

C.R.S. 18-1-1001

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Statutes current and final through all legislation from the 2023 Regular and First Extraordinary Sessions.

- [Colorado Revised Statutes Annotated](#)
- [Title 18. Criminal Code \(Arts. 1 — 26\)](#)
- [Article 1. Provisions Applicable to Offenses Generally \(Pts. 1 — 11\)](#)
- [Part 10. Orders and Proceedings Against Defendant \(§§ 18-1-1001 — 18-1-1002\)](#)

18-1-1001. Protection order against defendant - definitions.

(1) There is created a mandatory protection order against any person charged with a criminal violation of any of the provisions of this title 18, which order remains in effect from the time that the person is advised of the person's rights at arraignment or the person's first appearance before the court and informed of such order until final disposition of the action. Such order restrains the person charged from harassing, molesting, intimidating, retaliating against, or tampering with any witness to or victim of the acts charged. The protection order issued pursuant to this section must be on a standardized form prescribed by the judicial department, and a copy provided to the protected parties.

(2) At the time of arraignment or the person's first appearance before the court, the court shall inform the defendant of the protection order effective pursuant to this section and shall inform the defendant that a violation of such order is punishable by contempt.

(3)

(a) Nothing in this section precludes the defendant from applying to the court at any time for modification or dismissal of the protection order issued pursuant to this section or the district attorney from applying to the court at any time for further orders, additional provisions under the protection order, or modification or dismissal of the same. The trial court retains jurisdiction to enforce, modify, or dismiss the protection order until final disposition of the action. Upon motion of the district attorney or on the court's own motion for the protection of the alleged victim or witness, the court may, in cases involving domestic violence as defined in section 18-6-800.3 (1) and cases involving crimes listed in section 24-4.1-302, except those listed in subsections (1)(cc.5) and (1)(cc.6) of that section, enter any of the following further orders against the defendant:

(a)

(I) An order to vacate or stay away from the home of the alleged victim or witness and to stay away from any other location where the victim or witness is likely to be found;

(II) An order to refrain from contact or direct or indirect communication with the alleged victim or witness;

(III) An order prohibiting possession or control of firearms or other weapons;

(IV) An order prohibiting possession or consumption of alcohol or controlled substances;

(V) An order prohibiting the taking, transferring, concealing, harming, disposing of, or threatening to harm an animal owned, possessed, leased, kept, or held by an alleged victim or witness; and

(VI) Any other order the court deems appropriate to protect the safety of the alleged victim or witness.

(b) Any further orders issued pursuant to subsection (3)(a) of this section are for the protection of a victim or witness and not for the protection of the defendant, including for the protection of the defendant from the use of alcohol or other substances.

(4) Any person failing to comply with a protection order issued pursuant to this section commits the crime of violation of a protection order and may be punished as provided in section 18-6-803.5.

(5) Before a defendant is released on bail pursuant to article 4 of title 16, C.R.S., the court shall, in cases involving domestic violence as defined in section 18-6-800.3 (1), in cases of stalking pursuant to section 18-3-602, or in cases involving unlawful sexual behavior as defined in section 16-22-102 (9), C.R.S., state the terms of the protection order issued pursuant to this section, including any additional provisions added pursuant to subsection (3) of this section, to the defendant on the record, and the court shall further require the defendant to acknowledge the protection order in court and in writing prior to release as a condition of any bond for the release of the defendant. The prosecuting

attorney shall, in such domestic violence cases, stalking cases, or in cases involving unlawful sexual behavior as defined in section 16-22-102 (9), C.R.S., notify the alleged victim, the complainant, and the protected person of the order if such persons are not present at the time the protection order is issued.

(6) The defendant or, in cases involving domestic violence as defined in section 18-6-800.3 (1), in cases of stalking pursuant to section 18-3-602, or in cases involving unlawful sexual behavior as defined in section 16-22-102 (9), C.R.S., the prosecuting attorney may request a hearing before the court to modify the terms of a protection order issued pursuant to this section. Upon such a request, the court shall set a hearing and the prosecuting attorney shall send notice of the hearing to the defendant and the alleged victim. At the hearing the court shall review the terms of the protection order and any further orders entered and shall consider the modifications, if any, requested by the defendant or the prosecuting attorney.

(7) The duties of peace officers enforcing orders issued pursuant to this section shall be in accordance with section 18-6-803.5 and any rules adopted by the Colorado supreme court pursuant to said section.

(8) For purposes of this section:

(a) "Court" means the trial court or a designee of the trial court.

