

117TH CONGRESS
2^D SESSION

H. R. 2377

AN ACT

To authorize the issuance of extreme risk protection orders.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Federal Extreme Risk
3 Protection Order Act of 2022”.

4 **SEC. 2. FEDERAL EXTREME RISK PROTECTION ORDERS.**

5 (a) IN GENERAL.—Chapter 44 of title 18, United
6 States Code, is amended by adding at the end the fol-
7 lowing:

8 **“§ 932. Extreme risk protection orders**

9 “(a) DEFINITIONS.—In this section—

10 “(1) the term ‘court’ means a district court of
11 the United States;

12 “(2) the term ‘designated law enforcement offi-
13 cer’ means a law enforcement officer, designated by
14 a United States marshal, who agrees to receive fire-
15 arms, ammunition, and permits, as applicable, sur-
16 rendered under subsection (f);

17 “(3) the term ‘Director’ means the Director of
18 the Administrative Office of the United States
19 Courts;

20 “(4) the term ‘ex parte Federal extreme risk
21 protection order’ or ‘ex parte Federal order’ means
22 a Federal extreme risk protection order issued under
23 subsection (c);

24 “(5) the term ‘Federal extreme risk protection
25 order’ means an order issued by a Federal court
26 that enjoins an individual from purchasing, pos-

1 sessing, or receiving, in or affecting interstate and
2 foreign commerce, a firearm or ammunition;

3 “(6) the term ‘family or household member’,
4 with respect to a Federal order respondent, means
5 any—

6 “(A) parent, spouse, sibling, or child re-
7 lated by blood, marriage, or adoption to the re-
8 spondent;

9 “(B) dating partner of the respondent;

10 “(C) individual who has a child in common
11 with the respondent, regardless of whether the
12 individual has—

13 “(i) been married to the respondent;

14 or

15 “(ii) lived together with the respond-
16 ent at any time;

17 “(D) individual who resides or has resided
18 with the respondent during the past year;

19 “(E) domestic partner of the respondent;

20 “(F) individual who has a legal parent-
21 child relationship with the respondent, including
22 a stepparent-stepchild and grandparent-grand-
23 child relationship; and

24 “(G) individual who is acting or has acted
25 as the legal guardian of the respondent;

1 “(7) the term ‘Federal order petitioner’ means
2 an individual authorized to petition for an ex parte
3 or long-term Federal extreme risk protection order
4 under subsection (b)(1);

5 “(8) the term ‘Federal order respondent’ means
6 an individual named in the petition for an ex parte
7 or long-term Federal extreme risk protection order
8 or subject to an ex parte or long-term Federal ex-
9 treme risk protection order;

10 “(9) the term ‘long-term Federal extreme risk
11 protection order’ or ‘long-term Federal order’ means
12 a Federal extreme risk protection order issued under
13 subsection (d);

14 “(10) the term ‘mental health agency’ means
15 an agency of a State, Tribal, or local government or
16 its contracted agency that is responsible for mental
17 health services or co-occurring mental health and
18 substance abuse services; and

19 “(11) the term ‘national instant criminal back-
20 ground check system’ means the national instant
21 criminal background check system established under
22 section 103 of the Brady Handgun Violence Preven-
23 tion Act (34 U.S.C. 40901).

24 “(b) PETITION.—

1 “(1) IN GENERAL.—A family or household
2 member of the applicable individual, or a law en-
3 forcement officer, may submit to an appropriate dis-
4 trict court of the United States a petition requesting
5 that the court issue an ex parte Federal extreme
6 risk protection order or long-term Federal extreme
7 risk protection order with respect to an individual.

8 “(2) NO FEES.—A court or law enforcement
9 agency may not charge a petitioner or respondent
10 any fee for—

11 “(A) filing, issuing, serving, or reporting
12 an extreme risk protection order;

13 “(B) a petition for an extreme risk protec-
14 tion order or any pleading, subpoena, warrant,
15 or motion in connection with an extreme risk
16 protection order; or

17 “(C) any order or order to show cause nec-
18 essary to obtain or give effect to this section.

19 “(3) CONFIDENTIALITY.—A Federal order peti-
20 tioner who is a law enforcement officer may provide
21 the identity of the petitioner’s sources, and any iden-
22 tifying information, to the court under seal.

23 “(c) EX PARTE ORDERS.—

24 “(1) TIMING.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), a court that receives a peti-
3 tion for an ex parte Federal order under sub-
4 section (b) shall grant or deny the petition on
5 the date on which the petition is submitted.

6 “(B) LATE PETITIONS.—If a court receives
7 a petition for an ex parte Federal order sub-
8 mitted under subsection (b) too late in the day
9 to permit effective review, the court shall grant
10 or deny the petition on the next day of judicial
11 business at a time early enough to permit the
12 court to file an order with the clerk of the court
13 during that day.

14 “(2) EVIDENCE REQUIRED.—Before issuing an
15 ex parte Federal order, a court shall require that the
16 petitioner for such order submit a signed affidavit,
17 sworn to before the court, that—

18 “(A) explains why such petitioner believes
19 that the Federal order respondent poses a risk
20 of imminent personal injury to self or another
21 individual, by purchasing, possessing, or receiv-
22 ing a firearm or ammunition; and

23 “(B) describes the interactions and con-
24 versations of the petitioner with—

25 “(i) the respondent; or

1 “(ii) another individual, if such peti-
2 tioner believes that information obtained
3 from that individual is credible and reli-
4 able.

5 “(3) STANDARD FOR ISSUANCE OF ORDER.—A
6 court may issue an ex parte Federal order only upon
7 a finding of probable cause to believe that—

8 “(A) the Federal order respondent poses a
9 risk of imminent personal injury to self or an-
10 other individual, by purchasing, possessing, or
11 receiving a firearm or ammunition; and

12 “(B) the order is necessary to prevent the
13 injury described in subparagraph (A).

14 “(4) DURATION.—An ex parte Federal order
15 shall expire on the earlier of—

16 “(A) the date that is 14 days after the
17 date of issuance; or

18 “(B) the date on which the court deter-
19 mines whether to issue a long-term Federal
20 order with respect to the respondent.

