

Introduced by

Representatives Hanson, Dockter, Keiser, Sanford, Satrom, Schauer

Senators J. Lee, Oban, Poolman, Wardner

1 A BILL for an Act to create and enact chapter 12.1-31.3 of the North Dakota Century Code,  
2 relating to the seizure of a firearm by a law enforcement officer and the issuance of a public  
3 safety protection order; and to provide a penalty.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** Chapter 12.1-31.3 of the North Dakota Century Code is created and enacted  
6 as follows:

7 **12.1-31.3-01. Definitions.**

8 As used in this chapter:

- 9 1. "Family or household member" means an individual who:
  - 10 a. Is or was married to the respondent;
  - 11 b. Is or was residing with the respondent in the same household;
  - 12 c. Is or was related by blood or marriage to the respondent;
  - 13 d. Has or is having a child in common with the respondent;
  - 14 e. Is or has been in a dating relationship with the respondent; or
  - 15 f. The court determines has a sufficient relationship to the respondent.
- 16 2. "Firearm" means a firearm as defined in section 62.1-01-01.
- 17 3. "Petitioner" means a family or household member, or a state's attorney with jurisdiction  
18 over the respondent's residence, who files a petition requesting a public safety  
19 protection order or an emergency public safety protection order.
- 20 4. "Public safety protection order" means an order issued by the court, prohibiting and  
21 enjoining a named individual from having a firearm in that individual's custody or  
22 control, or from purchasing, possessing, or receiving a firearm, for a period of up to  
23 one year.

1       5. "Respondent" means the individual alleged in a petition to pose a risk or an imminent  
2       risk of personal injury to self or others by having a firearm in that individual's custody  
3       or control or by purchasing, possessing, or receiving, a firearm.

4       **12.1-31.3-02. Law enforcement firearm seizure process - Issuance of warrant -**  
5       **Hearing.**

6       1. The court may issue a warrant to search for and seize a firearm in the possession of  
7       an individual who is dangerous if:

8       a. A law enforcement officer provides the court a sworn affidavit:

9           (1) Stating why the law enforcement officer believes the individual is dangerous  
10          and in possession of a firearm; and

11          (2) Describing the law enforcement officer's interactions and conversations  
12          with:

13           (a) The individual who is alleged to be dangerous; or

14           (b) Another individual, if the law enforcement officer believes the  
15           information obtained from this individual is credible and reliable,  
16           leading the law enforcement officer to believe the individual is  
17           dangerous and in possession of a firearm.

18       b. The affidavit specifically describes the location of the firearm; and

19       c. The court determines probable cause exists to believe the individual is:

20           (1) Dangerous; and

21           (2) In possession of a firearm.

22       2. If a court issued a warrant to seize a firearm under subsection 1, the law enforcement  
23       officer who served the warrant, not later than forty-eight hours after the warrant was  
24       served, shall file a return with the court:

25       a. Stating the warrant was served; and

26       b. Setting forth:

27           (1) The time and date on which the warrant was served;

28           (2) The name and address of the individual named in the warrant; and

29           (3) The quantity and identity of firearms seized by the law enforcement officer.