(a.5) "Protection order" shall include a restraining order entered pursuant to this section prior to July 1, 2003.

(b) "Until final disposition of the action" means until the case is dismissed, until the defendant is acquitted, until the defendant completes the defendant's sentence, or until the defendant's commitment is terminated and the defendant is discharged from supervision following a verdict of not guilty by reason of insanity pursuant to section 16-8-115. Any defendant sentenced to probation is deemed to have completed the defendant's sentence upon discharge from probation. A defendant sentenced to incarceration is deemed to have completed the defendant's sentence upon release from incarceration and discharge from parole supervision.

(9)

(a) **Order requirements.** When the court subjects a defendant to a mandatory protection order that the court, using the probable cause standard of review, determines on the record after reviewing the probable cause statement or arrest warrant that the order includes a crime that includes an act of domestic violence, as defined in section 18-6-800.3 (1), and the act of domestic violence involved the threat of use, use of, or attempted use of physical force, the court, as part of such order:

(I) Shall order the defendant to:

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

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

(II) May require that before the defendant is released from custody on bond, the defendant relinquish, for the duration of the order, any firearm or ammunition in the defendant's immediate possession or control or subject to the defendant's immediate possession or control; and

(III) Shall schedule a compliance hearing pursuant to subsection (9)(e) of this section and notify the defendant of the hearing date and that the defendant shall appear at the hearing in person unless the hearing is vacated pursuant to subsection (9)(e)(I) of this section.

(b) **Time period to relinquish.** Upon issuance of an order pursuant to subsection (9)(a) of this section, the defendant shall relinquish, in accordance with subsection (9)(d) of this section, any firearm or ammunition not more than twenty-four hours, excluding legal holidays and weekends, after being served with the order; except that a court may allow a defendant additional time based on a showing of good cause to relinquish a firearm if the defendant demonstrates to the satisfaction of the court that the defendant is unable to comply within the time frame set forth in this subsection (9)(b).

(c) **Additional time to comply if defendant is in custody.** If a defendant is unable to satisfy the provisions of this subsection (9) because the defendant is incarcerated or otherwise held in the custody of a law enforcement agency, the court shall require the defendant to satisfy the provisions of this subsection (9) not more than twenty-four hours, excluding legal holidays and weekends, after the defendant's release from incarceration or custody or be held in contempt of court. Notwithstanding any provision of this subsection (9)(c), the court may, in its discretion, require the defendant to relinquish any firearm or ammunition in the defendant's immediate possession or control or subject to the defendant's immediate possession or control before the end of the defendant's incarceration or release from custody. In such a case, a defendant's failure to relinquish a firearm or ammunition as required constitutes contempt of court.

(d) Relinquishment options. To satisfy the requirement in subsection (9)(b) of this section, the defendant shall either:

(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 must not be interpreted to require any federally licensed firearms dealer to purchase or accept possession of any firearm or ammunition; or

(II) Arrange for the storage of the firearm or ammunition by a law enforcement agency or by a storage facility with which the law enforcement agency has contracted for the storage of transferred firearms or ammunition, pursuant to subsection (9)(g) of this section; except that this provision must 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 defendant who sells or transfers a firearm pursuant to this subsection (9)(d)(III) shall satisfy all of the provisions of section 18-12-112 concerning private firearms transfers, including but not limited to the performance of a criminal background check of the transferee.

(e) Compliance hearing, conditions of release on bond, and affidavit.

(I) The court shall conduct a compliance hearing to ensure the defendant has complied with this subsection (9) by requiring the defendant to comply with subsection (9)(e)(II) of this section. The court may consider the issue in other proceedings before the court in the criminal case. The hearing is considered a court action involving a bond reduction or modification as described in section 24-4.1-302 (2)(c). A defendant shall comply with section 16-4-105 (4.1) as it relates to the conditions of release on bond. The court may vacate the hearing if the court determines that the defendant has completed the affidavit described in subsection (9)(e)(II) of this section. Failure to appear at a hearing described in this subsection (9)(e)(I) constitutes contempt of court.

(II) The defendant shall complete an affidavit, which must be filed in the court record within seven business days after the order is issued, stating the number of firearms in the defendant's immediate possession or control or subject to the defendant's immediate possession or control, the make and model of each firearm, any reason the defendant is still in immediate possession or control of such firearm, and the location of each firearm. If the defendant does not possess a firearm at the time the order is issued pursuant to subsection (9)(a) of this section, the defendant shall indicate such nonpossession in the affidavit.

