

Subject Extreme risk protection orders; firearms

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Overview

This bill provides a procedure under which family or household members, a chief law enforcement officer, a mental health professional, a city or county attorney, or a guardian can petition for an “extreme risk protection order” (ERPO) which would prohibit the respondent from possessing firearms for up to one year.

Summary

Section	Description
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1	Ineligible persons.
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Amends section 624.713, subdivision 1, (Persons Ineligible to Possess Firearms) to include persons subject to an extreme risk protection order.

2	Extreme risk protection orders.
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Subd. 1. Definitions. Defines “family or household members,” “firearm,” and “mental health professional” for the purposes of the bill. The bill uses the definition of “family or household member” from section 518B.01, the Domestic Abuse Act.

Subd. 2. Court jurisdiction. Provides that an application for relief may be filed in the county of residence of either party and that actions under this section shall be given docket priority by the court.

Subd. 3. Information on petitioner’s location or residence. Provides that upon the petitioner’s request, information on the petitioner’s location or residence is private data.

Subd. 4. Generally. (a) Creates an action called a petition for an extreme risk protection order, which prohibits respondents to the action from possessing or purchasing firearms for a period of time set by the court.

Section Description

(b) Provides that petitioners may be family or household members, chief law enforcement officers or their designees, a mental health professional, city or county attorneys, or guardians.

(c) Provides that the petition shall allege that the respondent poses a significant danger of bodily injury to others or is at a significant risk of suicide by possessing a firearm. The petition must be accompanied by an affidavit made under oath stating specific facts and circumstances forming a basis to allege that an extreme risk protection order should be granted.

(d) Provides that the petition must also allege that the respondent presents an immediate and present danger of bodily injury to others or of taking their own life, if the petitioner is seeking emergency issuance of an ERPO.

(e) Provides that a petition for relief must describe, to the best of the petitioner's knowledge, the types and locations of any firearms possessed by the respondent.

(f) Provides that the court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition.

(g) Provides that the state court administrator shall create all court forms necessary to implement the act.

(h) Waives the court filing fees for both parties and mandates that service of process fees are not the petitioner's responsibility.

(i) Provides that the court must advise the petitioner of the right to serve the respondent by alternate service if the respondent is avoiding personal service by concealment, and must assist in the writing and filing of the affidavit.

(j) Provides that the court must advise the petitioner of the right to request an emergency hearing to gain relief under this section.

(k) Provides that any proceedings under this section shall be in addition to other civil or criminal remedies.

(l) Provides that any health records provided in a petition are private data.

(m) Provides that any ERPO or subsequent extension shall be forwarded by the court administrator within 24 hours to the local law enforcement agency with jurisdiction over the respondent, which then must make the order known to other law enforcement agencies. Requires the court to send the order to the National Instant Criminal Background Check System.

Section Description

3 Extreme risk protection orders issued after hearing.

Subd. 1. Hearing. (a) Requires courts to hold ERPO hearings within 14 days of receiving an ERPO petition.

(b) Requires the court to advise petitioners of their right to request an emergency ERPO under section 5.

(c) Appoints law enforcement to serve ERPOs and seize and store firearms when so ordered by the court.

(d) Permits a respondent to be served with an ERPO petition any time prior to 48 hours before the time set for the hearing. If service occurs less than five days prior to hearing, there is a presumption that the respondent is entitled to continuance of 14 days.

(e) Authorizes alternate means to serve an ERPO petition if personal service cannot be made. (This language is patterned after the alternate service language in the domestic assault statute.)

Subd. 2. Relief by court. (a) Requires a petitioner to prove by clear and convincing evidence that the respondent poses a significant danger of bodily injury to other persons or is at significant risk of suicide by possessing a firearm.

(b) Specifies the types of information that the court should review in determining if a petition should be granted.

(c) Authorizes the court to look at other relevant evidence beyond the items listed in paragraph (b).

(d) If the court finds there is sufficient evidence to issue an ERPO, the court must inform the respondent that the respondent is prohibited from possessing and purchasing firearms and shall issue a transfer order for the firearms.

(e) Requires that an ERPO be for a fixed period of not less than six months and not more than one year, subject to renewal or extension.

(f) Requires a court to determine if the respondent presents an immediate and present danger of bodily injury if the court issues an ERPO and an emergency ERPO had not be issued.

(g) If the court refuses to issue an ERPO after a hearing, the court shall vacate the existing emergency ERPO (if applicable).

(h) Permits a respondent to waive the respondent's right to contest the hearing and consent to imposition of an ERPO. A respondent who consents to imposition

Section	Description
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of an ERPO may request that the petition be sealed. Requires an ERPO issued for a respondent who is solely at risk of suicide be kept from public access.

4 Subsequent extensions and termination.

Provides the process and procedures for subsequent extension and termination of an ERPO. An ERPO may be extended for six to 12 months. Provides that a respondent may apply for the order to be terminated at a hearing at which the respondent must prove by clear and convincing evidence that the respondent does not pose a significant danger of bodily injury to others or is not a significant risk of suicide by possessing a firearm. Application for termination of an order is limited to one application for each year the order is in effect.

5 Emergency issuance of extreme risk protection order.

Provides procedures for the emergency issuance of an ERPO. A court shall issue an emergency ERPO if there is probable cause to believe that the respondent poses a significant danger of bodily injury to other persons or is at significant risk of suicide by possessing a firearm AND the respondent presents an immediate and present danger of bodily injury. Emergency orders are for a fixed period of 14 days.

6 Transfer of firearms.

Provides procedures for the transfer of a respondent's firearms upon the issuance of an ERPO. Transfer must be made, within 24 hours, to a federally licensed firearms dealer or a law enforcement agency which may charge the respondent a reasonable storage fee. There is no transfer of ownership for temporary transfers. Establishes requirements for proving that firearms were indeed transferred. When an emergency order is issued and there is probable cause to believe the respondent owns firearms, the court shall issue a search warrant to law enforcement to take immediate possession of the respondent's firearms "as soon as practicable." Directs the chief law enforcement officer to notify a respondent of the option to voluntarily surrender a firearm prior to executing the search warrant.

7 Return of firearms.

Provides for the return of a respondent's firearms upon the expiration of an ERPO. The law enforcement agency or firearms dealer holding the firearms must ensure that the respondent is otherwise eligible to possess firearms before returning the firearms.

8 Offenses.

Provides that petitioners who file an ERPO petition that contains false information or is abusive are guilty of a misdemeanor. Respondents who continue to possess

Section	Description
	firearms after the issuance of an order are guilty of a misdemeanor and prohibited from possessing firearms for five years.
9	Liability protection. Provides that law enforcement officers, county attorneys, and medical professionals who decide, in good faith, to not petition for a protective order are immune from criminal or civil liability. Provides limited liability protection for (1) damage to stored firearms, (2) service of ERPOs, (3) execution of search warrants, and (4) harm caused by persons subject to ERPOs.
10	Extreme risk protection order; development of model procedures. Directs the Peace Officer Standards and Training Board to develop a model policy for storing firearms under this act.
11	Effective date. Provides that the bill has a January 1, 2024, effective date, and applies to firearm permit background checks made on or after that date.



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