

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 723

Short Title: Gun Safety Act. (Public)

Sponsors: Representatives Harrison, Insko, Fisher, and Cunningham (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I, if favorable, Rules, Calendar, and Operations of the House

April 11, 2017

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE "STAND YOUR GROUND LAWS" AND CODIFY THE COMMON LAW REGARDING THE USE OF FORCE AGAINST AN INTRUDER; TO AMEND THE LAW ALLOWING RECIPROCITY FOR CONCEALED HANDGUN PERMITS; TO STRENGTHEN THE LAW REGARDING SAFE STORAGE OF FIREARMS; TO REQUIRE THE REPORTING OF LOST AND STOLEN GUNS; TO REQUIRE THE SHERIFF, UPON DENIAL, REVOCATION, OR REFUSAL TO RENEW A CONCEALED HANDGUN PERMIT OR PISTOL PERMIT TO TRANSMIT THE PROHIBITION RECORD TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM; TO REQUIRE ANY PERSON WHO OWNS A FIREARM TO CARRY FIREARM LIABILITY INSURANCE; TO LIMIT THE SIZE OF AMMUNITION MAGAZINES; TO DIRECT THE STATE TREASURER TO DIVEST THE PENSION FUND OF GUN STOCKS; TO REQUIRE EACH STATE AND LOCAL LAW ENFORCEMENT AGENCY TO ADOPT A WRITTEN POLICY REGARDING THE INVESTIGATION OF OFFICER-INVOLVED DEATHS; AND TO AUTHORIZE THE COURTS TO ISSUE A GUN VIOLENCE RESTRAINING ORDER AND ESTABLISH A PROCEDURE FOR THE ISSUANCE OR DENIAL OF THE RESTRAINING ORDER.

The General Assembly of North Carolina enacts:

SECTION 1. The following statutes are repealed: G.S. 14-51.2, 14-51.3, and 14-51.4.

SECTION 2. Article 14 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-51.5. Use of deadly physical force against an intruder.

(a) A lawful occupant within a home or other place of residence is justified in using any degree of force that the occupant reasonably believes is necessary, including deadly force, against an intruder to prevent a forcible entry into the home or residence or to terminate the intruder's unlawful entry (i) if the occupant reasonably apprehends that the intruder may kill or inflict serious bodily harm to the occupant or others in the home or residence or (ii) if the occupant reasonably believes that the intruder intends to commit a felony in the home or residence.

(b) A lawful occupant within a home or other place of residence does not have a duty to retreat from an intruder in the circumstances described in this section.

(c) This section is not intended to repeal, expand, or limit any other defense that may exist under the common law."



1 **SECTION 3.** G.S. 14-315.1 reads as rewritten:

2 "**§ 14-315.1. ~~Storage of firearms to protect minors.~~ Safe storage of firearms.**

3 (a) Any person who resides in the same premises as a minor, owns or possesses a
4 firearm, and stores or leaves the firearm (i) in a condition that the firearm can be discharged
5 and (ii) in a manner that the person knew or should have known that an unsupervised minor
6 would be able to gain access to the firearm, is guilty of a Class 1 misdemeanor if a minor gains
7 access to the firearm without the lawful permission of the minor's parents or a person having
8 charge of the minor and the minor:

9 (1) Possesses it in violation of G.S. 14-269.2(b);

10 (2) Exhibits it in a public place in a careless, angry, or threatening manner;

11 (3) Causes personal injury or death with it not in self defense; or

12 (4) Uses it in the commission of a crime.

13 (a1) Any person who resides in the same premises as an unauthorized person, owns or
14 possesses a firearm, and stores or leaves the firearm without having securely locked the firearm
15 in an appropriate safe storage depository or rendered it incapable of being fired is guilty of a
16 Class 1 misdemeanor if the unauthorized person gains access to the firearm and does any of the
17 following:

18 (1) Possesses it in violation of G.S. 14-269.2(b);

19 (2) Exhibits it in a public place in a careless, angry, or threatening manner;

20 (3) Causes personal injury or death with it not in self defense; or

21 (4) Uses it in the commission of a crime.

22 (b) Nothing in this section shall prohibit a person from carrying a firearm on his or her
23 body, or placed in such close proximity that it can be used as easily and quickly as if carried on
24 the body.

25 (c) This section shall not apply if the minor or unauthorized person obtained the firearm
26 as a result of an unlawful entry by any person.

