

C.R.S. 13-14.5-108

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- [Colorado Revised Statutes Annotated](#)
- [Title 13. Courts and Court Procedure \(§§ 13-1-101 — 13-94-111\)](#)
- [Civil Protection Orders \(Arts. 14 — 14.5\)](#)
- [Article 14.5. Extreme Risk Protection Orders \(§§ 13-14.5-101 — 13-14.5-114\)](#)

13-14.5-108. Surrender of a firearm

(1)

(a) Upon issuance of an extreme risk protection order pursuant to this article 14.5, including a temporary extreme risk protection order, the court shall order the respondent to surrender all firearms by:

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

(II) Arranging for the storage of the firearm by a law enforcement agency. The law enforcement agency shall preserve the firearm in a substantially similar condition that the firearm was in when it was surrendered. If the respondent does not choose the option in subsection (1)(a)(I) of this section, a local law enforcement agency shall store the firearm.

(III) Only for either an antique firearm, as defined in 18 U.S.C. sec. 921 (a)(16), as amended, or a curio or relic, as defined in 27 CFR 478.11, as amended, transferring possession of the antique firearm or curio or relic to a relative who does not live with the respondent after confirming, through a criminal history record check, the relative is currently eligible to own or possess a firearm under federal and state law.

(b) The court shall order the respondent to surrender any concealed carry permit to the law enforcement officer serving the extreme risk protection order.

(2)

(a) The law enforcement agency serving any extreme risk protection order pursuant to this article 14.5, including a temporary extreme risk protection order in which the petitioner was not a law enforcement agency or officer, shall request that the respondent immediately surrender all firearms in his or her custody, control, or possession and any concealed carry permit issued to the respondent and conduct any search permitted by law for such firearms or permit. After the law enforcement agency or officer has custody of the firearms, the respondent may inform the law enforcement officer of his or her preference for sale, transfer, or storage of the firearms as specified in subsection (1) of this section. If the respondent elects to sell or transfer the firearms to a federally licensed firearms dealer described in 18 U.S.C. sec. 923, as amended, the law enforcement officer or agency shall maintain custody of the firearms until they are sold or transferred pursuant to subsection (1)(a)(I) of this section. The law enforcement officer shall take possession of all firearms and any such permit belonging to the respondent that are surrendered, in plain sight, or discovered pursuant to a lawful search. Alternatively, if personal service by the law enforcement agency is not possible, or not required because the respondent was present at the extreme risk protection order hearing, the respondent shall surrender the firearms and any concealed carry permit within twenty-four hours after being served with the order by alternate service or within twenty-four hours after the hearing at which the respondent was present.

(b) If the petitioner for an extreme risk protection order is a law enforcement agency or officer, the law enforcement officer serving the extreme risk protection order shall take custody of the respondent's firearms pursuant to the search warrant for firearms possessed by a respondent in an

extreme risk protection order, as described in section 16-3-301.5, if a warrant was obtained. After the law enforcement agency or officer has custody of the firearms, the respondent may inform the law enforcement officer of his or her preference for sale, transfer, or storage of the firearms as specified in section 13-14-105.5 (2)(c). The law enforcement officer shall request that the respondent immediately surrender any concealed carry permit issued to the respondent and conduct any search permitted by law for the permit.

(3) At the time of surrender or taking custody pursuant to section 16-3-301.5, a law enforcement officer taking possession of a firearm or a concealed carry permit shall issue a receipt identifying all firearms and any permit that have been surrendered or taken custody of and provide a copy of the receipt to the respondent. Within seventy-two hours after service of the order, the officer serving the order shall file the original receipt with the court and shall ensure that his or her law enforcement agency retains a copy of the receipt, or, if the officer did not take custody of any firearms, shall file a statement to that effect with the court.

(4) Upon the sworn statement or testimony of the petitioner or of any law enforcement officer alleging that there is probable cause to believe the respondent has failed to comply with the surrender of firearms or a concealed carry permit as required by an order issued pursuant to this article 14.5, the court shall determine whether probable cause exists to believe that the respondent has failed to surrender all firearms or a concealed carry permit in his or her custody, control, or possession. If probable cause exists, the court shall issue a search warrant that states with particularity the places to be searched and the items to be taken into custody.

(5) If a person other than the respondent claims title to any firearms surrendered or taken custody of pursuant to section 16-3-301.5 pursuant to this section and he or she is determined by the law enforcement agency to be the lawful owner of the firearm, the firearm shall be returned to him or her if:

(a) The firearm is removed from the respondent's custody, control, or possession, and the lawful owner agrees to store the firearm so that the respondent does not have access to or control of the firearm; and

(b) The firearm is not otherwise unlawfully possessed by the lawful owner.

(6)

(a) Within forty-eight hours after the issuance of an extreme risk protection order, a respondent subject to the order may either:

(I) File with the court that issued the order one or more proofs of relinquishment or removal showing that all firearms previously in the respondent's custody, control, or possession, and any concealed carry permit issued to the respondent, were relinquished to or removed by a law enforcement agency, and attest to the court that the respondent does not currently have any firearms in the respondent's custody, control, or possession, and does not currently have a concealed carry permit; or

(II) Attest to the court that:

(A) At the time the order was issued, the respondent did not have any firearms in the respondent's custody, control, or possession and did not have a concealed carry permit; and

(B) The respondent does not currently have any firearms in the respondent's custody, control, or possession and does not currently have a concealed carry permit.

(b) If two full court days have elapsed since the issuance of an extreme risk protection order and the respondent has made neither the filing and attestation pursuant to subsection (6)(a)(I) of this section nor the attestations pursuant to subsection (6)(a)(II) of this section, the clerk of the court for the court that issued the order shall inform the local law enforcement agency in the county in which the court is located that the respondent has not filed the filing and attestation pursuant to subsection (6)(a)(I) of this section or the attestations pursuant to subsection (6)(a)(II) of this section.

(c) A local law enforcement agency that receives a notification pursuant to subsection (6)(b) of this section shall make a good faith effort to determine whether there is evidence that the respondent has failed to relinquish any firearm in the respondent's custody, control, or possession or a concealed carry permit issued to the respondent.

(7) The peace officers standards and training board shall develop model policies and procedures by December 1, 2019, regarding the acceptance, storage, and return of firearms required to be surrendered pursuant to this article 14.5 or taken custody of pursuant to section 16-3-301.5 and shall provide those model policies and procedures to all law enforcement agencies. Each law enforcement agency shall adopt the model policies and procedures or adopt their own policies and procedures by January 1, 2020.

History

Source: L. 2019: Entire article added, (HB 19-1177), ch. 108, p. 393, § 1, effective April 12.

Colorado Revised Statutes Annotated
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