

HOUSE BILL 26-019

By Senator(s) Forbes
also Representative(s) Walker, Stokes, Price

AN ACT
CONCERNING EXTREME RISK PROTECTION
ORDERS.

Be It Enacted by the General Assembly of the State of San Andreas:

SECTION 1. SHORT TITLE.

This act shall be known and cited as the “Extreme Risk Protection Order Act.”

SECTION 2. LEGISLATIVE FINDINGS AND INTENT.

(a) The General Assembly finds and declares that:

- (I) Preventing acts of violence and self-harm is a compelling public safety interest of the State of San Andreas;
- (II) In certain circumstances, individuals may present a temporary and immediate risk of harm to themselves or others while still otherwise lawfully possessing firearms;
- (III) Courts are best positioned to evaluate evidence and determine whether temporary restrictions are necessary to prevent imminent harm;
- (IV) Any temporary restriction on firearm possession must include strong procedural safeguards, notice requirements, and opportunities for timely judicial review;
- (V) It is the intent of the General Assembly to create a narrowly tailored civil process allowing courts to temporarily restrict access to firearms where clear and convincing evidence demonstrates a significant risk of harm.

SECTION 3. DEFINITIONS.

For purposes of this Act, unless the context otherwise requires:

- (a) “Extreme Risk Protection Order” or “ERPO” means a civil court order temporarily prohibiting a person from possessing, purchasing, or receiving firearms.
- (b) “Respondent” means the individual against whom an ERPO is sought.
- (c) “Petitioner” means a person authorized under this Act to request an ERPO.
- (d) “Firearm” has the same meaning as provided elsewhere in the San Andreas Revised Statutes.
- (e) “Significant risk” means a substantial and articulable likelihood that the respondent will cause personal injury to themselves or others based upon recent acts, threats, or patterns of behavior demonstrating dangerous conduct.

SECTION 4. PERSONS AUTHORIZED TO PETITION.

- (a) A petition for an Extreme Risk Protection Order may be filed by:

- (I) A law enforcement officer or agency;
- (II) A family or household member of the respondent;
- (III) A person who has regularly resided with the respondent within the previous six months; or
- (IV) A licensed medical or mental health professional who has treated the respondent.

SECTION 5. ISSUANCE OF TEMPORARY EXTREME RISK PROTECTION ORDER.

- (a) A court may issue a temporary ERPO without notice only upon specific written findings establishing probable cause that immediate and irreparable harm is likely to occur before the respondent can be heard.
- (b) A temporary ERPO shall expire within fourteen days unless extended following a hearing under Section 6.
- (c) The court shall schedule a hearing within fourteen days of issuance.
- (d) Upon service of a temporary ERPO, the respondent shall receive written notice of the right to obtain legal counsel and to present evidence and witnesses at the hearing required under Section 6.
- (e) A temporary ERPO shall be personally served upon the respondent as soon as practicable and no later than forty-eight hours following issuance unless service is impracticable for documented safety reasons.

SECTION 6. HEARING AND FINAL EXTREME RISK PROTECTION ORDER.

- (a) At the hearing, the court shall consider evidence presented by both parties.
- (b) A final ERPO may be issued only upon a finding by clear and convincing evidence that the respondent poses a significant risk of causing personal injury to themselves or others.
- (c) A final ERPO may remain in effect for a period not to exceed one year and may be renewed only upon a new petition supported by clear and convincing evidence demonstrating continued significant risk.
- (d) The respondent may request one hearing during the order period to seek early termination upon a showing that the risk no longer exists.
- (e) In determining whether a significant risk exists, the court may consider:
 - (I) Recent threats or acts of violence;
 - (II) Violations of protection orders;
 - (III) Evidence of dangerous firearm use or brandishing;
 - (IV) Recent acquisition of firearms combined with threatening conduct;
 - (V) Substance abuse associated with violent behavior; and
 - (VI) Any other relevant evidence demonstrating risk of harm.
- (f) Law enforcement agencies responsible for serving an Extreme Risk Protection Order shall verify that the order has been entered into applicable state and national law enforcement databases for enforcement purposes.
- (g) Notice of expiration of order.

(I) Not less than thirty days prior to the expiration of a final Extreme Risk Protection Order issued under this section, the court shall provide written notice to the respondent informing them of the expiration date of the order.

(II) Such notice shall include information regarding the procedures for requesting the return of firearms surrendered pursuant to this Act and any applicable legal eligibility requirements.

(h) Wellness and mental health referrals.

(I) At the time a temporary or final Extreme Risk Protection Order is issued, the court may provide the respondent with information regarding voluntary mental health services, crisis intervention resources, and counseling programs available within the community.

