

C.R.S. 13-14-105.5

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

- [Colorado Revised Statutes Annotated](#)
- [Title 13. Courts and Court Procedure \(§§ 13-1-101 — 13-100-102\)](#)
- [Civil Protection Orders \(Arts. 14 — 14.5\)](#)
- [Article 14. Civil Protection Orders \(§§ 13-14-100.2 — 13-14-110\)](#)

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

(1) Order requirements. If the court subjects a respondent to a civil protection order and the court determines on the record after reviewing the petition for the protection order that the protection order 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:

(a) Shall order the respondent 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 respondent is released from custody on bond, the respondent 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

(c) Shall schedule a compliance hearing pursuant to subsection (5)(a) of this section and notify the respondent of the hearing date and that the respondent shall appear at the hearing in person unless the hearing is vacated pursuant to subsection (5)(a) of this section.

(2) Time period to relinquish.

(a) Except as described in subsection (2)(b) of this section, upon issuance of an order pursuant to subsection (1) of this section, the respondent shall relinquish, in accordance with subsection (4) of this section, any firearm or ammunition:

(I) Not more than twenty-four hours, excluding legal holidays and weekends, after being served with the order in open court; or

(II) Not more than forty-eight hours, excluding legal holidays and weekends, after being served with the order outside of the court.

(b) Notwithstanding subsection (2)(a) of this section, a court may allow a respondent up to an additional twenty-four hours to relinquish a firearm if the respondent demonstrates to the satisfaction of the court that the respondent is unable to comply within the time frame set forth in subsection (2)(a) of this section.

(3) Additional time to comply if respondent in custody. If a respondent is unable to satisfy the provisions of this section because the respondent is incarcerated or otherwise held in the custody of a law enforcement agency, the court shall require the respondent to satisfy the provisions of this section not more than twenty-four hours, excluding legal holidays and weekends, after the respondent's 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 constitutes contempt of court.

(4) Relinquishment options. To satisfy the requirement in subsection (2) of this section, the respondent shall either:

(a) 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

(b) Arrange for the storage of the firearm or ammunition by a law enforcement agency or by a storage facility with which the sheriff has contracted for the storage of transferred firearms or ammunition, pursuant to subsection (7)(a) 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

(c) Sell or otherwise transfer the firearm or ammunition to a private party who may legally possess the firearm or ammunition; except that a respondent who sells or transfers a firearm pursuant to this subsection (4)(c) 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.

(5) Compliance hearing and affidavit.

(a) The court shall conduct a compliance hearing not less than eight but not more than twelve business days after the order is issued to ensure the respondent has complied with subsection (5)(b) of this section. The court may vacate the hearing if the court determines the respondent has completed the affidavit described in subsection (5)(b) of this section. Failure to appear at a hearing described in this subsection (5)(a) constitutes contempt of court.

(b) The respondent 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 respondent's immediate possession or control or subject to the respondent's immediate possession or control, the make and model of each firearm, any reason the respondent is still in immediate possession or control of such firearm, and the location of each firearm. If the respondent does not possess a firearm at the time the order is issued pursuant to subsection (1) of this section, the respondent shall indicate such nonpossession in the affidavit.

(c) If the respondent possessed a firearm at the time of the qualifying incident giving rise to the duty to relinquish the firearm pursuant to this section but transferred or sold the firearm to a private party prior to the court's issuance of the order, the respondent shall disclose the sale or transfer of the firearm to the private party in the affidavit described in subsection (5)(b) of this section. The respondent, within seven business days after the order is issued, shall acquire a written receipt and signed declaration that complies with subsection (8)(a)(I) of this section, and the respondent shall file the signed declaration at the same time the respondent files the affidavit pursuant to subsection (5)(b) of this section.

(d) The state court administrator shall develop the affidavit described in subsection (5)(b) of this section and all other forms necessary to implement this section no later than January 1, 2022. State courts may use the forms developed by the state court administrator pursuant to this subsection (5)(d) or another form of the court's choosing, so long as the forms comply with the requirements of this subsection (5).

(e) 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.

(6) Relinquishment to a federally licensed firearms dealer. A federally licensed firearms dealer who takes possession of a firearm or ammunition pursuant to this section shall issue a written receipt and signed declaration to the respondent 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 respondent unless the dealer:

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

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

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

(a) A local law enforcement agency may elect to store firearms or ammunition for a respondent pursuant to this section. 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 respondent:

(1) 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;

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

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

(b) If a local law enforcement agency elects to store firearms or ammunition for a respondent pursuant to this subsection (7), the law enforcement agency shall not return the firearm or ammunition to the respondent unless the law enforcement agency:

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

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

(c)

(I) A law enforcement agency that elects to store a firearm or ammunition for a respondent 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 respondent shall notify the respondent of the decision and request that the respondent immediately make arrangements for the transfer of the possession of the firearm or ammunition to the respondent or, if the respondent is prohibited from possessing a firearm, to another person who is legally permitted to possess a firearm.

(II) If a law enforcement agency elects to cease storing a firearm or ammunition for a respondent and notifies the respondent as described in subsection (7)(c)(I) of this section, the law enforcement agency may dispose of the firearm or ammunition if the respondent fails to make arrangements for the transfer of the firearm or ammunition and complete the transfer within ninety days after receiving the notification.

(d) 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 (7)(d) does not preclude a law enforcement agency from conducting a routine inspection of the firearm or ammunition prior to accepting the firearm for storage.

(8) Relinquishment to a private party.

(a) 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 subsection (4)(c) of this section, the respondent shall acquire:

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

(II) 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.

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

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

(9) Requirement to file signed declaration.

(a) The respondent shall file a copy of the signed declaration issued pursuant to subsection (6), (7)(a)(III), or (8)(a)(I) of this section, and, if applicable, the written statement of the results of a criminal background check performed on the respondent, as described in subsection (8)(a)(II) of this section, with the court as proof of the relinquishment at the same time the respondent files the signed affidavit pursuant to subsection (5)(b) of this section. The signed declaration and written statement filed pursuant to this subsection (9) are only available for inspection by the court and the parties to the proceeding. If a respondent fails to timely transfer or sell a firearm or file the signed declaration 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); 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 respondent'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.

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

(11) A respondent 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).

(12)

(a) A law enforcement agency that elects in good faith to not store a firearm or ammunition for a respondent pursuant to subsection (7)(a) of this section is not criminally or civilly liable for such inaction.

(b) A law enforcement agency that returns possession of a firearm or ammunition to a respondent in good faith as permitted by subsection (7) of this section is not criminally or civilly liable for such action.

(13) Immunity. A federally licensed firearms dealer, law enforcement agency, storage facility, or private party that elects to store a firearm pursuant to this section 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.

History

Source:**L. 2013:**Entire section added,(SB 13-197), ch. 366, p. 2140, § 6, effective July 1.**L. 2021:**Entire section amended with relocations,(HB 21-1255), ch. 293, p. 1736, § 1, effective June 22.

▼ Annotations

Research References & Practice Aids

Hierarchy Notes:

C.R.S. Title 13, Art. 14

State Notes

Notes

Editor's note:

Subsection (4) is similar to former § 13-14-105.5 (2)(c) as it existed prior to 2021.

Research References & Practice Aids

Cross references:

For the legislative declaration in the 2013 act adding this section, see section 1 of chapter 366, Session Laws of Colorado 2013.