICANT AND WIT-
21 NESSES.—A State court or magistrate (or other
22 comparable judicial officer) may, before issuing a
23 gun violence prevention order—

1 (A) examine under oath, the individual
2 who applied for the order under paragraph (1)
3 and any witnesses the individual produces; and

4 (B)(i) require that the individual or any
5 witness submit a signed affidavit, which de-
6 scribes the facts the applicant or witness be-
7 lieves establish the grounds of the application;
8 or

9 (ii) take an oral statement from the indi-
10 vidual or witness under oath.

11 (3) STANDARD FOR ISSUANCE OF ORDER.—

12 (A) IN GENERAL.—A State court or mag-
13 istrate (or other comparable judicial officer)
14 may issue a gun violence prevention order only
15 upon a finding of probable cause that posses-
16 sion of a firearm by the named individual poses
17 a significant risk of personal injury to the
18 named individual or others.

19 (B) NOTIFICATION.—

20 (i) IN GENERAL.—The court shall no-
21 tify the Department of Justice and com-
22 parable State agency of the gun violence
23 prevention order not later than 2 court
24 days after issuing the order. The court
25 shall also notify the Department of Justice

1 and comparable State agency of any order
2 restoring the ability of the individual to
3 own or possess firearms not later than 2
4 court days after issuing the order to re-
5 store the individual's right to own or pos-
6 sess any type of firearms that may be law-
7 fully owned and possessed. Such notice
8 shall be submitted in an electronic format,
9 in a manner prescribed by the Department
10 of Justice and the comparable State agen-
11 cy.

12 (ii) UPDATE OF DATABASES.—As
13 soon as practicable after receiving a notifi-
14 cation under clause (i), the Department of
15 Justice and comparable State agency shall
16 update the background check databases of
17 the Department and agency, respectively,
18 to reflect the prohibitions articulated in the
19 gun violence prevention order.

20 (4) ISSUANCE OF GUN VIOLENCE PREVENTION
21 WARRANT.—

22 (A) IN GENERAL.—After issuing a gun vio-
23 lence prevention order, a State court or mag-
24 istrate (or other comparable judicial officer)
25 shall, upon a finding of probable cause to be-

lieve that the named individual subject to the order has a firearm in his custody or control, issue a gun violence prevention warrant ordering the temporary seizure of all firearms specified in the warrant.

(B) REQUIREMENT.—Subject to paragraph (6), a gun violence prevention warrant issued under subparagraph (A) shall require that any firearm described in the warrant be taken from any place, or from any individual in whose possession, the firearm may be.

(5) SERVICE OF GUN VIOLENCE PREVENTION ORDER.—When serving a gun violence prevention order, a law enforcement officer shall provide the individual with a form to request a hearing in accordance with paragraph (6)(F).

(6) TEMPORARY SEIZURE OF FIREARMS.—

(A) IN GENERAL.—When a law enforcement officer takes property under a gun violence prevention warrant, the law enforcement officer shall give a receipt for the property taken, specifying the property in detail, to the individual from whom it was taken. In the absence of a person, the law enforcement officer

1 shall leave the receipt in the place where the
2 law enforcement officer found the property.

3 (B) TEMPORARY CUSTODY OF SEIZED
4 FIREARMS.—All firearms seized pursuant to a
5 gun violence prevention warrant shall be re-
6 tained by the law enforcement officer or the law
7 enforcement agency in custody, subject to the
8 order of the court that issued the warrant or to
9 any other court in which an offense with re-
10 spect to the firearm is triable.

11 (C) LIMITATION ON SEIZURE OF FIRE-
12 ARMS.—If the location to be searched during
13 the execution of a gun violence prevention war-
14 rant is jointly occupied by multiple parties and
15 a firearm is located during the execution of the
16 seizure warrant, and it is determined that the
17 firearm is owned by an individual other than
18 the individual named in the gun violence pre-
19 vention warrant, the firearm may not be seized
20 if—

21 (i) the firearm is stored in a manner
22 that the individual named in the gun vio-
23 lence prevention warrant does not have ac-
24 cess to or control of the firearm; and

1 (ii) there is no evidence of unlawful
2 possession of the firearm by the owner.

3 (D) GUN SAFE.—If the location to be
4 searched during the execution of a gun violence
5 prevention warrant is jointly occupied by mul-
6 tiple parties and a gun safe is located, and it
7 is determined that the gun safe is owned by an
8 individual other than the individual named in
9 the gun violence prevention warrant, the con-
10 tents of the gun safe shall not be searched ex-
11 cept in the owner’s presence, or with the own-
12 er’s consent, or unless a valid search warrant
13 has been obtained.

14 (E) RETURN OF FIREARM TO RIGHTFUL
15 OWNER.—If any individual who is not a named
16 individual in a gun violence prevention warrant
17 claims title to a firearm seized pursuant to a
18 gun violence prevention warrant, the firearm
19 shall be returned to the lawful owner not later
20 than 30 days after the date on which the title
21 is claimed.