- 1       3. The law enforcement officer issued a search warrant to seize a firearm under  
2       subsection 1 shall provide to the individual from whom the firearm was seized signed  
3       documentation setting forth:
- 4       a.     The quantity of firearms seized; and  
5       b.     A description and type of any firearm seized.
- 6       4.     The court shall set a hearing for a date not later than fourteen days after a return is  
7       filed under subsection 2 or at a later date upon good cause shown, to determine  
8       whether a seized firearm is to be:
- 9       a.     Returned to the individual from whom the firearm was seized; or  
10      b.     Retained by the law enforcement agency having custody of the firearm.
- 11      5.     The court shall notify the state's attorney and the individual from whom the firearm  
12      was seized of the date and location of the hearing.
- 13      6.     In a hearing conducted under subsection 4, the state has the burden of proving by  
14      clear and convincing evidence all material facts. Following the hearing:
- 15      a.     If the court determines the state has proven by clear and convincing evidence the  
16      individual is dangerous, the court shall issue a public safety protection order  
17      effective for up to one year, subject to section 12.1-31.3-07, and may order the  
18      law enforcement agency having custody of the seized firearm to retain the  
19      firearm.
- 20      b.     If the court determines the state has failed to prove the individual is dangerous,  
21      the court shall order the law enforcement agency having custody of the firearm to  
22      return the firearm to the individual from whom it was seized.
- 23      c.     Subject to section 12.1-31.3-08, if the court orders a law enforcement agency to  
24      retain a firearm, the law enforcement agency shall retain the firearm until the  
25      respondent produces documentation issued by the court indicating the order has  
26      expired or been terminated.
- 27      d.     The court may order the law enforcement agency having custody of the firearm to  
28      return the firearm to the owner of the firearm if the court determines:
- 29      (1)    The individual from whom a firearm was seized is dangerous; and  
30      (2)    The firearm seized from the individual is owned by another individual.

- 1       7. A public safety protection order issued under subsection 6 must require the  
2       respondent to refrain from having in the respondent's custody or control a firearm, and  
3       from purchasing, possessing, or receiving a firearm for the duration of the order.
- 4       8. A public safety protection order issued under subsection 6 must be signed by the  
5       judge and include:
- 6       a. A statement of the grounds for issuance of the order;  
7       b. The name and address of the court where any filings should be made, the date  
8       and time of the order, and the date and time the order expires;  
9       c. A description of how to appeal the order;  
10      d. A description of how to request termination of the order under section  
11      12.1-31.3-07. The court shall include with the order a form for a motion to  
12      terminate the order; and
- 13      e. A statement directing the law enforcement agency, approved federally licensed  
14      firearms dealer, or other person in possession of the firearm to release the  
15      firearm to the owner upon expiration of the order.
- 16      9. The court shall schedule a review hearing within thirty calendar days before the date  
17      the public safety protection order is set to expire. The respondent must be provided  
18      notice of the review hearing.
- 19      10. At the review hearing, the court may extend the public safety protection order for up to  
20      one year if the state proves by clear and convincing evidence, the respondent  
21      continues to be dangerous.
- 22      11. If the court declines to extend a public safety protection order after a review hearing,  
23      the court shall state the particular reasons for the denial in its decision.
- 24      12. As used in this section, an individual is "dangerous" if:
- 25      a. The individual poses an imminent risk of personal injury to self or others by  
26      having a firearm in the individual's custody or control or by purchasing,  
27      possessing, or receiving a firearm; or
- 28      b. The individual poses a risk of personal injury to self or others in the future and the  
29      individual is the subject of documented evidence establishing reasonable belief  
30      the individual has a propensity for violent or emotionally unstable conduct.

1       **12.1-31.3-03. Public safety protection order - Filing of petition.**

- 2       1. A family or household member, or a state's attorney with jurisdiction over the  
3       respondent's residence, may file a petition requesting a court to issue a public safety  
4       protection order prohibiting and enjoining the respondent from having a firearm in the  
5       respondent's custody or control and from purchasing, possessing, or receiving a  
6       firearm.
- 7       2. A petition for a public safety protection order may be filed in any county where the  
8       respondent resides.
- 9       3. The clerk may not charge a fee for filing, amending, vacating, certifying, photocopying  
10      petitions or orders, or for any related filing service. The sheriff or other law  
11      enforcement may not charge a fee for service by the sheriff or other law enforcement  
12      of a petition, rule, motion, or order in an action commenced under this section.
- 13      4. The court shall provide simplified forms and the state's attorney's office may provide  
14      assistance with writing and filing a petition.
- 15      5. A proceeding under this section does not preclude any other available civil or criminal  
16      remedies.