21 “(d) LONG-TERM FEDERAL ORDERS.—

22 “(1) HEARING REQUIRED.—If a court receives
23 a petition for a long-term Federal extreme risk pro-
24 tection order for a respondent under subsection (b),
25 the court shall hold a hearing to determine whether

1 to issue a long-term Federal order with respect to
2 the respondent either—

3 “(A)(i) if the court issues an ex parte
4 order with respect to the respondent, not later
5 than 72 hours after the ex parte order is served
6 on the respondent; or

7 “(ii) if the respondent waives the right to
8 a hearing within the 72-hour period under
9 clause (i), or the court does not issue an ex
10 parte order, within 14 days after the date on
11 which the court receives the petition; or

12 “(B) in no event later than 14 days after
13 the date on which the court receives the peti-
14 tion.

15 “(2) NOTICE AND OPPORTUNITY TO BE
16 HEARD.—

17 “(A) IN GENERAL.—The court shall pro-
18 vide the Federal order respondent with notice
19 and the opportunity to be heard at a hearing
20 under this subsection, sufficient to protect the
21 due process rights of the respondent.

22 “(B) RIGHT TO COUNSEL.—

23 “(i) IN GENERAL.—At a hearing
24 under this subsection, the Federal order

1 respondent may be represented by counsel
2 who is—

3 “(I) chosen by the respondent;
4 and

5 “(II) authorized to practice at
6 such a hearing.

7 “(ii) COURT-PROVIDED COUNSEL.—If
8 the Federal order respondent is financially
9 unable to obtain representation by counsel,
10 the court, at the request of the respondent,
11 shall ensure, to the extent practicable, that
12 the respondent is represented by an attor-
13 ney with respect to the petition.

14 “(3) BURDEN OF PROOF; STANDARD.—At a
15 hearing under this subsection, the Federal order pe-
16 titioner—

17 “(A) shall have the burden of proving all
18 material facts; and

19 “(B) shall be required to demonstrate, by
20 clear and convincing evidence, that—

21 “(i) the respondent to such order
22 poses a risk of personal injury to self or
23 another individual, during the period to be
24 covered by the proposed Federal extreme
25 risk protection order, by purchasing, pos-

1 sessing, or receiving a firearm or ammuni-
2 tion; and

3 “(ii) the order is necessary to prevent
4 the injury described in clause (i).

5 “(4) ISSUANCE.—Upon a showing of clear and
6 convincing evidence under paragraph (3), the court
7 shall issue a long-term Federal order with respect to
8 the respondent that shall be in effect for a period of
9 not more than 180 days.

10 “(5) DENIAL.—If the court finds that there is
11 not clear and convincing evidence to support the
12 issuance of a long-term Federal order, the court
13 shall dissolve any ex parte Federal order then in ef-
14 fect with respect to the respondent.

15 “(6) RENEWAL.—

16 “(A) NOTICE OF SCHEDULED EXPIRA-
17 TION.—Thirty days before the date on which a
18 long-term Federal order is scheduled to expire,
19 the court that issued the order shall—

20 “(i) notify the petitioner and the re-
21 spondent to such order that the order is
22 scheduled to expire; and

23 “(ii) advise the petitioner and the re-
24 spondent of the procedures for seeking a
25 renewal of the order under this paragraph.

1 “(B) PETITION.—If a family or household
2 member of the Federal order respondent, or a
3 law enforcement officer, believes that the condi-
4 tions under paragraph (3)(B) continue to apply
5 with respect to a respondent who is subject to
6 a long-term Federal order, the family or house-
7 hold member or law enforcement officer may
8 submit to the court that issued the order a peti-
9 tion for a renewal of the order.

10 “(C) HEARING.—A court that receives a
11 petition submitted under subparagraph (B)
12 shall hold a hearing to determine whether to
13 issue a renewed long-term Federal order with
14 respect to the respondent.

15 “(D) APPLICABLE PROCEDURES.—The re-
16 quirements under paragraphs (2) through (5)
17 shall apply to the consideration of a petition for
18 a renewed long-term Federal order submitted
19 under subparagraph (B) of this paragraph.

20 “(E) ISSUANCE.—Upon a showing by clear
21 and convincing evidence that the conditions
22 under paragraph (3)(B) continue to apply with
23 respect to the respondent, the court shall issue
24 a renewed long-term Federal order with respect
25 to the respondent.

1 “(e) FACTORS TO CONSIDER.—In determining
2 whether to issue a Federal extreme risk protection order,
3 a court—

4 “(1) shall consider factors including—

5 “(A) a recent threat or act of violence by
6 the respondent directed toward another indi-
7 vidual;

8 “(B) a recent threat or act of violence by
9 the respondent directed toward self;

10 “(C) a recent act of cruelty to an animal
11 by the respondent; and

12 “(D) evidence of ongoing abuse of a con-
13 trolled substance or alcohol by the respondent
14 that has led to a threat or act of violence di-
15 rected to self or another individual; and

16 “(2) may consider other factors, including—

17 “(A) the reckless use, display, or bran-
18 dishing of a firearm by the respondent;

19 “(B) a history of violence or attempted vio-
20 lence by the respondent against another indi-
21 vidual; and

22 “(C) evidence of an explicit or implicit
23 threat made by the person through any medium
24 that demonstrate that the person poses a risk
25 of personal injury to self or another individual.

1 “(f) RELINQUISHMENT OF FIREARMS AND AMMUNI-
2 TION.—

3 “(1) ORDER OF SURRENDER.—Upon issuance
4 of an ex parte Federal order or long-term Federal
5 order, the court shall order the respondent to such
6 order to surrender all firearms and ammunition that
7 the respondent possesses or owns, in or affecting
8 interstate commerce, as well as any permit author-
9 izing the respondent to purchase or possess firearms
10 (including a concealed carry permit), to—

11 “(A) the United States Marshals Service;

12 or

13 “(B) a designated law enforcement officer.