27 (d) The following definitions apply in this section:

28 (1) "Minor" as used in this section means a Minor. – A person under 18 years of
29 age who is not emancipated.

30 (2) Unauthorized person. – A person who is not authorized to purchase a firearm
31 under State or federal law."

32 **SECTION 4.** G.S. 14-315.2 reads as rewritten:

33 "**§ 14-315.2. ~~Warning upon sale or transfer of firearm to protect minor; warning~~**
34 **regarding access to firearm by person not authorized to possess firearm.**

35 (a) Upon the retail commercial sale or transfer of any firearm, the seller or transferor
36 shall deliver a written copy of G.S. 14-315.1 to the purchaser or transferee.

37 (b) Any retail or wholesale store, shop, or sales outlet that sells firearms shall
38 conspicuously post at each purchase counter the following warning in block letters not less than
39 one inch in height the phrase: "IT IS UNLAWFUL TO STORE OR LEAVE A FIREARM
40 THAT CAN BE DISCHARGED IN A MANNER THAT A REASONABLE PERSON
41 SHOULD KNOW IS ACCESSIBLE TO A MINOR."

42 (b1) Any retail or wholesale store, shop, or sales outlet that sells firearms shall
43 conspicuously post at each purchase counter the following warning in block letters not less than
44 one inch in height the phrase: "IT IS UNLAWFUL TO STORE OR LEAVE A FIREARM
45 THAT CAN BE DISCHARGED IN A MANNER THAT A REASONABLE PERSON
46 SHOULD KNOW IS ACCESSIBLE TO A PERSON WHO IS NOT AUTHORIZED TO
47 POSSESS A FIREARM."

48 (c) A violation of subsection ~~(a) or (b)~~ (a), (b), or (b1) of this section is a Class 1
49 misdemeanor."

50 **SECTION 5.** Article 53A of Chapter 14 of the General Statutes is amended by
51 adding a new section to read:

1 **"§ 14-409.13. Report of loss or theft of firearm.**

2 (a) Any owner of a firearm as defined in G.S. 14-408.1(a) shall report the loss or theft
3 of the firearm within 48 hours after the discovery of the loss or theft to either (i) the local law
4 enforcement agency having jurisdiction over the location where the loss or theft of the firearm
5 occurred or (ii) the State Bureau of Investigation.

6 (b) A violation of this section is a Class 3 misdemeanor; however, a second or
7 subsequent violation of this section is a Class I felony."

8 **SECTION 6.** G.S. 14-404(a) is amended by adding a new subdivision to read:

9 "(1a) Verified, before the issuance of a permit, that the person has firearm liability
10 insurance pursuant to G.S. 14-409.44."

11 **SECTION 7.** G.S. 14-404 is amended by adding a new subsection to read:

12 "(b2) If the sheriff denies a person's application for a permit under this Article, and the
13 ground for the denial is a prohibition under the National Instant Criminal Background Check
14 System (NICS), the sheriff shall transmit the prohibiting record to NICS not later than 48 hours
15 after notifying the applicant of the denial, excluding Saturdays, Sundays, and holidays."

16 **SECTION 8.** Article 54B of Chapter 14 of the General Statutes is amended by
17 adding a new section to read:

18 **"§ 14-415.18A. Sheriff to report denial, revocation, or refusal to renew permit to NICS.**

19 If the sheriff denies, revokes, or refuses to renew a person's application for a permit under
20 this Article, and the ground for the denial is a prohibition under the National Instant Criminal
21 Background Check System (NICS), the sheriff shall transmit the prohibiting record to NICS not
22 later than 48 hours after notifying the applicant of the denial, revocation, or refusal to renew the
23 permit excluding Saturdays, Sundays, and holidays."

24 **SECTION 9.** Article 53B of Chapter 14 of the General Statutes is amended by
25 adding a new section to read:

26 **"§ 14-409.44. Liability insurance required for gun owners.**

27 (a) Any person in this State who intends to own a firearm shall, prior to the ownership
28 of the firearm, obtain, and during ownership continuously maintain, a policy of liability
29 insurance in an amount not less than one hundred thousand dollars (\$100,000) specifically
30 covering any damages resulting from any negligent or willful acts involving the use of the
31 firearm while it is owned by the person. No firearm shall be transferred in this State unless the
32 transferee at the time of the transfer provides proof that the transferee has complied with the
33 provisions of this section.