17      **12.1-31.3-04. Content of petition.**

- 18      1. A petitioner may file a petition for a public safety protection order upon receipt of  
19      credible information the respondent poses a risk of personal injury to self or others by  
20      having a firearm in the respondent's custody or control or by purchasing, possessing,  
21      or receiving a firearm.
- 22      2. A petition filed pursuant to this section must allege the respondent poses a risk of  
23      personal injury to self or others by having a firearm in his or her custody or control or  
24      by purchasing, possessing, or receiving a firearm.
- 25      3. A risk of personal injury to self or others may be shown by:
- 26          a. An act of violence or threat of violence to self or others within the last twelve  
27          months;
- 28          b. Conviction of or arrest for domestic violence, sexual assault, stalking or  
29          harassment;
- 30          c. Violence or cruelty toward an animal;
- 31          d. Prior unlawful or reckless use of a firearm; or

- 1           e. A violation of a prior domestic violence protection order, disorderly conduct  
2                   restraining order, an order prohibiting contact, or a sexual assault restraining  
3                   order.
- 4           4. A petition for a public safety protection order must be supported by a written affidavit  
5                   signed by the petitioner under oath. The affidavit in support of the petition must  
6                   include:
- 7                   a. The specific facts supporting the allegations in the petition; and  
8                   b. A description, type, and location of any firearm the petitioner believes to be in the  
9                           respondent's custody or control.
- 10          5. The petitioner may produce sworn statements or testimony of other witnesses to  
11                   support the petition.

12          **12.1-31.3-05. Emergency relief - Temporary ex parte order - Penalty.**

- 13          1. A petitioner may request an emergency public safety protection order by filing an  
14                   affidavit alleging the respondent poses an imminent risk of personal injury to self or  
15                   others by having a firearm in the respondent's custody or control or by purchasing,  
16                   possessing, or receiving a firearm. The petition must include a description of the type  
17                   and location of any firearm presently believed by the petitioner to be in the  
18                   respondent's custody or control.
- 19          2. If the respondent is alleged to pose an imminent risk of causing personal injury to a  
20                   family or household member, or a family or household member is alleged to have been  
21                   the target of a threat or act of violence by the respondent, the petitioner shall make a  
22                   good faith effort to provide notice to all family or household members of the  
23                   respondent. The notice must inform the family and household members the petitioner  
24                   intends to petition the court for an emergency public safety protection order. The  
25                   petitioner shall attest to having provided the notice in the filed affidavit. If, after making  
26                   a good faith effort, the petitioner is unable to provide notice to all family or household  
27                   members of the respondent, the affidavit must describe what efforts were made.
- 28          3. An individual is guilty of a class A misdemeanor if the individual files a petition for an  
29                   emergency public safety protection order knowing the information provided to the court  
30                   at any hearing or in the affidavit to be false.
- 31          4. An emergency public safety protection order must be issued on an ex parte basis.

- 1        5. An emergency hearing held on an ex parte basis must be held within forty-eight hours  
2        of the petition being filed or at a later date upon good cause shown.
- 3        6. If the court finds probable cause to believe the respondent poses an imminent risk of  
4        personal injury to self or others by having a firearm in the respondent's custody or  
5        control or by purchasing, possessing, or receiving a firearm, the court shall issue an  
6        emergency public safety protection order.
- 7        7. If the court issues an emergency public safety protection order, the court, upon a  
8        finding of probable cause the respondent possesses a firearm, shall issue a search  
9        warrant directing a law enforcement agency to seize the respondent's firearm. The  
10       court, as part of the warrant, may direct the law enforcement agency to search the  
11       respondent's residence and other places where the court finds probable cause to  
12       believe the respondent is likely to possess a firearm.
- 13       8. A law enforcement agency issued a search warrant to seize a firearm under  
14       subsection 7 shall provide the respondent with signed documentation setting forth:
  - 15       a. The quantity of firearms seized; and
  - 16       b. A description and type of any firearm seized.
- 17       9. Subject to section 12.1-31.3-08, if the court orders a law enforcement agency to seize  
18       a firearm under subsection 7, the law enforcement agency shall retain the firearm until  
19       the respondent produces documentation issued by the court indicating the order has  
20       expired or been vacated or terminated.
- 21       10. An emergency public safety protection order must require the respondent to refrain  
22       from having a firearm in the respondent's custody or control, and from purchasing,  
23       possessing, or receiving a firearm for the duration of the order.
- 24       11. An emergency public safety protection order must include:
  - 25       a. A statement of the grounds supporting the issuance of the order;
  - 26       b. The date and time the order was issued;
  - 27       c. A statement that the order is effective until the court considers the petition  
28       pursuant to section 12.1-31.3-06; and
  - 29       d. The date and time of the scheduled hearing.
- 30       12. In accordance with subsection 5, the court shall set a full hearing under section  
31       12.1-31.3-06 for a date not later than fourteen days from the issuance of an