(III) If the defendant possessed a firearm at the time of the qualifying incident giving rise to the duty to relinquish the firearm pursuant to this subsection (9) but transferred or sold the firearm to a private party prior to the court's issuance of the order, the defendant shall disclose the sale or transfer of the firearm to the private party in the affidavit described in subsection (9)(e)(II) of this section. The defendant, within seven business days after the relinquishment period established by the court pursuant to this subsection (9), shall acquire a written receipt and signed declaration that complies with subsection (9)(h)(I)(A) of this section, and the defendant shall file the signed declaration at the same time the defendant files the affidavit pursuant to subsection (9)(e)(II) of this section.

(IV) No testimony or other information compelled pursuant to this subsection (9), or any information directly or indirectly derived from such testimony or other information, may be used against the defendant in any criminal case, except prosecution for perjury pursuant to section 18-8-503.

(V) The state court administrator shall develop the affidavit described in subsection (9)(e)(II) of this section and all other forms necessary to implement this subsection (9) no later than January 1, 2022. State courts may use the forms developed by the state court administrator pursuant to this subsection (9)(e) or another form of the court's choosing, so long as the forms comply with the requirements of this subsection (9)(e).

(VI) Upon the sworn statement or testimony of the petitioner or of any law enforcement officer alleging there is probable cause to believe the respondent has failed to comply with the provisions of this section, the court shall determine whether probable cause exists to believe that the respondent has failed to relinquish all firearms or a concealed carry permit in the respondent's 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.

(f) Relinquishment to a federally licensed firearms dealer. A federally licensed firearms dealer who takes possession of a firearm or ammunition pursuant to this subsection (9) shall issue a written receipt and signed declaration to the defendant at the time of relinquishment. The declaration must memorialize the sale or transfer of the firearm. The federally licensed firearms dealer shall not return the firearm or ammunition to the defendant unless the dealer:

(I) Contacts the Colorado bureau of investigation, referred to in this subsection (9) as the "bureau", to request that a criminal background check of the defendant be performed; and

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

(g) Storage by a law enforcement agency or storage facility.

(I) A local law enforcement agency may elect to store firearms or ammunition for a defendant pursuant to this subsection (9). The law enforcement agency may enter into an agreement with any other law enforcement agency or storage facility for the storage of transferred firearms or ammunition. If a law enforcement agency elects to store firearms or ammunition for a defendant:

(I)

(A) The law enforcement agency may charge a fee for the storage, the amount of which must not exceed the direct and indirect costs incurred by the law enforcement agency in providing the storage;

(B) The law enforcement agency shall establish policies for disposal of abandoned or stolen firearms or ammunition; and

(C) The law enforcement agency shall issue a written receipt and signed declaration to the defendant at the time of relinquishment. The declaration must memorialize the sale or transfer of the firearm.

(II) If a local law enforcement agency elects to store firearms or ammunition for a defendant pursuant to this subsection (9)(g), the law enforcement agency shall not return the firearm or ammunition to the defendant unless the law enforcement agency:

(A) Contacts the bureau to request that a criminal background check of the defendant be performed; and

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

(III)

(A) A law enforcement agency that elects to store a firearm or ammunition for a defendant pursuant to this subsection (9) may elect to cease storing the firearm or ammunition. A law enforcement agency that elects to cease storing a firearm or ammunition for a defendant shall notify the defendant of the decision and request that the defendant immediately make arrangements for the transfer of the possession of the firearm or ammunition to the defendant or, if the defendant 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 defendant and notifies the defendant as described in subsection (9)(g)(III)(A) of this section, the law enforcement agency may dispose of the firearm or ammunition if the defendant fails to make arrangements for the transfer of the firearm or ammunition and complete the transfer within ninety days after receiving the notification.

(IV) A law enforcement agency that elects to store a firearm or ammunition shall obtain a search warrant to examine or test the firearm or ammunition or facilitate a criminal investigation if a law enforcement agency has probable cause to believe the firearm or ammunition has been used in the commission of a crime, is stolen, or is contraband. This subsection (9)(g)(IV) does not preclude a law enforcement agency from conducting a routine inspection of the firearm or ammunition prior to accepting the firearm for storage.

(h) Relinquishment to a private party.