14 “(2) SURRENDER AND REMOVAL.—

15 “(A) MANNER OF SERVICE.—

16 “(i) PERSONAL SERVICE.—Except as
17 provided in clause (ii), a United States
18 marshal or designated law enforcement of-
19 ficer shall serve a Federal extreme risk
20 protection order on a respondent by hand-
21 ing the order to the respondent to such
22 order.

23 “(ii) ALTERNATIVE SERVICE.—If the
24 respondent cannot reasonably be located
25 for service as described in clause (i), a

1 Federal extreme risk protection order may
2 be served on the respondent in any manner
3 authorized under the Federal Rules of
4 Civil Procedure.

5 “(B) REMOVAL.—Except as provided in
6 subparagraph (C), a United States marshal or
7 designated law enforcement officer serving a
8 Federal extreme risk protection order personally
9 on the respondent shall—

10 “(i) request that all firearms and am-
11 munition, in or affecting interstate com-
12 merce, as well as any permit authorizing
13 the respondent to purchase or possess fire-
14 arms (including a concealed carry permit),
15 that the respondent possesses or owns—

16 “(I) be immediately surrendered
17 to the United States marshal or des-
18 ignated law enforcement officer; or

19 “(II) at the option of the re-
20 spondent, be immediately surrendered
21 and sold to a federally licensed fire-
22 arms dealer; and

23 “(ii) take possession of all firearms
24 and ammunition described in clause (i)
25 that are not sold under subclause (II) of

1 that clause, as well as any permit de-
2 scribed in that clause, that are—

3 “(I) surrendered;

4 “(II) in plain sight; or

5 “(III) discovered pursuant to a
6 lawful search.

7 “(C) ALTERNATIVE SURRENDER.—If a
8 United States marshal or designated law en-
9 forcement officer is not able to personally serve
10 a Federal extreme risk protection order under
11 subparagraph (A)(i), or is not reasonably able
12 to take custody of the firearms, ammunition,
13 and permits under subparagraph (B), the re-
14 spondent shall surrender the firearms, ammuni-
15 tion, and permits in a safe manner to the con-
16 trol of a United States marshal or designated
17 law enforcement officer not later than 48 hours
18 after being served with the order.

19 “(3) RECEIPT.—

20 “(A) ISSUANCE.—At the time of surrender
21 or removal under paragraph (2), a United
22 States marshal or designated law enforcement
23 officer taking possession of a firearm, ammuni-
24 tion, or a permit pursuant to a Federal extreme
25 risk protection order shall—

1 “(i) issue a receipt identifying all fire-
2 arms, ammunition, and permits that have
3 been surrendered or removed; and

4 “(ii) provide a copy of the receipt
5 issued under clause (i) to the respondent
6 to such order.

7 “(B) FILING.—Not later than 72 hours
8 after issuance of a receipt under subparagraph
9 (A), the United States marshal who issued the
10 receipt or designated another law enforcement
11 officer to do so shall—

12 “(i) file the original receipt issued
13 under subparagraph (A) of this paragraph
14 with the court that issued the Federal ex-
15 treme risk protection order; and

16 “(ii) ensure that the United States
17 Marshals Service retains a copy of the re-
18 ceipt.

19 “(C) DESIGNATED LAW ENFORCEMENT
20 OFFICER.—If a designated law enforcement of-
21 ficer issues a receipt under subparagraph (A),
22 the officer shall submit the original receipt and
23 a copy of the receipt to the appropriate United
24 States marshal to enable the United States
25 marshal to comply with subparagraph (B).

1 “(4) FORFEITURE.—If a respondent knowingly
2 attempts, in violation of a Federal extreme risk pro-
3 tection order, to access a firearm, ammunition, or a
4 permit that was surrendered or removed under this
5 subsection, the firearm, ammunition, or permit shall
6 be subject to seizure and forfeiture under section
7 924(d).

8 “(g) RETURN OF FIREARMS AND AMMUNITION.—

9 “(1) NOTICE.—If a Federal extreme risk pro-
10 tection order is dissolved, or expires and is not re-
11 newed, the court that issued the order shall order
12 the United States Marshals Service to—

13 “(A) confirm, through the national instant
14 criminal background check system and any
15 other relevant law enforcement databases, that
16 the respondent to such order may lawfully own
17 and possess firearms and ammunition; and

18 “(B)(i) if the respondent may lawfully own
19 and possess firearms and ammunition, notify
20 the respondent that the respondent may re-
21 trieve each firearm, ammunition, or permit sur-
22 rendered by or removed from the respondent
23 under subsection (f); or

24 “(ii) if the respondent may not lawfully
25 own or possess firearms and ammunition, notify

1 the respondent that each firearm, ammunition,
2 or permit surrendered by or removed from the
3 respondent under subsection (f) will be returned
4 only when the respondent demonstrates to the
5 United States Marshals Service that the re-
6 spondent may lawfully own and possess fire-
7 arms and ammunition.

8 “(2) RETURN.—If a Federal extreme risk pro-
9 tection order is dissolved, or expires and is not re-
10 newed, and the United States Marshals Service con-
11 firms under paragraph (1)(A) that the respondent
12 may lawfully own and possess firearms and ammuni-
13 tion, the court that issued the order shall order the
14 entity that possesses each firearm, ammunition, or
15 permit surrendered by or removed from the respon-
16 dent under subsection (f) to return those items to the
17 respondent.

18 “(h) RETURN OF FIREARMS AND AMMUNITION IM-
19 PROPERLY RECEIVED.—If a court, in a hearing under
20 subsection (d), determines that a firearm or ammunition
21 surrendered by or removed from a respondent under sub-
22 section (f) is owned by an individual other than the re-
23 spondent, the court may order the United States marshal
24 or designated law enforcement officer in possession of the

1 firearm or ammunition to transfer the firearm or ammuni-
2 tion to that individual if—

3 “(1) the individual may lawfully own and pos-
4 sess firearms and ammunition; and

5 “(2) the individual will not provide the respond-
6 ent with access to the firearm or ammunition.

