

Article 14. Civil Protection Orders

§ 13-14-105.5. Civil protection orders--prohibition on possessing or purchasing a firearm

(1) If the court subjects a person to a civil protection order pursuant to a provision of this article and the protection order qualifies as an order described in 18 U.S.C. sec. 922(d)(8) or (g)(8), the court, as part of such order:

(a) Shall order the person to:

(I) Refrain from possessing or purchasing any firearm or ammunition for the duration of the order; and

(II) Relinquish, for the duration of the order, any firearm or ammunition in the respondent's immediate possession or control or subject to the respondent's immediate possession or control; and

(b) May require that before the person is released from custody on bond, the person shall relinquish, for the duration of the order, any firearm or ammunition in the person's immediate possession or control or subject to the person's immediate possession or control.

(2)(a) Except as described in paragraph (b) of this subsection (2), upon issuance of an order pursuant to subsection (1) of this section, the respondent shall relinquish any firearm or ammunition:

(I) Not more than twenty-four hours after being served with the order in open court; or

(II) Not more than forty-eight hours after being served with the order outside of the court.

(b) A court may allow a respondent up to seventy-two hours to relinquish a firearm or up to five days to relinquish ammunition pursuant to paragraph (a) of this subsection (2) if the respondent demonstrates to the satisfaction of the court that he or she is unable to comply within the time frame set forth in said subsection (2).

(c) To satisfy the requirement in paragraph (a) of this subsection (2), the respondent may:

(I) Sell or transfer possession of the firearm or ammunition to a federally licensed firearms dealer described in 18 U.S.C. sec. 923, as amended; except that this provision shall not be interpreted to require any federally licensed firearms dealer to purchase or accept possession of any firearm or ammunition;

(II) Arrange for the storage of the firearm or ammunition by a law enforcement agency; except that this provision shall not be interpreted to require any law enforcement agency to provide

storage of firearms or ammunition for any person; or

(III) Sell or otherwise transfer the firearm or ammunition to a private party who may legally possess the firearm or ammunition; except that a person who sells or transfers a firearm pursuant to this subparagraph (III) shall satisfy all of the provisions of section 18-12-112, C.R.S., concerning private firearms transfers, including but not limited to the performance of a criminal background check of the transferee.

(3) If a respondent is unable to satisfy the provisions of subsection (2) of this section because he or she is incarcerated or otherwise held in the custody of a law enforcement agency, the court shall require the respondent to satisfy such provisions not more than twenty-four hours after his or her release from incarceration or custody or be held in contempt of court. Notwithstanding any provision of this subsection (3), the court may, in its discretion, require the respondent to relinquish any firearm or ammunition in the respondent's immediate possession or control or subject to the respondent's immediate possession or control before the end of the respondent's incarceration. In such a case, a respondent's failure to relinquish a firearm or ammunition as required shall constitute contempt of court.

(4) A federally licensed firearms dealer who takes possession of a firearm or ammunition pursuant to this section shall issue a receipt to the respondent at the time of relinquishment. The federally licensed firearms dealer shall not return the firearm or ammunition to the respondent unless the dealer:

- (a) Contacts the bureau to request that a background check of the respondent be performed; and
- (b) Obtains approval of the transfer from the bureau after the performance of the background check.

(5) A local law enforcement agency may elect to store firearms or ammunition for persons pursuant to this section. If an agency so elects:

- (a) The agency may charge a fee for such storage, the amount of which shall not exceed the direct and indirect costs incurred by the agency in providing such storage;
- (b) The agency may establish policies for disposal of abandoned or stolen firearms or ammunition; and
- (c) The agency shall issue a receipt to each respondent at the time the respondent relinquishes possession of a firearm or ammunition.

(6) If a local law enforcement agency elects to store firearms or ammunition for a person pursuant to this section, the law enforcement agency shall not return the firearm or ammunition to the respondent unless the agency:

- (a) Contacts the bureau to request that a background check of the respondent be performed; and

(b) Obtains approval of the transfer from the bureau after the performance of the background check.

(7)(a) A law enforcement agency that elects to store a firearm or ammunition for a person pursuant to this section may elect to cease storing the firearm or ammunition. A law enforcement agency that elects to cease storing a firearm or ammunition for a person shall notify the person of such decision and request that the person immediately make arrangements for the transfer of the possession of the firearm or ammunition to the person or, if the person is prohibited from possessing a firearm, to another person who is legally permitted to possess a firearm.

(b) If a law enforcement agency elects to cease storing a firearm or ammunition for a person and notifies the person as described in paragraph (a) of this subsection (7), the law enforcement agency may dispose of the firearm or ammunition if the person fails to make arrangements for the transfer of the firearm or ammunition and complete said transfer within ninety days of receiving such notification.

(8) If a respondent sells or otherwise transfers a firearm or ammunition to a private party who may legally possess the firearm or ammunition, as described in subparagraph (III) of paragraph (c) of subsection (2) of this section, the respondent shall acquire:

(a) From the transferee, a written receipt acknowledging the transfer, which receipt shall be dated and signed by the respondent and the transferee; and

(b) From the licensed gun dealer who requests from the bureau a background check of the transferee, as described in section 18-12-112, C.R.S. , a written statement of the results of the background check.

(9)(a) Not more than three business days after the relinquishment, the respondent shall file a copy of the receipt issued pursuant to subsection (4), (5), or (8) of this section, and, if applicable, the written statement of the results of a background check performed on the respondent, as described in paragraph (b) of subsection (8) of this section, with the court as proof of the relinquishment. If a respondent fails to timely file a receipt or written statement as described in this subsection (9):

(I) The failure constitutes a violation of the protection order pursuant to section 18-6-803.5(1)(c), C.R.S.; and

(II) The court shall issue a warrant for the respondent's arrest.

(b) In any subsequent prosecution for a violation of a protection order described in this subsection (9), the court shall take judicial notice of the defendant's failure to file a receipt or written statement, which will constitute prima facie evidence of a violation of the protection order pursuant to section 18-6-803.5(1)(c), C.R.S., and testimony of the clerk of the court or his or her deputy is not required.

(10) Nothing in this section shall be construed to limit a respondent's right to petition the court for dismissal of a protection order.

(11) A person subject to a civil protection order issued pursuant to section 13-14-104.5(1)(a) who possesses or attempts to purchase or receive a firearm or ammunition while the protection order is in effect violates the order pursuant to section 18-6-803.5(1)(c), C.R.S.

(12)(a) A law enforcement agency that elects in good faith to not store a firearm or ammunition for a person pursuant to subparagraph (II) of paragraph (c) of subsection (2) of this section shall not be held criminally or civilly liable for such election not to act.

(b) A law enforcement agency that returns possession of a firearm or ammunition to a person in good faith as permitted by subsection (6) of this section shall not be held criminally or civilly liable for such action.