1 emergency public safety protection order or at a later date upon good cause shown, to  
2 determine if a public safety protection order is warranted. The court may extend an  
3 emergency firearm order as needed, but not to exceed fourteen days, to effectuate  
4 service of the order or, if necessary, to continue protection. The court may extend the  
5 order for a greater length of time by mutual agreement of the parties.

6 13. If the court declines to issue an emergency public safety protection order, the court  
7 shall state in writing the reasons for the denial.

8 **12.1-31.3-06. Hearing on petition - Grounds for issuance - Contents of order - Penalty.**

9 1. Upon receipt of a petition for a public safety protection order, the court shall set a  
10 hearing for a date not later than thirty days after receipt of the petition.

11 2. The court shall consider evidence of the following when determining whether to issue  
12 a public safety protection order:

13 a. An act or threat of violence by the respondent against self or others, regardless  
14 of whether the act or threat of violence involves a firearm;

15 b. A pattern of acts or threats of violence by the respondent within the last twelve  
16 months, including acts or threats of violence against self or others;

17 c. The respondent's mental health history;

18 d. The respondent's abuse of a controlled substance or alcohol;

19 e. A violation of a prior domestic violence protection order, disorderly conduct  
20 restraining order, an order prohibiting contact, or a sexual assault restraining  
21 order;

22 f. The issuance of a previous public safety protection order against the respondent;

23 g. The unlawful, threatening, or reckless use or brandishing of a firearm by the  
24 respondent, including an act taken or displayed through social media;

25 h. The respondent's ownership of, access to, or intent to possess a firearm;

26 i. Any conviction of, or arrest for, domestic violence, sexual assault, stalking, or  
27 harassment; and

28 j. The history, use, attempted use, or threatened use of physical violence by the  
29 respondent against another individual, or the respondent's history of stalking  
30 another individual, or evidence of cruelty or violence towards an animal by the  
31 respondent.



- 1       3. In determining whether grounds for a public safety protection order exist, the court  
2       also may consider any other relevant and credible evidence presented by the  
3       petitioner, respondent, and any witnesses the petitioner or respondent may produce.
- 4       4. At the hearing the petitioner has the burden of proving, by clear and convincing  
5       evidence, the respondent poses a risk of personal injury to self or others by having a  
6       firearm in the respondent's custody or control or by purchasing, possessing, or  
7       receiving a firearm.
- 8       5. If the court finds clear and convincing evidence to issue a public safety protection  
9       order, the court shall issue a public safety protection order effective for up to one year,  
10       subject to section 12.1-31.3-07.
- 11       6. If the court issues a public safety protection order, the court, upon a finding of probable  
12       cause the respondent possesses a firearm, shall issue a search warrant directing a  
13       law enforcement agency to seize the respondent's firearm. The court, as part of the  
14       warrant, may direct the law enforcement agency to search the respondent's residence  
15       and other places where the court finds probable cause to believe the respondent is  
16       likely to possess a firearm.
- 17       7. A law enforcement agency issued a search warrant to seize a firearm under  
18       subsection 6 shall provide the respondent with signed documentation setting forth:
  - 19       a. The quantity of firearms seized; and
  - 20       b. A description and type of any firearm seized.
- 21       8. Subject to section 12.1-31.3-08, if the court orders a law enforcement agency to seize  
22       a firearm under subsection 6, the law enforcement agency shall retain the firearm until  
23       the respondent produces documentation issued by the court indicating the order has  
24       expired or been vacated or terminated.
- 25       9. A public safety protection order must require the respondent to refrain from having in  
26       the respondent's custody or control a firearm, and from purchasing, possessing, or  
27       receiving a firearm for the duration of the order.
- 28       10. A public safety protection order must be signed by the judge and include:
  - 29       a. A statement of the grounds for issuance of the order;