7 “(i) PENALTY FOR FALSE REPORTING OR FRIVO-
8 LOUS PETITIONS.—An individual who knowingly submits
9 materially false information to the court in a petition for
10 a Federal extreme risk protection order under this section,
11 or who knowingly files such a petition that is frivolous,
12 unreasonable, or without foundation, shall be fined not
13 more than \$5,000, or imprisoned not more than 5 years,
14 or both, except to the extent that a greater sentence is
15 otherwise provided by any other provision of law, as the
16 court deems necessary to deter such abuse of process.

17 “(j) MODEL POLICY.—

18 “(1) IN GENERAL.—The Director shall draft a
19 model policy to maximize the accessibility of Federal
20 extreme risk protection orders.

21 “(2) CONTENTS.—In drafting the model policy
22 under paragraph (1), the Director shall—

23 “(A) ensure that State, Tribal, and local
24 law enforcement officers and members of the
25 public without legal training are able to easily

1 file petitions for Federal extreme risk protection
2 orders;

3 “(B) prescribe outreach efforts by employ-
4 ees of the district courts of the United States
5 to familiarize relevant law enforcement officers
6 and the public with the procedures for filing pe-
7 titions, either—

8 “(i) through direct outreach; or

9 “(ii) in coordination with—

10 “(I) relevant officials in the execu-
11 tive or legislative branch of the Fed-
12 eral Government; or

13 “(II) with relevant State, Tribal,
14 and local officials;

15 “(C) prescribe policies for allowing the fil-
16 ing of petitions and prompt adjudication of pe-
17 titions on weekends and outside of normal court
18 hours;

19 “(D) prescribe policies for coordinating
20 with law enforcement agencies to ensure the
21 safe, timely, and effective service of Federal ex-
22 treme risk protection orders and relinquishment
23 of firearms, ammunition, and permits, as appli-
24 cable; and

1 “(E) identify governmental and non-gov-
2 ernmental resources and partners to help offi-
3 cials of the district courts of the United States
4 coordinate with civil society organizations to en-
5 sure the safe and effective implementation of
6 this section.

7 “(k) REPORTING.—

8 “(1) INDIVIDUAL REPORTS.—

9 “(A) IN GENERAL.—Not later than 2 court
10 days after the date on which a court issues or
11 dissolves a Federal extreme risk protection
12 order under this section or a Federal extreme
13 risk protection order expires without being re-
14 newed, the court shall notify—

15 “(i) the Attorney General;

16 “(ii) each relevant mental health
17 agency in the State in which the order is
18 issued; and

19 “(iii) State and local law enforcement
20 officials in the jurisdiction in which the
21 order is issued, including the national in-
22 stant criminal background check system
23 single point of contact for the State of res-
24 idence of the respondent, where applicable.

1 “(B) FORMAT.—A court shall submit a no-
2 tice under subparagraph (A) in an electronic
3 format, in a manner prescribed by the Attorney
4 General.

5 “(C) UPDATE OF DATABASES.—As soon as
6 practicable and not later than 5 days after re-
7 ceiving a notice under subparagraph (A), the
8 Attorney General shall update the background
9 check databases of the Attorney General to re-
10 flect the prohibitions articulated in the applica-
11 ble Federal extreme risk protection order.

12 “(2) ANNUAL REPORT.—Not later than 1 year
13 after the date of enactment of the Federal Extreme
14 Risk Protection Order Act of 2022, and annually
15 thereafter, the Director shall submit to the Com-
16 mittee on the Judiciary of the Senate and the Com-
17 mittee on the Judiciary of the House of Representa-
18 tives a report that includes, with respect to the pre-
19 ceding year—

20 “(A) the number of petitions for ex parte
21 Federal orders filed, as well as the number of
22 such orders issued and the number denied,
23 disaggregated by—

24 “(i) the jurisdiction;

1 “(ii) whether the individual authorized
2 under subsection (b) to petition for a Fed-
3 eral extreme risk protection order is a law
4 enforcement officer, or a family or house-
5 hold member, and in the case of a family
6 or household member, which of subpara-
7 graphs (A) through (G) of subsection
8 (a)(6) describes the relationship; and

9 “(iii) the alleged danger posed by the
10 Federal order respondent, including wheth-
11 er the danger involved a risk of suicide,
12 unintentional injury, domestic violence, or
13 other interpersonal violence;

14 “(B) the number of petitions for long-term
15 Federal orders filed, as well as the number of
16 such orders issued and the number denied,
17 disaggregated by—

18 “(i) the jurisdiction;

19 “(ii) whether the individual authorized
20 under subsection (b) to petition for a Fed-
21 eral extreme risk protection order is a law
22 enforcement officer, or a family or house-
23 hold member, and in the case of a family
24 or household member, which of subpara-

1 graphs (A) through (G) of subsection
2 (a)(6) describes the relationship; and

3 “(iii) the alleged danger posed by the
4 Federal order respondent, including wheth-
5 er the danger involved a risk of suicide,
6 unintentional injury, domestic violence, or
7 other interpersonal violence;

8 “(C) the number of petitions for renewals
9 of long-term Federal orders filed, as well as the
10 number of such orders issued and the number
11 denied;

12 “(D) the number of cases in which a court
13 has issued a penalty for false reporting or frivo-
14 lous petitions;

15 “(E) demographic data of Federal order
16 petitioners, including race, ethnicity, national
17 origin, sex, gender, age, disability, average an-
18 nual income, and English language proficiency,
19 if available;

20 “(F) demographic data of Federal order
21 respondents, including race, ethnicity, national
22 origin, sex, gender, age, disability, average an-
23 nual income, and English language proficiency,
24 if available; and

1 “(G) the total number of firearms removed
2 pursuant to Federal extreme risk protection or-
3 ders, and, if available, the number of firearms
4 removed pursuant to each such order.