(II) The court may also provide such information to family or household members who petitioned for the order where doing so may assist in supporting the safety and well-being of the respondent.

(III) Participation in any services described in this subsection shall remain voluntary and shall not constitute an admission of wrongdoing or liability in any proceeding.

SECTION 7. SURRENDER AND STORAGE OF FIREARMS.

(a) Upon issuance of an ERPO, the respondent shall surrender firearms in their possession to a law enforcement agency or licensed firearm dealer within twenty-four hours.

(b) Firearms surrendered pursuant to this Act shall be returned within five business days following expiration or termination of the order, provided the respondent remains legally eligible to possess firearms.

(c) Upon approval of the court, a respondent may transfer firearms to a qualified third party or licensed firearm dealer for secure storage rather than surrender directly to law enforcement. (d) Violation of Extreme Risk Protection Order.

(I) A respondent who knowingly possesses, purchases, receives, or attempts to possess, purchase, or receive a firearm while subject to an Extreme Risk Protection Order issued under this Act commits a criminal offense.

(II) A violation of this subsection shall constitute a class A misdemeanor for a first offense.

(III) A second or subsequent violation shall constitute a class B felony.

(IV) Any firearm obtained or possessed in violation of this subsection shall be subject to immediate seizure by law enforcement.

(e) Immediate retrieval of firearms.

(I) When serving a temporary or final Extreme Risk Protection Order, a law enforcement officer shall request that the respondent immediately surrender all firearms in the respondent's possession, custody, or control.

(II) If firearms are known or reasonably believed to be present at the location where service occurs, the officer may take temporary custody of such firearms at the time of service to ensure compliance with the order.

(III) If the respondent fails to surrender firearms as required, the court may issue a search warrant upon probable cause to authorize law enforcement to recover firearms subject to surrender under this Act.

(IV) Firearms recovered pursuant to this subsection shall be handled and stored in accordance with Section 7 of this Act.

(f) At the time of service of an Extreme Risk Protection Order, law enforcement shall provide the respondent with written notice explaining the procedures for firearm surrender, storage, and lawful return upon expiration or termination of the order.

SECTION 8. FALSE OR MALICIOUS PETITIONS.

(a) A person who knowingly files a false or malicious petition under this Act commits a misdemeanor offense and may be subject to civil liability for damages.

(b) A petition filed primarily for purposes of harassment, retaliation, or advantage in domestic, custody, or civil disputes shall constitute a malicious petition under this section.

SECTION 9. RECORDS AND CONFIDENTIALITY.

(a) Court records relating to ERPO proceedings shall be confidential except as necessary for law enforcement purposes or judicial proceedings.

(b) Orders issued under this Act shall be entered into applicable law enforcement databases for enforcement purposes.

(c) Entry of Orders into Law Enforcement Databases.

(I) Upon issuance of a temporary or final Extreme Risk Protection Order, the issuing court shall ensure that the order is entered into the National Crime Information Center (NCIC) protection order database and the San Andreas Bureau of Investigation (SABI) records system without delay.

(II) Entry of the order into such databases shall occur as soon as practicable and no later than twenty-four hours following issuance.

(III) Upon expiration or termination of the order, the court shall promptly notify appropriate law enforcement agencies to remove or update the order within the relevant databases.

SECTION 9.5. REPORTING.

(a) The Judicial Branch shall publish an annual report including:

(I) Number of petitions filed;

(II) Temporary and final orders issued;

(III) Orders denied or terminated early;

(IV) Instances of malicious petition findings; and

(V) Recommendations for statutory improvement.

(b) Data collection on ERPO implementation.

(I) The annual report required under subsection (a) of this section shall include data relating to firearm recoveries and enforcement actions associated with Extreme Risk Protection Orders.

(II) Such data shall include, but not be limited to:

- (A) The number of firearms surrendered or seized pursuant to ERPO orders;
- (B) The number of orders in which firearms were voluntarily surrendered compared to those requiring law enforcement retrieval;
- (C) The number of violations of ERPO orders reported or prosecuted; and
- (D) The number of firearms returned to respondents following expiration or termination of an order.

(III) All data reported under this subsection shall be aggregated and anonymized to protect the privacy of individuals involved in ERPO proceedings.

(c) The Judicial Branch and the Department of Public Safety may collaborate with academic institutions or public policy organizations to analyze the effectiveness of Extreme Risk Protection Orders in preventing violence and self-harm.

SECTION 10. RULEMAKING AUTHORITY.

The Department of Public Safety and the Judicial Branch may promulgate rules necessary to implement this Act.