34 (b) For purposes of this section, a person is deemed to own a firearm if the firearm is
35 lost or stolen until the loss or theft is reported pursuant to G.S. 14-409.13.

36 (c) Any person who owns a firearm on December 1, 2017, shall obtain the insurance
37 required by this section by January 15, 2018.

38 (d) This section does not apply to any law enforcement officer authorized to carry a
39 firearm.

40 (e) The Department of Insurance shall adopt rules to implement this section."

41 **SECTION 10.** G.S. 14-415.24 reads as rewritten:

42 **"§ 14-415.24. Reciprocity; out-of-state handgun permits.**

43 ~~(a) A valid concealed handgun permit or license issued by another state is valid in~~
44 ~~North Carolina.~~

45 (b) Repealed by Session Laws 2011-268, s. 22(a), effective December 1, 2011.

46 (c) Every 12 months after the effective date of this subsection, the Department of
47 Justice shall make written inquiry of the concealed handgun permitting authorities in each other
48 state as to: (i) whether a North Carolina resident may carry a concealed handgun in their state
49 based upon having a valid North Carolina concealed handgun ~~permit and permit,~~ (ii) whether a
50 North Carolina resident may apply for a concealed handgun permit in that state based upon
51 having a valid North Carolina concealed handgun ~~permit~~-permit, and (iii) what the criteria are

1 in that state for the issuance of a concealed handgun permit. The Department of Justice shall
2 attempt to secure from each state permission for North Carolina residents who hold a valid
3 North Carolina concealed handgun permit to carry a concealed handgun in that state, either on
4 the basis of the North Carolina permit or on the basis that the North Carolina permit is
5 sufficient to permit the issuance of a similar license or permit by the other state.

6 (d) The Department of Justice shall identify and compile a list of the states that issue a
7 concealed handgun permit that requires compliance with criteria that is at least as stringent as
8 the criteria required for a concealed handgun in this State. A valid concealed handgun permit or
9 license issued by any state on the list compiled pursuant to this subsection is valid in North
10 Carolina."

11 **SECTION 11.** Chapter 14 of the General Statutes is amended by adding a new
12 Article to read:

13 "Article 53D.

14 "Regulation of Large-Capacity Ammunition Magazines.

15 **"§ 14-409.60. Definition.**

16 For purposes of this Article, the term "large-capacity magazine" includes all of the
17 following: (i) a fixed or detachable magazine box, drum, feed strip, or similar device capable of
18 accepting, or that is designed to be readily converted to accept, more than 15 rounds of
19 ammunition; (ii) a fixed or detachable magazine that is capable of accepting more than eight
20 shotgun shells; and (iii) a detachable magazine, tube, box, drum, feed strip, or similar device
21 that is capable of accepting more than eight shotgun shells when combined with a fixed
22 magazine. The term does not include any of the following: (i) a feeding device that has been
23 permanently altered so that it cannot accommodate more than 15 rounds of ammunition; (ii) an
24 attached tubular device designed to accept and capable of operating only with .22 caliber
25 rimfire ammunition; or (iii) a tubular magazine that is contained in a lever-action firearm.

26 **"§ 14-409.61. Large-capacity magazines prohibited; penalties; exceptions.**

27 (a) It is unlawful for a person to sell, transfer, or possess a large-capacity magazine. A
28 violation of this subsection is a Class 2 misdemeanor; provided, however, that a second or
29 subsequent violation of this subsection is a Class 1 misdemeanor.

30 (b) Any person who violates subsection (a) of this section commits a Class I felony
31 under this section if the person possessed a large-capacity magazine during the commission of a
32 felony.

33 (c) A person may possess a large-capacity magazine if the person:

34 (1) Owns the large-capacity magazine on December 1, 2017; and

35 (2) Maintains continuous possession of the large-capacity magazine.

36 (d) If a person who is alleged to have violated subsection (a) of this section asserts that
37 the person is permitted to legally possess a large-capacity magazine pursuant to subsection (c)
38 of this section, the prosecution has the burden of proof to refute the assertion.

39 (e) The offense described in subsection (a) of this section shall not apply to any of the
40 following:

41 (1) An entity, or any employee thereof engaged in the employee's employment
42 duties, that manufactures large-capacity magazines within North Carolina
43 exclusively for transfer or any federally licensed gun dealer, or any
44 employee thereof engaged in his or her official employment duties, that sells
45 large-capacity magazines exclusively to any of the following:

46 a. A branch of the armed forces of the United States.