(I) If a defendant sells or otherwise transfers a firearm or ammunition to a private party who may legally possess the firearm or ammunition, as described in subsection (9)(d)(III) of this section, the defendant shall acquire:

(A) From the federally licensed firearms dealer, a written receipt and signed declaration memorializing the transfer, which receipt must be dated and signed by the defendant, the transferee, and the federally licensed firearms dealer; and

(B) From the federally licensed firearms dealer who requests from the bureau a criminal background check of the transferee, as described in section 18-12-112, a written statement of the results of the criminal background check.

(II) The defendant shall not transfer the firearm to a private party living in the same residence as the defendant at the time of the transfer.

(III) Notwithstanding section 18-12-112, if a private party elects to store a firearm for a defendant pursuant to this subsection (9), the private party shall not return the firearm to the defendant unless the private party acquires from the federally licensed firearms dealer who requests from the bureau a criminal background check of the defendant, a written statement of the results of the background check authorizing the return of the firearm to the defendant.

(i) Requirement to file signed declaration.

(I) The defendant shall file a copy of the signed declaration issued pursuant to subsection (9)(f), (9)(g)(I)(C), or (9)(h)(I)(A) of this section, and, if applicable, the written statement of the results of a criminal background check performed on the defendant, as described in subsection (9)(h)(I)(B) of this section, with the court as proof of the relinquishment at the same time the defendant files the signed affidavit pursuant to subsection (9)(e)(II) of this section. The signed declaration and written statement filed pursuant to this subsection (9)(i) are only available for inspection by the court and the parties to the proceeding. If a defendant fails to timely transfer or sell a firearm or file the signed declaration or written statement as described in this subsection (9)(i)(I):

(A) The failure constitutes a violation of the protection order pursuant to section 18-6-803.5 (1)(c); and

(B) The court shall issue a warrant for the defendant's arrest.

(II) In any subsequent prosecution for a violation of a protection order described in this subsection (9)(i), the court shall take judicial notice of the defendant's failure to transfer or sell a firearm, or file the signed declaration or written statement, which constitutes prima facie evidence of a violation of the protection order pursuant to section 18-6-803.5 (1)(c), and testimony of the clerk of the court or the clerk of the court's deputy is not required.

(j) Nothing in this subsection (9) limits a defendant's right to petition the court for dismissal of a protection order.

(k) A defendant subject to a mandatory protection order issued pursuant to this subsection (9) 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).

(l)

(I) A law enforcement agency that elects in good faith to not store a firearm or ammunition for a defendant pursuant to subsection (9)(g) of this section is not criminally or civilly liable for such inaction.

(II) A law enforcement agency that returns possession of a firearm or ammunition to a defendant in good faith as permitted by subsection (9)(g) of this section is not criminally or civilly liable for such action.

(m) Immunity. A federally licensed firearms dealer, law enforcement agency, storage facility, or private party that elects to store a firearm pursuant to this subsection (9) is not civilly liable for any resulting damages to the firearm, as long as such damage did not result from the willful and wrongful act or gross negligence of the federally licensed firearms dealer, law enforcement agency, storage facility, or private party.

(10) The issuance of a protection order pursuant to this section does not preclude a court from issuing a protective order in a civil proceeding.

History

Source: **L. 84:**Entire part added, p. 500, § 3, effective July 1. **L. 85:**(1) and (2) amended, p. 617, § 10, effective July 1. **L. 91:**Entire section amended, p. 419, § 3, effective May 31. **L. 94:**(1) and (3) amended, p. 2023, § 3, effective June 3; (3) amended and (5) and (6) added, p. 2041, § 24, effective July 1; (1) amended and (7) added, p. 2009, § 6, effective January 1, 1995. **L. 98:**(1) and IP(3) amended and (8) added, p. 1442, § 28, effective July 1. **L. 2003:**(1), (2), IP(3), (4), (5), and (6) amended and (8)(a.5) added, pp. 1002, 1003, §§ 4, 5, effective July 1. **L. 2011:**IP(3), (3)(a), (3)(b), and (3)(e) amended,(HB 11-1267), ch. 273, p. 1234, § 1, effective June 2. **L. 2012:**(5) and (6) amended,(HB 12-1114), ch. 176, p. 632, § 3, effective May 11. **L. 2013:**(9) added,(SB 13-197), ch. 366, p. 2134, § 4, effective June 5; (8)(b) amended,(HB 13-1109), ch. 33, p. 79, § 1, effective August 7. **L. 2015:**(5) and (6) amended,(HB 15-1060), ch. 45, p. 112, § 2, effective March 20. **L. 2018:**(9)(l)(I) amended,(HB 18-1375), ch. 274, p. 1701, § 21, effective May 29; IP(3), (3)(d), and (3)(e) amended and (3)(f) and (10) added,(SB 18-060), ch. 50, p. 487, § 1, effective November 1. **L. 2021:**(9) amended,(HB 21-1255), ch. 293, p. 1742, § 2, effective June 22; (3) amended,(SB 21-271), ch. 462, p. 3167, § 180, effective March 1, 2022. **L. 2022:**(1) amended,(HB 22-1229), ch. 68, p. 343, § 17, effective March 1. **L. 2023:**(8)(b) amended,(HB 23-1199), ch. 263, p. 1567, § 4, effective May 25.

