

FACT SHEET for HOUSE BILL 1177 EXTREME RISK PROTECTION ORDER

Temporary Extreme Risk Protection Order:

1. Who can file an affidavit for a Temporary Extreme Risk Protection Order:
 - a. Family or Household member (Domestic Partners, Common-law partners, Respondent's Legal Guardian, Step-Parents and Grandparents)
 - b. Law Enforcement Officer
2. The petitioner must document the respondent poses a significant risk/danger to themselves or others in the near future if they have in their possession a firearm or by purchasing of such firearm.
3. Timing in which the court must take action:
 - a. Once the petition is filed with the court, a judge must have a hearing the same day or on the next court day to decide if a Temporary Extreme Risk Protection order is warranted (in person or by phone).
 - b. If the judge finds by a PREPONDERANCE of the EVIDENCE the respondent meets the criteria (#2), the Judge will order a Temporary Extreme Risk Protection Order.
 - c. The Sheriff's Office (where the respondent lives) will serve notice to the respondent for a hearing. The Extreme Risk Protection Order hearing must occur within 14 days of the issuance of the Temporary Extreme Risk Protection Order.
 - d. Upon service of the notice to the respondent, the respondent will be required to turn over all his/her firearms.

Extreme Risk Protection Order:

4. The petitioner and respondent will present evidence to the judge, on each one's behalf, to determine if the Extreme Risk Protection Order will be ordered, removing all firearms from the respondent's residence for 364 days.
 - a. The respondent will have an attorney appointed by the court, or they may obtain their own attorney at their own cost.
 - b. The judge will use CLEAR AND CONVINCING EVIDENCE to determine if the respondent should relinquish their firearms for 364 days.
5. Respondent's firearms must be surrendered to the local Law Enforcement Agency or
 - a. Sell or transfer the firearms to a Federally Licensed Firearms Dealer
 - b. If the firearm is an Antique as described in U.S.C. sec.921 (a)(16) or a Curio or Relic as described in 27CFR478.11 the firearm can be transferred to a relative who does not live with the respondent. The relative must go through a criminal history check to confirm they can possess a firearm.
 - c. The respondent must surrender any concealed handgun permit.
 - d. If the respondent is present at the hearing, and has not surrendered their firearms, they must do so within 24 hours.
 - e. Respondent must provide to the court one or more proofs of relinquishment or removal of his/her firearms and no longer in their possession.

- f. **The respondent cannot possess or purchase any firearms as long as the Extreme Risk Protection Order is in effect.**
- g. **Upon issuing a Temporary Extreme Risk Protection Order or an Extreme Risk Protection Order the court clerk will promptly notify CBI to have the respondent's information entered into CCIC and NCIC.**
- h. **To renew the Extreme Risk Protection Order, the petitioner must petition the court for the renewal**

Renewal:

6. **The courts will notify the petitioner 63 days before the scheduled expiration of the Extreme Risk Protection Order.**
 - a. **The petitioner can ask the court for a renewal of the Extreme Risk Protection Order within the 63 days.**
 - b. **The court will determine if the Extreme Risk Protection Order will be renewed based on CLEAR AND CONVINCING EVIDENCE. The court will determine the length of time of the renewal (not to exceed one year). The court will set a review date within 35 days of this expiration.**
 - c. **If the petitioner fails to ask the court for a renewal of the Extreme Risk Protection Order, the original Extreme Risk Protection Order will expire.**

Termination:

7. **Return of firearms and/or concealed handgun permit:**
 - a. **If the Extreme Risk Protection Order is denied, the respondent's firearms and/or concealed handgun permit must be returned in 3 days.**
 - b. **If the Extreme Risk Protection Order is not renewed, a notice of firearms and/or concealed handgun permit will be sent to the respondent.**
 - c. **Upon termination of the Temporary Extreme Risk Protection Order or the Extreme Risk Protection Order, the court clerk will promptly remove the respondent's information from CCIC and NCIC.**

Penalty:

8. **A respondent who violates this Temporary Extreme Risk Protection Order or Extreme Risk Protection Order by possessing or purchasing a firearm is guilty of a class 2 misdemeanor.**

Definitions:

1. **PREPONDERANCE of the EVIDENCE:** the greater weight of the evidence required in a civil (non-criminal) lawsuit for the trier of fact (jury or judge without a jury) to decide in favor of one side or the other. This preponderance is based on the more convincing evidence and its probable truth or accuracy, and not on the amount of evidence.
2. **CLEAR AND CONVINCING EVIDENCE:** that the evidence presented by a party during the trial must be **highly and substantially more probable to be true than not** and the trier of fact must have a firm belief or conviction in its factuality.
3. **FAMILY OR HOUSEHOLD MEMBER:** includes blood relation, marriage, adoption, a child in common with the respondent (whether married or not), a person who regularly resides with the respondent in the last six months, domestic partner, a person having a biological or legal parent-child relationship (stepparents, stepchildren, grandparents and grandchildren), a person acting as a legal guardian, a person who has lived with the respondent at any time and/or a person a relationship in section 18-6-800.3 (2)