47 b. A department, agency, or political subdivision of the State of North
48 Carolina, any other state, or of the United States government.

49 c. A firearms retailer for the purpose of firearms sales conducted
50 outside the State.

- 1 d. A foreign national government that has been approved for such
 2 transfers by the United States government.
 3 e. An out-of-state transferee who may legally possess a large-capacity
 4 magazine.
 5 (2) An employee of any of the following agencies who bears a firearm in the
 6 course of the employee's official duties:
 7 a. A branch of the Armed Forces of the United States.
 8 b. A department, agency, or political subdivision of the State of North
 9 Carolina, any other state, or of the United States government.
 10 (3) A person who possesses the magazine for the sole purpose of transporting
 11 the magazine to an out-of-state entity on behalf of a manufacturer of
 12 large-capacity magazines within North Carolina.

13 **"§ 14-409.62 Identification markings for large-capacity magazines; rules.**

- 14 (a) A large-capacity magazine that is manufactured in North Carolina on or after
 15 December 1, 2017, must include a permanent stamp or marking indicating that the
 16 large-capacity magazine was manufactured or assembled after that date. The stamp or marking
 17 must be legibly and conspicuously engraved or cast upon the outer surface of the large-capacity
 18 magazine.
 19 (b) The SBI may adopt rules to implement the provisions of this section, including rules
 20 requiring a large-capacity magazine that is manufactured in this State on or after December 1,
 21 2017, to bear identifying information in addition to the identifying information described in
 22 subsection (a) of this section.
 23 (c) A person who manufactures a large-capacity magazine in North Carolina in
 24 violation of subsection (a) of this section commits a Class 2 misdemeanor."

25 **SECTION 12.** Chapter 147 of the General Statutes is amended by adding a new
 26 Article to read:

27 "Article 9.

28 "Firearms Manufacturer Divestment Act.

29 **"§ 147-95. Definitions.**

30 As used in this Article, the following definitions apply:

- 31 (1) Company. – Any sole proprietorship, organization, association, corporation,
 32 partnership, joint venture, limited partnership, limited liability partnership,
 33 limited liability company, or other entity or business association, including
 34 all wholly owned subsidiaries, majority-owned subsidiaries, parent
 35 companies, or affiliates of such entities or business associations, that exists
 36 for profit-making purposes.
 37 (2) Direct holdings. – All securities of a company that is a firearms
 38 manufacturer held directly by the Public Fund or in an account or fund in
 39 which the Public Fund owns all shares or interests.
 40 (3) Firearm. – Defined in G.S. 14-309.39(2), as well as weapons of mass death
 41 and destruction described in G.S. 14-288.8(c).
 42 (4) Firearms manufacturer. – A company that develops, designs, creates,
 43 fabricates, assembles, or reassembles firearms or ammunition.
 44 (5) Indirect holdings. – All securities of a company that is a firearms
 45 manufacturer held in an account or fund, such as a mutual fund, managed by
 46 one or more persons not employed by the Public Fund, in which the Public
 47 Fund owns shares or interests together with other investors not subject to the
 48 provisions of this Article.
 49 (6) Public Fund. – Any funds held by the State Treasurer to the credit of:
 50 a. The Teachers' and State Employees' Retirement System.
 51 b. The Consolidated Judicial Retirement System.

- c. The Firemen's and Rescue Workers' Pension Fund.
- d. The Local Governmental Employees' Retirement System.
- e. The Legislative Retirement System.
- f. The Legislative Retirement Fund.
- g. The North Carolina National Guard Pension Fund.

"§ 147-96. Identification of firearms manufacturers.

(a) Within 90 days of September 1, 2017, the Public Fund shall make its best efforts to identify all firearms manufacturers in which the Public Fund has direct or indirect holdings or could possibly have such holdings in the future. Such efforts shall include, as appropriate:

- (1) Reviewing and relying, as appropriate in the Public Fund's judgment, on publicly available information regarding firearm manufacturers, including information provided by nonprofit organizations, research firms, international organizations, and government entities.
- (2) Contacting asset managers contracted by the Public Fund that invest in firearms manufacturers.
- (3) Contacting other institutional investors that have divested from firearms manufacturers.