5 “(1) TRAINING FOR FEDERAL LAW ENFORCEMENT
6 OFFICERS.—

7 “(1) TRAINING REQUIREMENTS.—The head of
8 each Federal law enforcement agency shall require
9 each Federal law enforcement officer employed by
10 the agency to complete training in the safe, impar-
11 tial, effective, and equitable use and administration
12 of Federal extreme risk protection orders, including
13 training to address—

14 “(A) bias based on race and racism, eth-
15 nicity, gender, sexual orientation, gender iden-
16 tity, religion, language proficiency, mental
17 health condition, disability, and classism in the
18 use and administration of Federal extreme risk
19 protection orders;

20 “(B) the appropriate use of Federal ex-
21 treme risk protection orders in cases of domes-
22 tic violence, including the applicability of other
23 policies and protocols to address domestic vio-
24 lence in situations that may also involve Fed-
25 eral extreme risk protection orders and the ne-

1 necessity of safety planning with the victim before
2 law enforcement petitions for and executes a
3 Federal extreme risk protection order, if appli-
4 cable;

5 “(C) interacting with persons with mental,
6 behavioral, or physical disabilities, or emotional
7 distress, including de-escalation techniques and
8 crisis intervention;

9 “(D) techniques for outreach to historically
10 marginalized cultural communities and the de-
11 velopment of linguistic proficiencies for law en-
12 forcement;

13 “(E) community relations; and

14 “(F) best practices for referring persons
15 subject to Federal extreme risk protection or-
16 ders and associated victims of violence to social
17 service providers that may be available in the
18 jurisdiction and appropriate for those individ-
19 uals, including health care, mental health, sub-
20 stance abuse, and legal services, employment
21 and vocational services, housing assistance, case
22 management, and veterans and disability bene-
23 fits.

24 “(2) TRAINING DEVELOPMENT.—Federal law
25 enforcement agencies developing law enforcement

1 training required under this section shall seek advice
2 from domestic violence service providers (including
3 culturally specific (as defined in section 40002 of the
4 Violence Against Women Act of 1994 (34 U.S.C.
5 12291)) providers), social service providers, suicide
6 prevention advocates, violence intervention special-
7 ists, law enforcement agencies, mental health dis-
8 ability experts, and other community groups working
9 to reduce suicides and violence, including domestic
10 violence, within the State.

11 “(m) RULE OF CONSTRUCTION.—Nothing in this sec-
12 tion or shall be construed to alter the requirements of sub-
13 sections (d)(8) or (g)(8) of section 922, related to domes-
14 tic violence protective orders.

15 “(n) PREEMPTION.—Nothing in this section may be
16 construed to preempt any State law or policy.”

17 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

18 (1) TABLE OF SECTIONS.—The table of sections
19 for chapter 44 of title 18, United States Code, is
20 amended by adding at the end the following:

“932. Extreme risk protection orders.”

21 (2) FORFEITURE.—Section 924(d)(3) of title
22 18, United States Code, is amended—

23 (A) in subparagraph (E), by striking
24 “and” at the end;

1 (B) in subparagraph (F), by striking the
2 period at the end and inserting “; and”; and

3 (C) by adding at the end the following:

4 “(G) any attempt to violate a Federal extreme
5 risk protection order issued under section 932.”.

6 **SEC. 3. FEDERAL FIREARMS PROHIBITION.**

7 Section 922 of title 18, United States Code, is
8 amended—

9 (1) in subsection (d)—

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

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

14 (C) by inserting after paragraph (9) the
15 following:

16 “(10) is subject to a court order—

17 “(A) issued under section 932; or

18 “(B) that is an extreme risk protection
19 order (as defined in section 4(a) of the Federal
20 Extreme Risk Protection Order Act of 2022).”;

21 and

22 (2) in subsection (g)—

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

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

3 (C) by inserting after paragraph (9) the
4 following:

5 “(10) is subject to a court order—

6 “(A) issued under section 932; or

7 “(B) that is an extreme risk protection
8 order (as defined in section 4(a) of the Federal
9 Extreme Risk Protection Order Act of 2022),”.

10 **SEC. 4. EXTREME RISK PROTECTION ORDER GRANT PRO-**
11 **GRAM.**

12 (a) **DEFINITIONS.**—In this section:

13 (1) **ELIGIBLE ENTITY.**—The term “eligible enti-
14 ty” means—

15 (A) a State or Indian Tribe—

16 (i) that enacts legislation described in
17 subsection (c);

18 (ii) with respect to which the Attorney
19 General determines that the legislation de-
20 scribed in clause (i) complies with the re-
21 quirements under subsection (c)(1); and

22 (iii) that certifies to the Attorney
23 General that the State or Indian Tribe
24 shall—

1 (I) use the grant for the purposes
2 described in subsection (b)(2); and

3 (II) allocate not less than 25 per-
4 cent and not more than 70 percent of
5 the amount received under a grant
6 under subsection (b) for the develop-
7 ment and dissemination of training
8 for law enforcement officers in accord-
9 ance with subsection (b)(4); or

10 (B) a unit of local government or other
11 public or private entity that—

12 (i) is located in a State or in the terri-
13 tory under the jurisdiction of an Indian
14 Tribe that meets the requirements de-
15 scribed in clauses (i) and (ii) of subpara-
16 graph (A); and

17 (ii) certifies to the Attorney General
18 that the unit of local government or entity
19 shall—

20 (I) use the grant for the purposes
21 described in subsection (b)(2); and

22 (II) allocate not less than 25 per-
23 cent and not more than 70 percent of
24 the amount received under a grant
25 under this section for the development

1 and dissemination of training for law
2 enforcement officers in accordance
3 with subsection (b)(4).

4 (2) EXTREME RISK PROTECTION ORDER.—The
5 term “extreme risk protection order” means a writ-
6 ten order or warrant, issued by a State or Tribal
7 court or signed by a magistrate (or other com-
8 parable judicial officer), the primary purpose of
9 which is to reduce the risk of firearm-related death
10 or injury by doing 1 or more of the following:

11 (A) Prohibiting a named individual from
12 having under the custody or control of the indi-
13 vidual, owning, purchasing, possessing, or re-
14 ceiving a firearm.

15 (B) Having a firearm removed or requiring
16 the surrender of firearms from a named indi-
17 vidual.

18 (3) FIREARM.—The term “firearm” has the
19 meaning given the term in section 921 of title 18,
20 United States Code.

21 (4) INDIAN TRIBE.—The term “Indian Tribe”
22 has the meaning given the term “Indian tribe” in
23 section 1709 of title I of the Omnibus Crime Control
24 and Safe Streets Act of 1968 (34 U.S.C. 10389).

