

**First Regular Session
Seventy-Seventh General Assembly
STATE OF SAN ANDREAS**

REENGROSSED

LLS NO. 26-0724.03 Payton Gibson x2365

HOUSE BILL 26-019

SENATE SPONSORSHIP

Forbes

HOUSE SPONSORSHIP

Walker, Stokes, Price

House Committees

Judiciary

Senate Committees

Not assigned

A BILL FOR AN ACT

CONCERNING EXTREME RISK PROTECTION ORDERS

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <https://saleg.uscgov.com>)

This bill establishes a civil court process allowing temporary restrictions on firearm possession for individuals determined by a court to pose a significant risk of causing harm to themselves or others. The bill creates an Extreme Risk Protection Order (ERPO) process, commonly referred to as a “red flag law,” intended to provide a preventative tool while maintaining procedural safeguards and judicial oversight.

Shading denotes HOUSE amendment. Underlining denotes SENATE amendment.

Capital letters or bold & italic numbers indicate new material to be added to existing law.

Dashes through the words or numbers indicate deletions from existing law.

Under the bill, specified individuals — including law enforcement officers, family or household members, and certain medical or mental health professionals — may petition a court for a temporary order when credible evidence demonstrates an immediate risk of harm. Courts may issue short-term temporary orders upon a finding of probable cause, followed by a required hearing where a final order may be issued only upon clear and convincing evidence.

A final ERPO may remain in effect for up to one year, and respondents are provided an opportunity to request early termination if circumstances change. The bill requires temporary surrender of firearms during the duration of the order and provides for their return once the order expires or is terminated, provided the individual remains legally eligible to possess firearms.

The legislation also includes penalties for knowingly filing false or malicious petitions and establishes confidentiality provisions for court records related to ERPO proceedings.

The purpose of the Act is to provide a narrowly tailored mechanism to prevent violence and self-harm while preserving due process protections and judicial review.

1 *Be it enacted by the General Assembly of the State of San*
2 *Andreas:*
3 **SECTION 1. SHORT TITLE.** This act shall be known and cited
4 as the “Extreme Risk Protection Order Act.” **SECTION 2.**
5 **LEGISLATIVE FINDINGS AND INTENT.** (a) The General
6 Assembly finds and declares that: (I) Preventing acts of violence
7 and self-harm is a compelling public safety interest of the State of
8 San Andreas; (II) In certain circumstances, individuals may
9 present a temporary and immediate risk of harm to themselves or
10 others while still otherwise lawfully possessing firearms; (III)
11 Courts are best positioned to evaluate evidence and determine
12 whether temporary restrictions are necessary to prevent imminent
13 harm; (IV) Any temporary restriction on firearm possession must
14 include strong procedural safeguards, notice requirements, and

1 opportunities for timely judicial review; (V) It is the intent of the
2 General Assembly to create a narrowly tailored civil process
3 allowing courts to temporarily restrict access to firearms where
4 clear and convincing evidence demonstrates a significant risk of
5 harm. **SECTION 3. DEFINITIONS.** For purposes of this Act,
6 unless the context otherwise requires: (a) “Extreme Risk
7 Protection Order” or “ERPO” means a civil court order
8 temporarily prohibiting a person from possessing, purchasing, or
9 receiving firearms. (b) “Respondent” means the individual against
10 whom an ERPO is sought. (c) “Petitioner” means a person
11 authorized under this Act to request an ERPO. (d) “Firearm” has
12 the same meaning as provided elsewhere in the San Andreas
13 Revised Statutes. (e) “Significant risk” means a substantial and
14 articulable likelihood that the respondent will cause personal
15 injury to themselves or others based upon recent acts, threats, or
16 patterns of behavior demonstrating dangerous conduct.