(b) By the first meeting of the Public Fund following the 90-day period described in subsection (a) of this section, the Public Fund shall assemble a list of all firearm manufacturers in which the Public Fund holds direct or indirect investments.

"§ 147-97. Required actions.

(a) Subject to all applicable laws related to prudent investment, the State Treasurer shall promptly divest all direct and indirect holdings in firearms manufacturers held by the Public Fund.

(b) At no time shall the Public Fund acquire direct or indirect holdings in firearms manufacturers."

SECTION 13. Chapter 15A of the General Statutes is amended by adding a new Article to read:

"Article 21.

"Review of Deaths Involving Law Enforcement Officers.

"§ 15A-410. Review of deaths involving law enforcement officers.

(a) Definitions. – The following definitions apply in this section:

- (1) Law enforcement agency. – A governmental unit of the State or a political subdivision of the State that employs one or more law enforcement officers.
- (2) Law enforcement officer. – Any person employed by the State or any political subdivision of the State, for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances that the person is employed to enforce.
- (3) Officer-involved death. – A death of an individual that results directly from an action or an omission of a law enforcement officer while the law enforcement officer is on duty or while the law enforcement officer is off duty but performing activities that are within the scope of the law enforcement officer's duties.

(b) No later than December 1, 2017, each law enforcement agency shall have a written policy regarding the investigation of officer-involved deaths that involve a law enforcement officer employed by the law enforcement agency. The policy must include all of the following:

- (1) The investigation must require an investigation conducted by at least two investigators, one of whom is the lead investigator and neither of whom is employed by a law enforcement agency that employs a law enforcement officer involved in the officer-involved death.

1 (2) If the officer-involved death being investigated is traffic-related, the policy
2 shall require the investigation to use a crash reconstruction unit from a law
3 enforcement agency that does not employ a law enforcement officer
4 involved in the officer-involved death being investigated, except that a
5 policy for a State law enforcement agency may allow an investigation
6 involving a law enforcement officer employed by that State law enforcement
7 agency to use a crash reconstruction unit from the State law enforcement
8 agency.

9 (3) The policy must include a requirement that the law enforcement agency
10 conducting the investigation inform the spouse or next of kin of the deceased
11 individual that he or she may request the district attorney to request that the
12 SBI investigate the incident as provided in G.S. 147-90. The spouse or next
13 of kin of the deceased must be notified of this right no later than 24 hours
14 after the law enforcement's initial contact with the spouse or next of kin.

15 (c) A policy adopted under subsection (b) of this section may allow an internal
16 investigation into the officer-involved death if the internal investigation does not interfere with
17 the investigation conducted under subdivision (1) of subsection (b) of this section.

18 (d) Compensation for participation in an investigation under subsection (b) of this
19 section may be determined in a manner consistent with mutual aid agreements.

20 (e) The investigators conducting an investigation under this section shall, in an
21 expeditious manner, provide a complete report to the district attorney of the county in which
22 the officer-involved death occurred. If the district attorney determines that there is no basis to
23 prosecute the law enforcement officer involved in the officer-involved death, the investigators
24 conducting the investigation under this section shall release the report."

25 **SECTION 14.** The General Statutes are amended by adding a new Chapter to read:

26 **"Chapter 50E.**

27 **"Gun Violence Restraining Orders.**

28 **"§ 50E-1. Gun violence restraining order; general.**

29 (a) For purposes of this Chapter, the term "immediate family member" means the
30 mother, father, brother, sister, wife, husband, or child of a person.

31 (b) A gun violence restraining order is an order, in writing, signed by the court,
32 prohibiting and enjoining a named person from having in his or her custody or control, owning,
33 purchasing, possessing, or receiving any firearms or ammunition. This Chapter establishes a
34 civil restraining order process to accomplish that purpose. The district court division of the
35 General Court of Justice shall have original jurisdiction over actions instituted under this
36 Chapter.

37 (c) A petition for a gun violence restraining order shall describe the number, types, and
38 locations of any firearms and ammunition presently believed by the petitioner to be possessed
39 or controlled by the subject of the petition.

40 (d) A gun violence restraining order issued pursuant to this Chapter shall include all of
41 the following:

42 (1) A statement of the grounds supporting the issuance of the order.

43 (2) The date and time the order expires.

44 (3) The address of the district court for the county in which the restrained party
45 resides.