1 (5) LAW ENFORCEMENT OFFICER.—The term
2 “law enforcement officer” means a public servant
3 authorized by Federal, State, local, or Tribal law or
4 by a Federal, State, local, or Tribal government
5 agency to—

6 (A) engage in or supervise the prevention,
7 detection, investigation, or prosecution of an of-
8 fense; or

9 (B) supervise sentenced criminal offenders.

10 (6) PETITIONER.—The term “petitioner”
11 means an individual authorized under State or Trib-
12 al law to petition for an extreme risk protection
13 order.

14 (7) RESPONDENT.—The term “respondent”
15 means an individual named in the petition for an ex-
16 treme risk protection order or subject to an extreme
17 risk protection order.

18 (8) STATE.—The term “State” means—

19 (A) a State;

20 (B) the District of Columbia;

21 (C) the Commonwealth of Puerto Rico;

22 and

23 (D) any other territory or possession of the
24 United States.

1 (9) UNIT OF LOCAL GOVERNMENT.—The term
2 “unit of local government” has the meaning given
3 the term in section 901 of title I of the Omnibus
4 Crime Control and Safe Streets Act of 1968 (34
5 U.S.C. 10251).

6 (b) GRANT PROGRAM ESTABLISHED.—

7 (1) IN GENERAL.—The Director of the Office of
8 Community Oriented Policing Services of the De-
9 partment of Justice shall establish a program under
10 which, from amounts made available to carry out
11 this section, the Director may make grants to eligi-
12 ble entities to assist in carrying out the provisions
13 of the legislation described in subsection (c).

14 (2) USE OF FUNDS.—Funds awarded under
15 this subsection may be used by an applicant to—

16 (A) enhance the capacity of law enforce-
17 ment agencies and the courts of a State, unit
18 of local government, or Indian Tribe by pro-
19 viding personnel, training, technical assistance,
20 data collection, and other resources to carry out
21 enacted legislation described in subsection (c);

22 (B) train judges, court personnel, health
23 care and legal professionals, and law enforce-
24 ment officers to more accurately identify indi-
25 viduals whose access to firearms poses a danger

1 of causing harm to themselves or others by in-
2 creasing the risk of firearms suicide or inter-
3 personal violence;

4 (C) develop and implement law enforce-
5 ment and court protocols, forms, and orders so
6 that law enforcement agencies and the courts
7 may carry out the provisions of the enacted leg-
8 islation described in subsection (c) in a safe, eq-
9 uitable, and effective manner, including through
10 the removal and storage of firearms pursuant to
11 extreme risk protection orders under the en-
12 acted legislation; and

13 (D) raise public awareness and under-
14 standing of the enacted legislation described in
15 subsection (c), including through subgrants to
16 community-based organizations for the training
17 of community members, so that extreme risk
18 protection orders may be issued in appropriate
19 situations to reduce the risk of firearms-related
20 death and injury.

21 (3) APPLICATION.—An eligible entity desiring a
22 grant under this subsection shall submit to the At-
23 torney General an application at such time, in such
24 manner, and containing or accompanied by such in-

1 formation as the Attorney General may reasonably
2 require.

3 (4) TRAINING.—

4 (A) IN GENERAL.—A recipient of a grant
5 under this subsection shall provide training to
6 law enforcement officers, including officers of
7 relevant Federal, State, local, and Tribal law
8 enforcement agencies, in the safe, impartial, ef-
9 fective, and equitable use and administration of
10 extreme risk protection orders, including train-
11 ing to address—

12 (i) bias based on race and racism, eth-
13 nicity, gender, sexual orientation, gender
14 identity, religion, language proficiency,
15 mental health condition, disability, and
16 classism in the use and administration of
17 extreme risk protection orders;

18 (ii) the appropriate use of extreme
19 risk protection orders in cases of domestic
20 violence, including the applicability of other
21 policies and protocols to address domestic
22 violence in situations that may also involve
23 extreme risk protection orders and the ne-
24 cessity of safety planning with the victim
25 before a law enforcement officer petitions

1 for and executes an extreme risk protection
2 order, if applicable;

3 (iii) interacting with persons with
4 mental, behavioral, or physical disabilities,
5 or emotional distress, including de-escala-
6 tion techniques and crisis intervention;

7 (iv) techniques for outreach to histori-
8 cally marginalized cultural communities
9 and the development of linguistic proficien-
10 cies for law enforcement;

11 (v) community relations; and

12 (vi) best practices for referring per-
13 sons subject to extreme risk protection or-
14 ders and associated victims of violence to
15 social service providers that may be avail-
16 able in the jurisdiction and appropriate for
17 those individuals, including health care,
18 mental health, substance abuse, and legal
19 services, employment and vocational serv-
20 ices, housing assistance, case management,
21 and veterans and disability benefits.

22 (B) CONSULTATION WITH EXPERTS.—A
23 recipient of a grant under this subsection, in
24 developing law enforcement training required
25 under subparagraph (A), shall seek advice from

1 domestic violence service providers (including
2 culturally specific (as defined in section 40002
3 of the Violence Against Women Act of 1994 (34
4 U.S.C. 12291)) providers), social service pro-
5 viders, suicide prevention advocates, violence
6 intervention specialists, law enforcement agen-
7 cies, mental health disability experts, and other
8 community groups working to reduce suicides
9 and violence, including domestic violence, within
10 the State or the territory under the jurisdiction
11 of the Indian Tribe, as applicable, that enacted
12 the legislation described in subsection (c) that
13 enabled the grant recipient to be an eligible en-
14 tity.

15 (5) INCENTIVES.—For each of fiscal years 2023
16 through 2027, the Attorney General shall give af-
17 firmative preference in awarding any discretionary
18 grant awarded by the Office of Community Oriented
19 Policing Services to a State or Indian Tribe that has
20 enacted legislation described in subsection (c) or to
21 a unit of local government or other public or private
22 entity located in such a State or in the territory
23 under the jurisdiction of such an Indian Tribe.