Research References & Practice Aids

Hierarchy Notes:

C.R.S. Title 18

C.R.S. Title 18, Art. 1

C.R.S. Title 18, Art. 1, Pt. 10

State Notes

Notes

Editor's note:

(1) Amendments to subsection (1) in House Bill 94-1092 and House Bill 94-1090 were harmonized. Amendments to subsection (3) in House Bill 94-1092 and House Bill 94-1253 were harmonized.

(2) Subsections (9)(d)(I), (9)(d)(II), and (9)(d)(III) are similar to former § 18-1-1001 (9)(b)(I), (9)(b)(II), and (9)(b)(III) as they existed prior to 2021.

(3) Section 47 of chapter 68 (HB 22-1229), Session Laws of Colorado 2022, provides that the act amending subsection (1) is effective March 1, 2022, but the governor did not approve the act until April 7, 2022.

ANNOTATION

Classifying a violation of a criminal restraining order as a crime more serious than the offense of violating a domestic abuse restraining order does not violate equal protection of the laws.

This section seeks to protect those who must present evidence in the criminal justice system while § 14-4-102 is designed to protect persons in a volatile domestic setting. *People v. Brockelman*, 862 P.2d 1040 (Colo. App. 1993).

The first two sentences of subsection (3), providing for broad authority to modify a mandatory protection order (MPO), also apply generally to every MPO issued in a title 18 case.

This section read as a whole indicates that the specific conditions pertaining to domestic violence cases and certain victims' rights act cases are referenced in subsection (3) not as a restriction on that broad authority but rather to set out

what conditions are subject to the special procedural requirements of subsections (5) and (6). *People v. Yoder*, 2016 COA 50, 409 P.3d 430.

When a defendant is serving an illegal sentence

but the defendant has not obtained a court order reversing or vacating the conviction, entering a new sentence, or dismissing the protection order, the protection order associated with the case remains in effect through the entire illegal sentence and any violation of the protection order during that time is punishable. *People v. Delfeld*, 2021 COA 131, 503 P.3d 902.

Dismissal of some charges, in the context of a plea of guilty to others, is not the dismissal of a “case” or “final disposition of the action” under subsection (8)(b).

A single case may include several charges. Adding or dropping a single charge within a multi-charge case does not dispose of the case. *People v. Sterns*, 2013 COA 66, 318 P.3d 535.

Thus, when the trial court dismissed a charge involving defendant’s daughter, it did not thereby dispose of the action against defendant. The action continued pursuant to the plea agreement. Accordingly, the trial court’s mandatory protection order properly included defendant’s daughter. *People v. Sterns*, 2013 COA 66, 318 P.3d 535.

Section 16-4-105 (1)(o) permits a court to designate persons to prepare information

concerning the accused in order to assist the judge in deciding whether to order release on personal recognizance. Pursuant to this statutory authority, the judges of the first judicial district authorized the pretrial service officers, as bond commissioners, to implement the bond schedule of the district. Although the bond schedule did not address temporary restraining orders specifically, in cases involving allegations of domestic violence, the pretrial service officers, acting as bond commissioners, were expected to deliver to the defendant a temporary restraining order pursuant to this section. The court concluded that, as a matter of law, these are judicial acts integral to the judicial process and therefore are cloaked in absolute quasi-judicial immunity. *Whitesel v. Sengenberger*, 222 F.3d 861 (10th Cir. 2000).

Research References & Practice Aids

Cross references:

- (1) For protection orders against children under the “Colorado Children’s Code”, see § 19-2.5-607; for additional provisions concerning protection orders, see the “Colorado Victim and Witness Protection Act of 1984”, part 7 of article 8 of this title 18.
- (2) For the legislative declaration in the 2013 act adding subsection (9), see section 1 of chapter 366, Session Laws of Colorado 2013.