46 (4) The following statement:

47 "To the restrained person: This order will last until the date and time noted
48 above. If you have not done so already, you must surrender all firearms and
49 ammunition that you own or possess in accordance with G.S. 50E-8. You
50 may not have in your custody or control, own, purchase, possess, or receive,
51 or attempt to purchase or receive a firearm or ammunition, while this order is

1 in effect. Pursuant to G.S. 50E-5, you have the right to request one hearing
2 to terminate this order at any time during its effective period. You may seek
3 the advice of an attorney as to any matter connected with the order."

4 (e) When the court issues a gun violence restraining order under this Chapter, the court
5 shall inform the restrained person that he or she is entitled to one hearing to request a
6 termination of the order, pursuant to G.S. 50E-5, and shall provide the restrained person with a
7 form to request a hearing.

8 (f) A valid gun violence restraining order entered pursuant to this Chapter shall be
9 enforced by all North Carolina law enforcement agencies without further order of the court.

10 **"§ 50E-2. Gun violence restraining order issued after notice and hearing.**

11 (a) An immediate family member of a person or a law enforcement officer may request
12 that a court, after notice and a hearing, issue a gun violence restraining order enjoining the
13 subject of the petition from having in his or her custody or control, owning, purchasing,
14 possessing, or receiving a firearm or ammunition for a period of one year.

15 (b) In determining whether to issue a gun violence restraining order under this Chapter,
16 the court shall consider evidence of all of the facts listed under subdivision (1) of this
17 subsection and may consider any other evidence of an increased risk for violence, including
18 evidence of any of the facts listed under subdivision (2) of this section. For purposes of this
19 subsection, the term "recent" means within the six months prior to the date the petition was
20 filed.

21 (1) The court shall consider evidence of all of the following:

- 22 a. A recent threat of violence or act of violence by the subject of the
23 petition directed toward another.
24 b. A recent threat of violence or act of violence by the subject of the
25 petition directed toward himself or herself.
26 c. A violation of an emergency protective order issued pursuant to
27 Chapter 50B of the General Statutes that is in effect at the time the
28 court is considering the petition.
29 d. A pattern of violent acts or violent threats within the past 12 months,
30 including, but not limited to, threats of violence or acts of violence
31 by the subject of the petition directed toward himself, herself, or
32 another.

33 (2) The court may consider evidence of any of the following:

- 34 a. The unlawful and reckless use, display, or brandishing of a firearm
35 by the subject of the petition.
36 b. The history of use, attempted use, or threatened use of physical force
37 by the subject of the petition against another person.
38 c. A prior arrest of the subject of the petition for a felony offense.
39 d. A history of a violation by the subject of the petition of an
40 emergency protective order issued pursuant to Chapter 50B of the
41 General Statutes.
42 e. Documentary evidence, including, but not limited to, police reports
43 and records of convictions, of either recent criminal offenses by the
44 subject of the petition that involve controlled substances or alcohol or
45 ongoing abuse of controlled substances or alcohol by the subject of
46 the petition.
47 f. Evidence of recent acquisition of firearms, ammunition, or other
48 deadly weapons.

49 (c) At the hearing, the petitioner shall have the burden of proving, by clear and
50 convincing evidence, that both of the following are true:

1 (1) The subject of the petition, or a person subject to an ex parte gun violence
2 restraining order, as applicable, poses a significant danger of causing
3 personal injury to himself, herself, or another by having in his or her custody
4 or control, owning, purchasing, possessing, or receiving a firearm or
5 ammunition.

6 (2) A gun violence restraining order is necessary to prevent personal injury to
7 the subject of the petition, or the person subject to an ex parte gun violence
8 restraining order, as applicable, or another because less restrictive
9 alternatives either have been tried and found to be ineffective, or are
10 inadequate or inappropriate for the circumstances of the subject of the
11 petition, or the person subject to an ex parte gun violence restraining order,
12 as applicable.

13 (d) If the court finds that there is clear and convincing evidence to issue a gun violence
14 restraining order, the court shall issue a gun violence restraining order that prohibits the subject
15 of the petition from having in his or her custody or control, owning, purchasing, possessing, or
16 receiving, or attempting to purchase or receive, a firearm or ammunition.

17 If the court finds that there is not clear and convincing evidence to support the issuance of a
18 gun violence restraining order, the court shall dissolve any temporary emergency or ex parte
19 gun violence restraining order then in effect.