- 1           b. The name and address of the court where any filings should be made, the names  
2           of the parties, the date of the petition, the date and time of the order, and the date  
3           and time the order expires;
- 4           c. A description of how to appeal the order;
- 5           d. A description of how to request termination of the order under section  
6           12.1-31.3-07. The court shall include with the order a form for a motion to  
7           terminate the order; and
- 8           e. A statement directing the law enforcement agency, approved federally licensed  
9           firearms dealer, or other person in possession of the firearm to release the  
10          firearm to the owner upon expiration of the order.
- 11        11. The court shall schedule a review hearing in accordance with section 12.1-31.3-07 at  
12        least thirty calendar days before the date the public safety protection order is set to  
13        expire.
- 14        12. If the court declines to issue a public safety protection order, the court shall:
- 15           a. State in writing the particular reasons for the court's denial;
- 16           b. Order the return of the firearm to the respondent; and
- 17           c. Vacate a temporary emergency public safety protection order in effect.
- 18        13. An individual is guilty of a class A misdemeanor if the individual files a petition for a  
19        public safety protection order knowing the information provided to the court at any  
20        hearing or in the affidavit to be false.
- 21        **12.1-31.3-07. Termination - Expiration - Review and extension of orders.**
- 22           1. The respondent may file a motion to terminate a public safety protection order. A  
23           motion to terminate may not be filed more than once during the effective period of the  
24           order. The respondent may be represented by an attorney at the termination hearing.
- 25           2. At a hearing to terminate a public safety protection order before the scheduled date of  
26           expiration, the respondent has the burden of proving, by clear and convincing  
27           evidence, the respondent no longer poses a risk of personal injury to self or others, by  
28           having a firearm in the respondent's custody or control or by purchasing, possessing,  
29           or receiving a firearm.
- 30           3. The court may consider any relevant evidence, including evidence of the  
31           considerations listed in subsection 2 of section 12.1-31.3-06.

- 1       4. If the court finds the respondent has met the respondent's burden, the court shall  
2       terminate the order and order return of the firearm consistent with section  
3       12.1-31.3-08.
- 4       5. At a review hearing scheduled under section 12.1-31.3-06 the court may extend the  
5       public safety protection order for up to one year subject to termination under  
6       subsection 1, if the petitioner proves, by clear and convincing evidence, the  
7       respondent continues to pose a risk of personal injury to self or others by having a  
8       firearm in the respondent's custody or control or by purchasing, possessing, or  
9       receiving a firearm.
- 10      a. The petitioner and respondent must be served with notice of the review hearing.  
11      b. The court shall consider evidence of an increased risk for violence and the  
12      considerations listed in subsection 2 of section 12.1-31.3-06 when determining  
13      whether to extend a public safety protection order.  
14      c. If the court declines to extend a public safety protection order after a review  
15      hearing, the court shall state the particular reasons for the denial in its decision.
- 16      6. The court shall make termination forms available. The forms may be provided  
17      electronically.

18      **12.1-31.3-08. Return of firearm - Disposal - Sale.**

19      Unless provided otherwise by this section, the return, disposal, or sale of a firearm seized or  
20      surrendered under a public safety protection order or an emergency public safety protection  
21      order must be in accordance with section 62.1-01-02.