17 **SECTION 4. PERSONS AUTHORIZED TO PETITION.** (a) A
18 petition for an Extreme Risk Protection Order may be filed by: (I)
19 A law enforcement officer or agency; (II) A family or household
20 member of the respondent; (III) A person who has regularly
21 resided with the respondent within the previous six months; or
22 (IV) A licensed medical or mental health professional who has
23 treated the respondent. **SECTION 5. ISSUANCE OF**
24 **TEMPORARY EXTREME RISK PROTECTION ORDER.** (a) A
25 court may issue a temporary ERPO without notice only upon
26 specific written findings establishing probable cause that
27 immediate and irreparable harm is likely to occur before the
28 respondent can be heard. (b) A temporary ERPO shall expire
29 within fourteen days unless extended following a hearing under
30 Section 6. (c) The court shall schedule a hearing within fourteen
31 days of issuance. (d) Upon service of a temporary ERPO, the
32 respondent shall receive written notice of the right to obtain legal
33 counsel and to present evidence and witnesses at the hearing

1 required under Section 6. (e) A temporary ERPO shall be
2 personally served upon the respondent as soon as practicable and
3 no later than forty-eight hours following issuance unless service is
4 impracticable for documented safety reasons. **SECTION 6.**
5 **HEARING AND FINAL EXTREME RISK PROTECTION**
6 **ORDER.** (a) At the hearing, the court shall consider evidence
7 presented by both parties. (b) A final ERPO may be issued only
8 upon a finding by clear and convincing evidence that the
9 respondent poses a significant risk of causing personal injury to
10 themselves or others. (c) A final ERPO may remain in effect for a
11 period not to exceed one year and may be renewed only upon a
12 new petition supported by clear and convincing evidence
13 demonstrating continued significant risk. (d) The respondent may
14 request one hearing during the order period to seek early
15 termination upon a showing that the risk no longer exists. (e) In
16 determining whether a significant risk exists, the court may
17 consider: (I) Recent threats or acts of violence; (II) Violations of
18 protection orders; (III) Evidence of dangerous firearm use or
19 brandishing; (IV) Recent acquisition of firearms combined with
20 threatening conduct; (V) Substance abuse associated with violent
21 behavior; and (VI) Any other relevant evidence demonstrating
22 risk of harm. (f) Law enforcement agencies responsible for
23 serving an Extreme Risk Protection Order shall verify that the
24 order has been entered into applicable state and national law
25 enforcement databases for enforcement purposes. (g) Notice of
26 expiration of order. (I) Not less than thirty days prior to the
27 expiration of a final Extreme Risk Protection Order issued under
28 this section, the court shall provide written notice to the
29 respondent informing them of the expiration date of the order. (II)
30 Such notice shall include information regarding the procedures for
31 requesting the return of firearms surrendered pursuant to this Act
32 and any applicable legal eligibility requirements. (h) Wellness and
33 mental health referrals. (I) At the time a temporary or final

1 Extreme Risk Protection Order is issued, the court may provide
2 the respondent with information regarding voluntary mental
3 health services, crisis intervention resources, and counseling
4 programs available within the community. (II) The court may also
5 provide such information to family or household members who
6 petitioned for the order where doing so may assist in supporting
7 the safety and well-being of the respondent. (III) Participation in
8 any services described in this subsection shall remain voluntary
9 and shall not constitute an admission of wrongdoing or liability in
10 any proceeding. **SECTION 7. SURRENDER AND STORAGE**
11 **OF FIREARMS.** (a) Upon issuance of an ERPO, the respondent
12 shall surrender firearms in their possession to a law enforcement
13 agency or licensed firearm dealer within twenty-four hours. (b)
14 Firearms surrendered pursuant to this Act shall be returned within
15 five business days following expiration or termination of the
16 order, provided the respondent remains legally eligible to possess
17 firearms. (c) Upon approval of the court, a respondent may
18 transfer firearms to a qualified third party or licensed firearm
19 dealer for secure storage rather than surrender directly to law
20 enforcement. (d) Violation of Extreme Risk Protection Order. (I)
21 A respondent who knowingly possesses, purchases, receives, or
22 attempts to possess, purchase, or receive a firearm while subject
23 to an Extreme Risk Protection Order issued under this Act
24 commits a criminal offense. (II) A violation of this subsection
25 shall constitute a class A misdemeanor for a first offense. (III) A
26 second or subsequent violation shall constitute a class B felony.
27 (IV) Any firearm obtained or possessed in violation of this
28 subsection shall be subject to immediate seizure by law
29 enforcement. (e) Immediate retrieval of firearms. (I) When
30 serving a temporary or final Extreme Risk Protection Order, a law
31 enforcement officer shall request that the respondent immediately
32 surrender all firearms in the respondent's possession, custody, or
33 control. (II) If firearms are known or reasonably believed to be