20 (e) A gun violence restraining order issued under this Chapter has a duration of one
21 year, subject to termination by further order of the court at a hearing held pursuant to
22 G.S. 50E-5 and renewal by further order of the court pursuant to G.S. 50E-6.

23 **"§ 50E-3. Temporary emergency gun violence restraining order.**

24 (a) A temporary emergency gun violence restraining order may be issued on an ex parte
25 basis only if a law enforcement officer asserts, and a judicial officer finds, that there is
26 reasonable cause to believe both of the following:

27 (1) The subject of the petition poses an immediate and present danger of causing
28 personal injury to himself, herself, or another by having in his or her custody
29 or control, owning, purchasing, possessing, or receiving a firearm.

30 (2) A temporary emergency gun violence restraining order is necessary to
31 prevent personal injury to the subject of the petition or another because less
32 restrictive alternatives either have been tried and found to be ineffective or
33 have been determined to be inadequate or inappropriate for the
34 circumstances of the subject of the petition.

35 (b) A temporary emergency gun violence restraining order issued pursuant to this
36 Chapter shall expire 21 days from the date the order is issued.

37 (c) A temporary emergency gun violence restraining order is valid only if it is issued by
38 a judicial officer after making the findings required by subsection (a) of this section and
39 pursuant to a specific request by a law enforcement officer.

40 (d) Except as provided in this subsection, the petition for a temporary emergency gun
41 violence restraining order shall be obtained by submitting a written petition to the court. If time
42 and circumstances do not permit the submission of a written petition, a temporary emergency
43 gun violence restraining order may be issued in accordance with the procedures for obtaining
44 an oral search warrant.

45 (e) A temporary emergency gun violence restraining order issued under this Chapter
46 shall include all of the information set out in G.S. 50E-1(d).

47 **"§ 50E-4. Ex parte gun violence restraining order.**

48 (a) An immediate family member of a person or a law enforcement officer may file a
49 petition requesting that the court issue an ex parte gun violence restraining order.

50 (b) A court may issue an ex parte gun violence restraining order if the petition,
51 supported by an affidavit made in writing and signed by the petitioner under oath, and any

1 additional information provided to the court shows that there is a substantial likelihood that
2 both of the following are true:

3 (1) The subject of the petition poses a significant danger, in the near future, of
4 causing personal injury to himself, herself, or another by having in his or her
5 custody or control, owning, purchasing, possessing, or receiving a firearm as
6 determined by considering the factors listed in G.S. 50E-2(b).

7 (2) An ex parte gun violence restraining order is necessary to prevent personal
8 injury to the subject of the petition or another because less restrictive
9 alternatives either have been tried and found to be ineffective or are
10 inadequate or inappropriate for the circumstances of the subject of the
11 petition.

12 (c) An affidavit supporting a petition for the issuance of an ex parte gun violence
13 restraining order shall set forth the facts tending to establish the grounds of the petition or the
14 reason for believing that they exist.

15 (d) An ex parte order under this Chapter shall be issued or denied on the same day that
16 the petition is submitted to the court, unless the petition is filed too late in the day to permit
17 effective review, in which case the order shall be issued or denied on the next day of judicial
18 business in sufficient time for the order to be filed that day with the clerk of the court.

19 **"§ 50E-5. Petition to terminate gun violence restraining order.**

20 (a) A person subject to a gun violence restraining order issued under this Chapter may
21 submit one written request at any time during the effective period of the order for a hearing to
22 terminate the order.

23 (b) If the court finds after the hearing that there is no longer clear and convincing
24 evidence to believe that the provisions of G.S. 50E-2(c) are true, the court shall terminate the
25 order.

26 **"§ 50E-6. Petition for renewal of gun violence restraining order.**

27 (a) An immediate family member of a restrained person or a law enforcement officer
28 may request a renewal of a gun violence restraining order at any time within the three months
29 before the expiration of a gun violence restraining order.

30 (b) A court may, after notice and a hearing, renew a gun violence restraining order
31 issued under this Chapter if the petitioner proves, by clear and convincing evidence, that the
32 provisions of G.S. 50E-2(c) continue to be true.

33 (c) In determining whether to renew a gun violence restraining order issued under this
34 Chapter, the court shall consider evidence of the facts identified in G.S. 50E-2(b)(1) and any
35 other evidence of an increased risk for violence, including, but not limited to, evidence of any
36 of the facts identified in G.S. 50E-2(b)(2).