- 22      1. Upon request by the respondent, a firearm seized or surrendered under a public safety  
23      protection order or an emergency public safety protection order must be returned to  
24      the respondent within ten days if:
- 25      a. The respondent produces documentation issued by the court indicating the order  
26      has expired, been vacated or terminated, or has not been renewed. The  
27      respondent is not required to acquire any additional court order granting the  
28      return of seized or surrendered firearms; and
- 29      b. The law enforcement agency in possession of the firearm conducts a national  
30      criminal records check and determines the respondent is not otherwise prohibited  
31      from possessing a firearm under state or federal law.

- 1       2. If the respondent is not eligible to possess a firearm lawfully upon expiration of a  
2       public safety protection order or an emergency public safety protection order, the  
3       respondent may petition the court to transfer the respondent's firearm to an individual  
4       who is able to possess the firearm lawfully if the individual does not reside at the same  
5       address as the respondent. Notice of the petition must be served on the individual  
6       protected by the public safety protection order or emergency public safety protection  
7       order.
- 8       3. If requested by the court or the petitioner, a law enforcement agency shall provide  
9       prior notice to an interested party, including to a family or household member of the  
10      respondent, of the impending return of a firearm to a respondent, as provided under  
11      section 12.1-31.3-09.
- 12      4. Upon written request of the respondent, a law enforcement agency storing a firearm  
13      under a public safety protection order or an emergency public safety protection order,  
14      shall transfer possession of the firearm to a federally licensed firearms dealer, who  
15      may be designated by the respondent. The respondent may instruct the federally  
16      licensed firearms dealer designated by the respondent, if applicable, to sell the firearm  
17      or to transfer ownership or possession, in accordance with state and federal law, to a  
18      qualified named individual who is not a member of the respondent's household and  
19      who is not prohibited from possessing a firearm under state or federal law.

20      **12.1-31.3-09. Service of public safety protection petition and orders.**

- 21      1. A petition, temporary emergency order, or public safety protection order must be  
22      served in accordance with rule 4 of the North Dakota Rules of Civil Procedure and  
23      may be served by a law enforcement officer.
- 24      2. A respondent who attends a hearing held under sections 12.1-31.3-02, 12.1-31.3-05,  
25      12.1-31.3-06, or 12.1-31.3-07 at which a public safety protection order is issued and  
26      who receives notice from the court on the record that the order has been issued is  
27      deemed to have been served. A respondent notified by the court on the record shall  
28      adhere immediately to the order. If the court previously has notified the respondent of  
29      the order, the court shall transmit the order for additional service by a law enforcement  
30      agency.

- 1       3. A public safety protection order and emergency public safety protection order must be  
2       served by the law enforcement agency at the earliest possible time and must take  
3       precedence over other summons and orders.
- 4       a. An order must be served in a manner calculated to ensure the safety of the  
5       parties.
- 6       b. Methods of service including advance notification to the respondent may not be  
7       used.
- 8       c. The individual making service shall file a return of service with the court stating  
9       the date, time, and place at which the order was delivered personally to the  
10       respondent.
- 11      4. If service of a notice of hearing issued under sections 12.1-31.3-02, 12.1-31.3-06, or  
12      12.1-31.3-07 cannot be made before the scheduled hearing, the court shall continue  
13      the hearing and extend the terms of the order upon request of the petitioner for any  
14      additional time the court deems necessary to achieve service on the respondent.

15      **12.1-31.3-10. Reporting of orders.**

- 16      1. The court shall enter any public safety protection order and emergency public safety  
17      protection order issued by the court into a statewide judicial information system on the  
18      same day the order is issued.
- 19      2. The court shall forward to the appropriate law enforcement agency specified in the  
20      order and to the attorney general a copy of a public safety protection order and  
21      emergency public safety protection order, renewal, or termination the same day order,  
22      renewal, vacation, or termination is issued.
- 23      a. Upon receipt of the copy of a public safety protection order, the attorney general  
24      shall enter the order into:
- 25          (1) The national instant criminal background check system, also known as the  
26          NICS database;
- 27          (2) All federal or state computer-based systems and databases used by law  
28          enforcement or others to identify a prohibited purchaser of firearms; and
- 29          (3) All computer-based criminal intelligence information systems and databases  
30          available in this state and used by law enforcement agencies.

