

To: Minnesota House Committee on Public Safety Finance and Policy

Date: March 12, 2026

RE: Strong Opposition to H.F. 3658 – Testimony Regarding Modifications to Extreme Risk Protection Orders (ERPOs)

Dear Chair, Co-Chair and Members of the Committee,

Introduction & Professional Qualifications

I am writing to formally voice my opposition to **H.F. No. 3658**. My perspective on this legislation is rooted in my professional identity as a Minnesota IT leader and cybersecurity expert. I hold a **Master of Science in Information Technology** (Information Assurance and Information Systems Security), I am an **ISACA Certified Data Privacy Solutions Engineer (CDPSE)**, and I maintain multiple **CompTIA security certifications**.

From a technical and ethical standpoint, I believe this bill fundamentally compromises the privacy of Minnesota citizens while simultaneously eroding their Fourth, Fifth, and Second Amendment rights.

Critical Areas of Opposition

1. Systemic Risk to Data Privacy and Security

As a privacy engineer, I find the data-handling mandates in this bill dangerously optimistic.

- **Sensitive Information Handling:** The bill mandates that "all health records and other health information" considered in ERPO proceedings be protected from public disclosure.
- **Inter-Agency Exposure:** However, it simultaneously requires this highly sensitive data to be shared across law enforcement agencies for "verification" purposes.
- **The BCA Precedent:** We cannot ignore the recent failure of the Minnesota Bureau of Criminal Apprehension (BCA), where a "computer process" error exposed the private data of nearly 600 citizens. H.F. No. 3658 requires court administrators to transmit orders to the National Instant Criminal Background Check System (NICS) within a tight three-day window. Increasing the volume of sensitive data flow into systems that have already demonstrated critical failures creates an unacceptable risk of "data spills" involving private mental health records.

2. Erosion of Due Process (The Fifth Amendment)

The bill codifies a process where a citizen's fundamental rights can be stripped away in total secrecy.

- **Ex Parte Deprivation:** Section 6 allows for the issuance of an "ex parte emergency order" without prior notice to the respondent.
- **Property Seizure without Hearing:** Upon a mere finding of "probable cause," the court is directed to issue search warrants to seize all firearms a respondent possesses.
- **Constitutional Conflict:** Per *Mathews v. Eldridge* (1976), the government must balance its interest against the "erroneous deprivation" of a private interest. Seizing property before a

respondent has even been served notice of a hearing is the definition of an erroneous deprivation.

3. Inversion of the Legal Burden

Standard American jurisprudence places the burden of proof on the state. This bill reverses that.

- **Proving a Negative:** When a respondent seeks to vacate an order, the bill requires *them* to bear the burden of proving by "clear and convincing evidence" that they are not a danger.
- **Punishment by Process:** Forcing a citizen to navigate a complex legal system to "prove their innocence" to regain a constitutionally protected right is a fundamental violation of our legal traditions.

4. Search and Seizure Overreach (The Fourth Amendment)

The expansion of search warrant authority in this bill is unprecedented.

- **Mandatory Search Warrants:** If the court makes a finding of "immediate and present danger," it *shall* issue a search warrant.
- **Broad Scope:** This grants law enforcement the authority to enter a home and search for property based on a civil petition rather than a criminal investigation. Following the *NYSRPA v. Bruen* (2022) standard, there is no historical American tradition that supports the widespread civil seizure of firearms without a criminal conviction.

Conclusion

H.F. No. 3658 creates a high-velocity data pipeline for sensitive health information while stripping away the procedural safeguards that protect citizens from government overreach. As a cybersecurity professional, I see a system prone to breach; as a citizen, I see a bill that treats constitutional rights as revocable privileges.

I strongly urge you to vote **NO** on H.F. No. 3658.

Respectfully,

Michael Babcock

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