

2022 -- H 8011

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE--COURTS -- EXTREME RISK
PROTECTION ORDERS

Introduced By: Representatives Felix, J Lombardi, Kazarian, Casimiro, Potter, Alzate,
Solomon, and Giraldo

Date Introduced: March 18, 2022

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 8-8.3-4 and 8-8.3-6 of the General Laws in Chapter 8-8.3 entitled
2 "Extreme Risk Protection Orders" are hereby amended to read as follows:

3 **8-8.3-4. Temporary orders -- Proceedings.**

4 (a) Upon the filing of a petition under this chapter, the court may enter a temporary order
5 if the court finds there is probable cause from specific facts shown by the petition that the
6 respondent poses a significant danger of causing imminent personal injury to self or others by
7 having in his or her custody or control, or by purchasing, possessing, or receiving, a firearm before
8 notice can be served and a hearing held.

9 (b) If the court finds probable cause under subsection (a) of this section and from the sworn
10 affidavit, a search warrant shall issue pursuant to chapter 5 of title 12 for the search for any firearms
11 in the possession, custody, or control of the respondent. The warrant shall be executed pursuant to
12 chapter 5 of title 12.

13 (c) When the court is unavailable after the close of business, a petition and affidavit may
14 be filed before any available superior court judge.

15 (d) Any order and warrant issued under this section, and any documentation in support of
16 an order and warrant, shall be filed immediately with the clerk of the superior court. The filing shall
17 have the effect of commencing proceedings under this chapter and invoking the other provisions
18 of this chapter.

- 1 (e) A temporary extreme risk protection order must include:
- 2 (1) A statement of the grounds supporting the issuance of the order;
- 3 (2) The date and time the order was issued;
- 4 (3) A statement that the order shall continue until such time as a court considers the petition
- 5 pursuant to § 8-8.3-5 at a hearing;
- 6 (4) The address of the court that issued the order and in which any responsive pleading
- 7 should be filed;
- 8 (5) The date and time of the scheduled hearing;
- 9 (6) The following statement: "To the subject of this protection order: This order will
- 10 continue until the hearing scheduled on the date and time noted above. If any of your firearms have
- 11 not been seized by the petitioner, you are under an obligation to immediately contact the petitioner
- 12 to arrange for the surrender of any other firearms that you own and/or are in your custody, control,
- 13 or possession, that have not been seized. You must surrender to the petitioner all firearms that you
- 14 own and/or are in your custody, control, or possession, and also immediately surrender to the
- 15 licensing authority or the attorney general any concealed carry permit issued to you pursuant to §
- 16 11-47-11 or § 11-47-18. While this order is in effect, it is illegal for you to have any firearm in your
- 17 possession, custody, or control or for you to purchase, receive, or attempt to purchase or receive
- 18 any firearm. You may seek the advice of an attorney as to any matter connected with this order. If
- 19 you believe you cannot afford an attorney, you are hereby referred to the public defender for an
- 20 intake interview, and if eligible, the court shall appoint an attorney for you."
- 21 (7) Any temporary extreme risk protection order issued pursuant to this section shall
- 22 continue until the time of the hearing pursuant to § 8-8.3-5. If the court continues a hearing pursuant
- 23 to § 8-8.3-5, the temporary order shall remain in effect until the next hearing date.
- 24 (f) The court shall schedule a hearing within fourteen (14) days of the issuance of a
- 25 temporary extreme risk protection order to determine if a one-year extreme risk protection order
- 26 should be issued under this chapter.
- 27 (g) A temporary extreme risk protection order shall be immediately personally served ~~by~~
- 28 ~~the petitioner,~~ consistent with the provisions of § 8-8.3-6, along with supporting documents that
- 29 formed the basis of the order, the notice of hearing, and the petition for the one-year extreme
- 30 protection order. Alternative service shall be in accordance with § 8-8.3-6. Service issued under
- 31 this section takes precedence over the service of other documents, unless the other documents are
- 32 of a similar emergency nature. If timely personal service cannot be made, the court shall set a new
- 33 hearing date and shall require additional attempts at obtaining personal service or permit alternative
- 34 service as provided in this chapter.

1 (h) If the court declines to issue a temporary extreme risk protection order, the court shall
2 state in writing the reasons for the denial.

3 **8-8.3-6. Service of one-year extreme risk protection orders.**

4 (a) A one-year extreme risk protection order issued under this chapter shall be personally
5 served upon the respondent by the division of sheriffs. Provided, the division of sheriffs may
6 request the assistance of the state police with the service as needed. If the division of sheriffs cannot
7 complete service of the one-year extreme risk protection order upon the respondent within seven
8 (7) days of the order's issuance, the deputy sheriff shall notify the petitioner and the court. The
9 petitioner shall then seek an order for alternative service pursuant to this chapter. [The division of](#)
10 [sheriffs shall not charge or accept any fee for effectuation of service of any temporary or one-year](#)
11 [extreme risk protection order issued under this chapter.](#)

12 [\(1\) Any law enforcement agency that has a petition for a temporary or one-year extreme](#)
13 [risk protection order granted under this chapter may transmit a copy of any documents that must](#)
14 [be served including, but not limited to, any orders, affidavits, or any other documents required to](#)
15 [be served on the respondent, to the division of sheriffs by email, facsimile or other electronic means.](#)
16 [Any such documents, provided that they contain a seal of the court in which they were filed, so](#)
17 [transmitted, shall be considered true and accurate copies and the division of sheriffs shall not](#)
18 [require that hard or paper copies be hand delivered to its office before effectuating service.](#)

19 [\(2\) After serving the respondent under subsection \(a\) of this section, the division of sheriffs](#)
20 [shall promptly transfer a copy of the documents so served as well as the proof of service to the](#)
21 [court from which the order was issued. The division of sheriffs shall also transfer a copy of the](#)
22 [same documents to the petitioner.](#)

23 (b) If the court determines that after diligent effort, personal service on the respondent with
24 or of any documents as required pursuant to this chapter cannot be made, then the court may order
25 an alternative method of service designed to give reasonable notice to the respondent. Alternative
26 service may include, but shall not be limited to: service by certified and regular mail at respondent's
27 last-known address or place of employment; leaving copies at the respondent's dwelling or usual
28 place of abode with a person of suitable age and discretion residing therein; or by affixing a
29 summons to the door of the respondent's residence. Provided, due to the nature of these
30 proceedings, notice shall not be given by publication in a newspaper.

31 (c) In the event personal service of any order, notice, or other document issued pursuant to
32 this chapter cannot be obtained, the court shall have discretion to continue any extreme risk
33 protection order, and hearing thereon, as the court deems appropriate, until service can be made
34 upon the respondent.

1 (d) Upon receipt of alternative service of any order, notice, or other document issued
2 pursuant to this chapter, the respondent shall comply with the order, notice, or document as if
3 personally served.

4 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE--COURTS -- EXTREME RISK
PROTECTION ORDERS

1 This act would prohibit the division of sheriffs from charging or accepting any fees from
2 any Rhode Island law enforcement agency for effectuation of service of any temporary or one-year
3 extreme risk protection order. It would also require the division of sheriffs to accept transmission
4 of extreme risk protection documents, petitions and summons, by email, facsimile or other
5 electronic means.

6 This act would take effect upon passage.

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