22 (F) RIGHT TO REQUEST A HEARING.—A
23 named individual may submit 1 written request
24 at any time during the effective period of a gun
25 violence prevention order issued against the in-

1 dividual for a hearing for an order allowing the
2 individual to own, possess, purchase, or receive
3 a firearm.

4 (7) HEARING ON GUN VIOLENCE PREVENTION
5 ORDER AND GUN VIOLENCE PREVENTION WAR-
6 RANT.—

7 (A) IN GENERAL.—Except as provided in
8 subparagraph (E), not later than 14 days after
9 the date on which a gun violence prevention
10 order and, when applicable, a gun violence pre-
11 vention warrant, is issued, the court that issued
12 the order and, when applicable, the warrant, or
13 another court in that same jurisdiction, shall
14 hold a hearing to determine whether the indi-
15 vidual who is the subject of the order may have
16 under the custody or control of the individual,
17 own, purchase, possess, or receive firearms and,
18 when applicable, whether any seized firearms
19 should be returned to the individual named in
20 the warrant.

21 (B) NOTICE.—The individual named in a
22 gun violence prevention order requested to be
23 renewed under subparagraph (A) shall be given
24 written notice and an opportunity to be heard
25 on the matter.

1 (C) BURDEN OF PROOF.—

2 (i) IN GENERAL.—Except as provided
3 in clause (ii), at any hearing conducted
4 under subparagraph (A), the State or peti-
5 tioner shall have the burden of establishing
6 probable cause that the individual poses a
7 significant risk of personal injury to the in-
8 dividual or others by owning or possessing
9 the firearm.

10 (ii) HIGHER BURDEN OF PROOF.—A
11 State may establish a burden of proof for
12 hearings conducted under subparagraph
13 (A) that is higher than the burden of proof
14 required under clause (i).

15 (D) REQUIREMENTS UPON FINDING OF
16 SIGNIFICANT RISK.—If the named individual is
17 found at the hearing to pose a significant risk
18 of personal injury to the named individual or
19 others by owning or possessing a firearm, the
20 following shall apply:

21 (i) The firearm or firearms seized
22 pursuant to the warrant shall be retained
23 by the law enforcement agency for a period
24 not to exceed 1 year.

1 (ii) The named individual shall be
2 prohibited from owning or possessing, pur-
3 chasing or receiving, or attempting to pur-
4 chase or receive a firearm for a period not
5 to exceed 1 year, a violation of which shall
6 be considered a misdemeanor offense.

7 (iii) The court shall notify the Depart-
8 ment of Justice and comparable State
9 agency of the gun violence prevention order
10 not later than 2 court days after issuing
11 the order. The court shall also notify the
12 Department of Justice and comparable
13 State agency of any order restoring the
14 ability of the individual to own or possess
15 firearms not later than 2 court days after
16 issuing the order to restore the individual's
17 right to own or possess any type of fire-
18 arms that may be lawfully owned and pos-
19 sessed. Such notice shall be submitted in
20 an electronic format, in a manner pre-
21 scribed by the Department of Justice and
22 the comparable State agency.

23 (iv) As soon as practicable after re-
24 ceiving a notification under clause (iii), the
25 Department of Justice and comparable

1 State agency shall update the background
2 check databases of the Department and
3 agency, respectively, to reflect—

4 (I) the prohibitions articulated in
5 the gun violence prevention order; or

6 (II) an order issued to restore an
7 individual's right to own or possess a
8 firearm.

9 (E) RETURN OF FIREARMS.—If the court
10 finds that the State has not met the required
11 standard of proof, any firearm seized pursuant
12 to the warrant shall be returned to the named
13 individual not later than 30 days after the hear-
14 ing.

15 (F) LIMITATION ON HEARING REQUIRE-
16 MENT.—If an individual named in a gun vio-
17 lence prevention warrant is prohibited from
18 owning or possessing a firearm for a period of
19 1 year or more by another provision of State or
20 Federal law, a hearing pursuant to subpara-
21 graph (A) is not required and the court shall
22 issue an order to hold the firearm until either
23 the individual is no longer prohibited from own-
24 ing a firearm or the individual sells or transfers

1 ownership of the firearm to a licensed firearm
2 dealer.

3 (8) RENEWING GUN VIOLENCE PREVENTION
4 ORDER AND GUN VIOLENCE PREVENTION WAR-
5 RANT.—

6 (A) IN GENERAL.—Except as provided in
7 subparagraph (E), if a law enforcement agency
8 has probable cause to believe that an individual
9 who is subject to a gun violence prevention
10 order continues to pose a significant risk of per-
11 sonal injury to the named individual or others
12 by possessing a firearm, the agency may initiate
13 a request for a renewal of the order, on a form
14 designed by the court, describing the facts and
15 circumstances necessitating the request.