1 (6) AUTHORIZATION OF APPROPRIATIONS.—

2 There are authorized to be appropriated such sums
3 as are necessary to carry out this section.

4 (c) ELIGIBILITY FOR EXTREME RISK PROTECTION
5 ORDER GRANT PROGRAM.—

6 (1) REQUIREMENTS.—Legislation described in
7 this subsection is legislation that establishes require-
8 ments that are substantially similar to the following:

9 (A) APPLICATION FOR EXTREME RISK
10 PROTECTION ORDER.—A petitioner, including a
11 law enforcement officer, may submit an applica-
12 tion to a State or Tribal court, on a form de-
13 signed by the court or a State or Tribal agency,
14 that—

15 (i) describes the facts and cir-
16 cumstances justifying that an extreme risk
17 protection order be issued against the
18 named individual; and

19 (ii) is signed by the applicant, under
20 oath.

21 (B) NOTICE AND DUE PROCESS.—The in-
22 dividual named in an application for an extreme
23 risk protection order as described in subpara-
24 graph (A) shall be given written notice of the

1 application and an opportunity to be heard on
2 the matter in accordance with this paragraph.

3 (C) ISSUANCE OF EXTREME RISK PROTEC-
4 TION ORDERS.—

5 (i) HEARING.—

6 (I) IN GENERAL.—Upon receipt
7 of an application described in sub-
8 paragraph (A) or request of an indi-
9 vidual named in such an application,
10 the court shall order a hearing to be
11 held within a reasonable time, and not
12 later than 30 days after the date of
13 the application or request.

14 (II) DETERMINATION.—If the
15 court finds at the hearing ordered
16 under subclause (I), by a preponder-
17 ance of the evidence or according to a
18 higher evidentiary standard estab-
19 lished by the State or Indian Tribe,
20 that the respondent poses a danger of
21 causing harm to self or others by hav-
22 ing access to a firearm, the court may
23 issue an extreme risk protection order.

1 (ii) DURATION OF EXTREME RISK
2 PROTECTION ORDER.—An extreme risk
3 protection order shall be in effect—

4 (I) until an order terminating or
5 superseding the extreme risk protec-
6 tion order is issued; or

7 (II) for a set period of time.

8 (D) EX PARTE EXTREME RISK PROTEC-
9 TION ORDERS.—

10 (i) IN GENERAL.—Upon receipt of an
11 application described in subparagraph (A),
12 the court may issue an ex parte extreme
13 risk protection order, if—

14 (I) the application for an extreme
15 risk protection order alleges that the
16 respondent poses a danger of causing
17 harm to self or others by having ac-
18 cess to a firearm; and

19 (II) the court finds there is rea-
20 sonable cause to believe, or makes a
21 finding according to a higher evi-
22 dentiary standard established by the
23 State or Indian Tribe, that the re-
24 spondent poses a danger of causing

1 harm to self or others by having ac-
2 cess to a firearm.

3 (ii) DURATION OF EX PARTE EX-
4 TREME RISK PROTECTION ORDER.—An ex
5 parte extreme risk protection order shall
6 remain in effect only until the hearing re-
7 quired under subparagraph (C)(i).

8 (E) STORAGE OF REMOVED FIREARMS.—

9 (i) AVAILABILITY FOR RETURN.—All
10 firearms removed or surrendered pursuant
11 to an extreme risk protection order shall
12 only be available for return to the named
13 individual when the individual has regained
14 eligibility under Federal and State law,
15 and, where applicable, Tribal law to pos-
16 sess firearms.

17 (ii) CONSENT REQUIRED FOR DIS-
18 POSAL OR DESTRUCTION.—Firearms
19 owned by a named individual may not be
20 disposed of or destroyed during the period
21 of the extreme risk protection order with-
22 out the consent of the named individual.

23 (F) NOTIFICATION.—

24 (i) IN GENERAL.—

1 (I) REQUIREMENT.—A State or
2 Tribal court that issues an extreme
3 risk protection order shall notify the
4 Attorney General or the comparable
5 State or Tribal agency, as applicable,
6 of the order as soon as practicable or
7 within a designated period of time.

8 (II) FORM AND MANNER.—A
9 State or Tribal court shall submit a
10 notification under subclause (I) in an
11 electronic format, in a manner pre-
12 scribed by the Attorney General or the
13 comparable State or Tribal agency.

14 (ii) UPDATE OF DATABASES.—As
15 soon as practicable or within the time pe-
16 riod designated by State or Tribal law
17 after receiving a notification under clause
18 (i), the Attorney General or the com-
19 parable State or Tribal agency shall ensure
20 that the extreme risk protection order is
21 reflected in the National Instant Criminal
22 Background Check System.

23 (2) ADDITIONAL PROVISIONS.—Legislation de-
24 scribed in this subsection may—

1 (A) provide procedures for the termination
2 of an extreme risk protection order;

3 (B) provide procedures for the renewal of
4 an extreme risk protection order;

5 (C) establish burdens and standards of
6 proof for issuance of orders described in para-
7 graph (1) that are substantially similar to or
8 higher than the burdens and standards of proof
9 set forth in that paragraph;

10 (D) limit the individuals who may submit
11 an application described in paragraph (1), pro-
12 vided that, at a minimum, law enforcement offi-
13 cers are authorized to do so; and

14 (E) include any other authorizations or re-
15 quirements that the State or Tribal authorities
16 determine appropriate.