37 (d) At the hearing, the petitioner shall have the burden of proving, by clear and
38 convincing evidence, that the provisions of G.S. 50E-2(c) are true.

39 (e) If the renewal petition is supported by clear and convincing evidence, the court shall
40 renew the gun violence restraining order issued under this Chapter.

41 (f) The renewal of a gun violence restraining order issued pursuant to this section shall
42 have a duration of one year, subject to termination by further order of the court at a hearing
43 held pursuant to G.S. 50E-5 and further renewal by further order of the court pursuant to this
44 section.

45 (g) A gun violence restraining order renewed pursuant to this section shall include the
46 information identified in G.S. 50E-1(d).

47 **"§ 50E-7. Notice that order has been entered.**

48 A copy of any order entered and filed under this Chapter shall be issued to each party. Law
49 enforcement agencies shall accept receipt of copies of the order issued by the clerk of court by
50 electronic or facsimile transmission for service on the subject of the petition. In addition, a
51 copy of the order shall be issued promptly to and retained by the police department of the city

1 of the restrained person's residence. If the subject of the petition does not reside in a city or
2 resides in a city with no police department, copies shall be issued promptly to and retained by
3 the sheriff, and the county police department, if any, of the county in which the subject of the
4 petition resides.

5 **"§ 50E-8. Surrender and disposal of firearms.**

6 (a) Upon issuance of a gun violence restraining order issued pursuant to this Chapter,
7 the court shall order the restrained person to surrender to the local law enforcement agency all
8 firearms and ammunition in the restrained person's custody or control, or which the restrained
9 person possesses or owns and any permits to purchase pistols and concealed handgun permits
10 possessed by the restrained person.

11 (b) The surrender ordered pursuant to this section shall occur by immediately
12 surrendering all firearms and ammunition in a safe manner, and surrendering all permits to
13 purchase pistols and permits to carry concealed firearms upon request of any law enforcement
14 officer, to the control of the officer, after being served with the restraining order. A law
15 enforcement officer serving a gun violence restraining order that indicates that the restrained
16 person possesses any firearms or ammunition shall request that all firearms and ammunition be
17 immediately surrendered. In the event that the firearms cannot be surrendered at the time the
18 order is served, the surrender shall occur within 24 hours of being served with the order at a
19 time and place specified by the sheriff. The law enforcement officer taking possession of any
20 firearms or ammunition pursuant to this section shall issue a receipt to the person surrendering
21 the firearm or firearms or ammunition or both at the time of surrender. A person ordered to
22 surrender all firearms and ammunition pursuant to this section shall, within 48 hours after being
23 served with the order, file with the court that issued the gun violence restraining order the
24 original receipt showing all firearms and ammunition have been surrendered to a local law
25 enforcement agency. Failure to timely file a receipt shall constitute a violation of the restraining
26 order.

27 (c) Any firearms or ammunition surrendered to a law enforcement officer or law
28 enforcement agency pursuant to this section shall be retained by the law enforcement agency
29 until the expiration of any gun violence restraining order that has been issued against the
30 restrained person. Upon expiration of any order, any firearms or ammunition shall be returned
31 to the restrained person.

32 A restrained person who owns any firearms or ammunition that are in the custody of a law
33 enforcement agency pursuant to this section and who does not wish to have the firearm or
34 firearms or ammunition returned is entitled to sell or transfer title of any firearms or
35 ammunition to a licensed dealer provided that the firearm or firearms or ammunition are
36 otherwise legal to own or possess and the restrained person otherwise has right to title of the
37 firearm or firearms or ammunition.

38 (d) If a person other than the restrained person claims title to any firearms or
39 ammunition surrendered pursuant to this section, and he or she is determined by the law
40 enforcement agency to be the lawful owner of the firearm or firearms or ammunition, the
41 firearm or firearms or ammunition shall be returned to him or her.

42 **"§ 50E-9. Interpretation of Chapter.**

43 Nothing in this Chapter shall be interpreted to require a law enforcement agency or a law
44 enforcement officer to seek a gun violence restraining order in any case, including a case in
45 which the agency or officer concludes, after investigation, that the criteria for issuance of a gun
46 violence restraining order are not satisfied."

47 **SECTION 15.** This section and Section 13 of this act are effective when this act
48 becomes law. The remainder of this act becomes effective December 1, 2017, and applies to
49 offenses committed on or after that date.