16 (B) NOTICE.—The individual named in the
17 gun violence prevention order requested to be
18 renewed under subparagraph (A) shall be given
19 written notice and an opportunity to be heard
20 on the matter.

21 (C) HEARING.—After notice is given under
22 subparagraph (B), a hearing shall be held to
23 determine if a request for renewal of the order
24 shall be issued.

1 (D) ISSUANCE OF RENEWAL.—Except as
2 provided in subparagraph (E), a State court
3 may issue a renewal of a gun violence preven-
4 tion order if there is probable cause to believe
5 that the individual who is subject to the order
6 continues to pose a significant risk of personal
7 injury to the named individual or others by pos-
8 sessing a firearm.

9 (E) HIGHER BURDEN OF PROOF.—A State
10 may establish a burden of proof for initiating a
11 request for or issuing a renewal of a gun vio-
12 lence prevention order that is higher than the
13 burden of proof required under subparagraph
14 (A) or (D).

15 (F) NOTIFICATION.—

16 (i) IN GENERAL.—The court shall no-
17 tify the Department of Justice and com-
18 parable State agency of a renewal of the
19 gun violence prevention order not later
20 than 2 court days after renewing the order.
21 The court shall also notify the Department
22 of Justice and comparable State agency of
23 any order restoring the ability of the indi-
24 vidual to own or possess firearms not later
25 than 2 court days after issuing the order

1 to restore the individual's right to own or
2 possess any type of firearms that may be
3 lawfully owned and possessed. Such notice
4 shall be submitted in an electronic format,
5 in a manner prescribed by the Department
6 of Justice and the comparable State agen-
7 cy.

8 (ii) UPDATE OF DATABASES.—As
9 soon as practicable after receiving a notifi-
10 cation under clause (i), the Department of
11 Justice and comparable State agency shall
12 update the background check databases of
13 the Department and agency, respectively,
14 to reflect—

15 (I) the prohibitions articulated in
16 the renewal of the gun violence pre-
17 vention order; or

18 (II) an order issued to restore an
19 individual's right to own or possess a
20 firearm.

21 (c) LAW ENFORCEMENT CHECK OF STATE FIREARM
22 DATABASE.—Each law enforcement agency of the State
23 shall establish a procedure that requires a law enforcement
24 officer to, in conjunction with performing a wellness check
25 on an individual, check whether the individual is listed on

1 any of the firearm and ammunition databases of the State
2 or jurisdiction in which the individual resides.

3 (d) CONFIDENTIALITY PROTECTIONS.—All informa-
4 tion provided to the Department of Justice and com-
5 parable State agency pursuant to legislation required
6 under subsection (a) shall be kept confidential, separate,
7 and apart from all other records maintained by the De-
8 partment of Justice and comparable State agency.

9 **SEC. 4. PAUSE FOR SAFETY GRANT PROGRAM.**

10 (a) IN GENERAL.—The Director of the Office of
11 Community Oriented Policing Services of the Department
12 of Justice may make grants to an eligible State to assist
13 the State in carrying out the provisions of the State legis-
14 lation described in section 3.

15 (b) ELIGIBLE STATE.—A State shall be eligible to re-
16 ceive grants under this section on and after the date on
17 which—

18 (1) the State enacts legislation described in sec-
19 tion 3; and

20 (2) the Attorney General determines that the
21 legislation of the State described in paragraph (1)
22 complies with the requirements of section 3.

23 (c) USE OF FUNDS.—Funds awarded under this sec-
24 tion may be used by a State to assist law enforcement

1 agencies or the courts of the State in carrying out the
 2 provisions of the State legislation described in section 3.

3 (d) APPLICATION.—An eligible State desiring a grant
 4 under this section shall submit to the Director of the Of-
 5 fice of Community Oriented Policing Services an applica-
 6 tion at such time, in such manner, and containing or ac-
 7 companied by such information, as the Director may rea-
 8 sonably require.

9 (e) AUTHORIZATION OF APPROPRIATIONS.—There
 10 are authorized to be appropriated such sums as are nec-
 11 essary to carry out this section.

12 **SEC. 5. FEDERAL FIREARMS PROHIBITION.**

13 Section 922 of title 18, United States Code, is
 14 amended—

15 (1) in subsection (d)—

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

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

20 (C) by inserting after paragraph (9) the
 21 following:

22 “(10) is subject to a court order that prohibits
 23 such person from having under the custody or con-
 24 trol of the person, owning, purchasing, possessing,
 25 or receiving any firearms.”; and

1 (2) in subsection (g)—

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

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

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

8 “(10) who is subject to a court order that pro-
9 hibits such person from having under the custody or
10 control of the person, owning, purchasing, pos-
11 sessing, or receiving any firearms,”.

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

13 Any gun violence prevention order issued under a
14 State law enacted in accordance with this Act shall have
15 the same full faith and credit in every court within the
16 United States as they have by law or usage in the courts
17 of such State from which they are issued.

18 **SEC. 7. SEVERABILITY.**

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

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