17 (3) ANNUAL REPORT.—Not later than 1 year
18 after the date on which an eligible entity receives a
19 grant under subsection (b), and annually thereafter
20 for the duration of the grant period, the entity shall
21 submit to the Attorney General a report that in-
22 cludes, with respect to the preceding year—

23 (A) the number of petitions for ex parte
24 extreme risk protection orders filed, as well as

1 the number of such orders issued and the num-
2 ber denied, disaggregated by—

3 (i) the jurisdiction;

4 (ii) the individual authorized under
5 State or Tribal law to petition for an ex-
6 treme risk protection order, including the
7 relationship of the individual to the re-
8 spondent; and

9 (iii) the alleged danger posed by the
10 respondent, including whether the danger
11 involved a risk of suicide, unintentional in-
12 jury, domestic violence, or other inter-
13 personal violence;

14 (B) the number of petitions for extreme
15 risk protection orders filed, as well as the num-
16 ber of such orders issued and the number de-
17 nied, disaggregated by—

18 (i) the jurisdiction;

19 (ii) the individual authorized under
20 State or Tribal law to petition for an ex-
21 treme risk protection order, including the
22 relationship of the individual to the re-
23 spondent; and

24 (iii) the alleged danger posed by the
25 respondent, including whether the danger

1 involved a risk of suicide, unintentional in-
2 jury, domestic violence, or other inter-
3 personal violence;

4 (C) the number of petitions for renewals of
5 extreme risk protection orders filed, as well as
6 the number of such orders issued and the num-
7 ber denied;

8 (D) the number of cases in which a court
9 imposed a penalty for false reporting or frivo-
10 lous petitions;

11 (E) demographic data of petitioners, in-
12 cluding race, ethnicity, national origin, sex, gen-
13 der, age, disability, average annual income, and
14 English language proficiency, if available;

15 (F) demographic data of respondents, in-
16 cluding race, ethnicity, national origin, sex, gen-
17 der, age, disability, average annual income, and
18 English language proficiency, if available; and

19 (G) the total number of firearms removed
20 pursuant to extreme risk protection orders, and,
21 if available, the number of firearms removed
22 pursuant to each such order.

23 **SEC. 5. IDENTIFICATION RECORDS.**

24 Section 534 of title 28, United States Code, is
25 amended—

1 (1) in subsection (a)—

2 (A) in paragraph (3), by striking “and” at
3 the end;

4 (B) by redesignating paragraph (4) as
5 paragraph (5); and

6 (C) by inserting after paragraph (3) the
7 following:

8 “(4)(A) subject to subparagraph (B), acquire,
9 collect, classify, and preserve records from Federal,
10 Tribal, and State courts and other agencies identi-
11 fying individuals subject to extreme risk protection
12 orders, as defined in section 4(a) of the Federal Ex-
13 treme Risk Protection Order Act of 2022; and

14 “(B) destroy each record acquired or collected
15 under subparagraph (A) when the applicable ex-
16 treme risk protection order expires or is terminated
17 or dissolved; and”;

18 (2) in subsection (b), by striking “(a)(4)” and
19 inserting “(a)(5)”; and

20 (3) by adding at the end the following:

21 “(g) EXTREME RISK PROTECTION ORDERS IN NA-
22 TIONAL CRIME INFORMATION DATABASES.—A Federal,
23 Tribal, or State criminal justice agency or criminal or civil
24 court may—

1 “(1) include extreme risk protection orders, as
2 defined in section 4 of the Federal Extreme Risk
3 Protection Order Act of 2022, and Federal extreme
4 risk protection orders, as defined in section 932 of
5 title 18, in national crime information databases, as
6 that term is defined in subsection (f)(3) of this sec-
7 tion; and

8 “(2) have access to information regarding ex-
9 treme risk protection orders and Federal extreme
10 risk protection orders through the national crime in-
11 formation databases.”.

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

13 (a) DEFINITIONS.—In this section, the terms “ex-
14 treme risk protection order”, “Indian Tribe”, and “State”
15 have the meanings given those terms in section 4(a).

16 (b) FULL FAITH AND CREDIT REQUIRED.—Any ex-
17 treme risk protection order issued under a State or Tribal
18 law enacted in accordance with this Act shall be accorded
19 the same full faith and credit by the court of another State
20 or Indian Tribe (referred to in this subsection as the “en-
21 forcing State or Indian Tribe”) and enforced by the court
22 and law enforcement personnel of the other State or Tribal
23 government as if it were the order of the enforcing State
24 or Indian Tribe.

25 (c) APPLICABILITY TO PROTECTION ORDERS.—

1 (1) IN GENERAL.—Subsection (b) shall apply to
2 a protection order issued by a State or Tribal court
3 if—

4 (A) the court has jurisdiction over the par-
5 ties and matter under the law of the State or
6 Indian Tribe; and

7 (B) reasonable notice and opportunity to
8 be heard is given to the person against whom
9 the order is sought sufficient to protect that
10 person’s right to due process.

11 (2) EX PARTE PROTECTION ORDERS.—For pur-
12 poses of paragraph (1)(B), in the case of an ex parte
13 protection order, notice and opportunity to be heard
14 shall be provided within the time required by State
15 or Tribal law, and in any event within a reasonable
16 time after the order is issued, sufficient to protect
17 the due process rights of the respondent.

18 (d) TRIBAL COURT JURISDICTION.—For purposes of
19 this section, a court of an Indian Tribe shall have full civil
20 jurisdiction to issue and enforce a protection order involv-
21 ing any person, including the authority to enforce any
22 order through civil contempt proceedings, to exclude viola-
23 tors from Indian land, and to use other appropriate mech-
24 anisms, in matters arising anywhere in the Indian country
25 (as defined in section 1151 of title 18, United States

1 Code) of the Indian Tribe or otherwise within the author-
2 ity of the Indian Tribe.

3 **SEC. 7. CONFORMING AMENDMENT.**

4 Section 3(1) of the NICS Improvement Amendments
5 Act of 2007 (34 U.S.C. 40903(1)) is amended by striking
6 “section 922(g)(8)” and inserting “paragraph (8) or (10)
7 of section 922(g)”.

8 **SEC. 8. SEVERABILITY.**

9 If any provision of this Act, or an amendment made
10 by this Act, or the application of such provision to any
11 person or circumstance, is held to be invalid, the remain-
12 der of this Act, or an amendment made by this Act, or
13 the application of such provision to other persons or cir-
14 cumstances, shall not be affected.

15 **SEC. 9. EFFECTIVE DATE.**

16 This Act and the amendments made by this Act shall
17 take effect on the date that is 180 days after the date
18 of enactment of this Act.

Passed the House of Representatives June 9, 2022.

Attest:

Clerk.

117TH CONGRESS
2^D SESSION

H. R. 2377

AN ACT

To authorize the issuance of extreme risk
protection orders.