1 present at the location where service occurs, the officer may take
2 temporary custody of such firearms at the time of service to
3 ensure compliance with the order. (III) If the respondent fails to
4 surrender firearms as required, the court may issue a search
5 warrant upon probable cause to authorize law enforcement to
6 recover firearms subject to surrender under this Act. (IV)
7 Firearms recovered pursuant to this subsection shall be handled
8 and stored in accordance with Section 7 of this Act. (f) At the
9 time of service of an Extreme Risk Protection Order, law
10 enforcement shall provide the respondent with written notice
11 explaining the procedures for firearm surrender, storage, and
12 lawful return upon expiration or termination of the order.

13 **SECTION 8. FALSE OR MALICIOUS PETITIONS.** (a) A
14 person who knowingly files a false or malicious petition under
15 this Act commits a misdemeanor offense and may be subject to
16 civil liability for damages. (b) A petition filed primarily for
17 purposes of harassment, retaliation, or advantage in domestic,
18 custody, or civil disputes shall constitute a malicious petition
19 under this section. **SECTION 9. RECORDS AND**
20 **CONFIDENTIALITY.** (a) Court records relating to ERPO
21 proceedings shall be confidential except as necessary for law
22 enforcement purposes or judicial proceedings. (b) Orders issued
23 under this Act shall be entered into applicable law enforcement
24 databases for enforcement purposes. (c) **Entry of Orders into Law**
25 **Enforcement Databases.** (I) Upon issuance of a temporary or final
26 Extreme Risk Protection Order, the issuing court shall ensure that
27 the order is entered into the National Crime Information Center
28 (NCIC) protection order database and the San Andreas Bureau of
29 Investigation (SABI) records system without delay. (II) Entry of
30 the order into such databases shall occur as soon as practicable
31 and no later than twenty-four hours following issuance. (III) Upon
32 expiration or termination of the order, the court shall promptly
33 notify appropriate law enforcement agencies to remove or update

1 the order within the relevant databases. **SECTION 9.5.**
2 REPORTING. (a) The Judicial Branch shall publish an annual
3 report including: (I) Number of petitions filed; (II) Temporary and
4 final orders issued; (III) Orders denied or terminated early; (IV)
5 Instances of malicious petition findings; and (V)
6 Recommendations for statutory improvement. (b) Data collection
7 on ERPO implementation. (I) The annual report required under
8 subsection (a) of this section shall include data relating to firearm
9 recoveries and enforcement actions associated with Extreme Risk
10 Protection Orders. (II) Such data shall include, but not be limited
11 to: (A) The number of firearms surrendered or seized pursuant to
12 ERPO orders; (B) The number of orders in which firearms were
13 voluntarily surrendered compared to those requiring law
14 enforcement retrieval; (C) The number of violations of ERPO
15 orders reported or prosecuted; and (D) The number of firearms
16 returned to respondents following expiration or termination of an
17 order. (III) All data reported under this subsection shall be
18 aggregated and anonymized to protect the privacy of individuals
19 involved in ERPO proceedings. (c) The Judicial Branch and the
20 Department of Public Safety may collaborate with academic
21 institutions or public policy organizations to analyze the
22 effectiveness of Extreme Risk Protection Orders in preventing
23 violence and self-harm. **SECTION 10. RULEMAKING**
24 AUTHORITY. The Department of Public Safety and the Judicial
25 Branch may promulgate rules necessary to implement this Act.
26 **SECTION 11. EFFECTIVE DATE - SAFETY CLAUSE.** The
27 General Assembly hereby finds, determines, and declares that this
28 Act is necessary for the immediate preservation of the public
29 peace, health, and safety. Accordingly, this Act shall take effect
30 immediately upon signature by the Governor or upon otherwise
31 becoming law.