1           b. The order must remain in each system for the period stated in the order, and the  
2           law enforcement agency may remove an order from the systems only upon  
3           notice the order has been vacated, terminated, or expired. Entry into the  
4           computer-based criminal intelligence information system constitutes notice to all  
5           law enforcement agencies of the existence of the order. The order is enforceable  
6           statewide.

7           3. Within three calendar days after issuance of a public safety protection order or an  
8           emergency public safety protection order, the issuing court shall forward a copy of the  
9           respondent's driver's license, or comparable information, along with the date the order  
10           was issued, to the attorney general and the appropriate licensing authority. Upon  
11           receipt of the information, the attorney general or the appropriate licensing authority  
12           shall determine if the respondent has a concealed carry permit. If the respondent has  
13           a concealed carry permit, the attorney general or the appropriate licensing authority  
14           shall suspend the license immediately.

15           4. If a public safety protection order is vacated or terminated before its expiration date,  
16           the court shall forward, on the same day, a copy of the termination order to the  
17           attorney general and the petitioner. Upon receipt of the order, the attorney general  
18           promptly shall remove the order from any computer-based system into which it was  
19           entered under subsection 2.

20           **12.1-31.3-11. Safe storage of firearm.**

21           1. If a public safety protection order or an emergency public safety protection order is  
22           issued against a respondent under the age of eighteen, the court may order an  
23           individual in the respondent's household who owns a firearm to securely lock the  
24           firearm in an appropriate safe storage depository or install a trigger lock on the firearm.

25           2. As used in this section:

26           a. "Safe storage depository" means a safe or other secure container that, when  
27           locked, is incapable of being opened without the key, combination, or other  
28           unlocking mechanism and is capable of preventing an unauthorized individual  
29           from obtaining access to and possession of a firearm contained in the safe or  
30           container.

- 1           b. "Trigger lock" means a commercially available device that is operated with a key  
2           or combination lock that prevents a firearm from being discharged while the  
3           device is attached to the firearm. The term includes devices that obstruct the  
4           barrel or cylinder of the firearm and devices that immobilize the trigger.

5           **12.1-31.3-12. Penalty - Arrest.**

- 6           1. An individual who knowingly violates a public safety protection order or an emergency  
7           public safety protection order is guilty of a class A misdemeanor for a first offense and  
8           a class C felony for a subsequent offense within one year.
- 9           2. Prosecution for a violation of a public safety protection order or an emergency public  
10           safety protection order does not preclude concurrent prosecution for any other criminal  
11           offense, including a criminal offense committed at the time of the violation of the public  
12           safety protection order or emergency public safety protection order.
- 13           3. A law enforcement officer shall arrest an individual without a warrant if the officer  
14           determines there is probable cause the individual has committed the offense of  
15           violating a public safety protection order or an emergency public safety protection  
16           order regardless of whether the violation was committed in the presence of the officer.  
17           A law enforcement officer who acts in good faith on probable cause and without malice  
18           is immune from civil or criminal liability for making an arrest under this subsection.

19           **12.1-31.3-13. Appeals.**

- 20           1. A public safety protection order issued or extended by the court is deemed a final  
21           order for the purposes of appeal.
- 22           2. Unless the public safety protection order is stayed by the appellate court, the order  
23           remains in effect while an appeal, by either party, is pending.

24           **12.1-31.3-14. Limited law enforcement liability.**

25           A law enforcement officer is not criminally or civilly liable for the failure of a respondent to  
26           relinquish a firearm.

27           **12.1-31.3-15. Effect on other provisions of law.**

28           This chapter does not prevent a court from prohibiting an individual from possessing a  
29           firearm under any other provision of law.