

# SENATE BILL 905

E4

4r2529  
CF HB 1267

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By: **Senators Kelly, Lam, Hettleman, Beidle, Waldstreicher, Gile, and Elfreth**

Introduced and read first time: February 2, 2024

Assigned to: Judicial Proceedings

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Committee Report: Favorable

Senate action: Adopted with floor amendments

Read second time: March 4, 2024

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Safety – Extreme Risk Protective Orders – Review of Court Records**

3 FOR the purpose of authorizing researchers affiliated with certain institutions of higher  
4 education who are conducting academic or policy research to review a court record  
5 related to a petition for an extreme risk protective order; requiring the Maryland  
6 Judiciary to require an institution of higher education that has researchers  
7 reviewing certain court records to enter into an agreement that provides for the  
8 storage and handling of the records; establishing certain penalties; and generally  
9 relating to extreme risk protective orders.

10 BY repealing and reenacting, with amendments,  
11 Article – Public Safety  
12 Section 5–602  
13 Annotated Code of Maryland  
14 (2022 Replacement Volume and 2023 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
16 That the Laws of Maryland read as follows:

17 **Article – Public Safety**

18 5–602.

19 (a) (1) A petition for an extreme risk protective order shall:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (i) be signed and sworn to by the petitioner under the penalty of  
2 perjury;

3 (ii) include any information known to the petitioner that the  
4 respondent poses an immediate and present danger of causing personal injury to the  
5 respondent, the petitioner, or another by possessing a firearm;

6 (iii) set forth specific facts in support of the information described in  
7 item (ii) of this paragraph;

8 (iv) explain the basis for the petitioner's knowledge of the supporting  
9 facts, including a description of the behavior and statements of the respondent or any other  
10 information that led the petitioner to believe that the respondent presents an immediate  
11 and present danger of causing personal injury to the respondent or others;

12 (v) describe the number, types, and location of any known firearms  
13 believed to be possessed by the respondent; and

14 (vi) include any supporting documents or information regarding:

15 1. any unlawful, reckless, or negligent use, display, storage,  
16 possession, or brandishing of a firearm by the respondent;

17 2. any act or threat of violence the respondent made against  
18 the respondent or against another, whether or not the threat of violence involved a firearm;

19 3. any violation by the respondent of a protective order under  
20 Title 4, Subtitle 5 of the Family Law Article;

21 4. any violation by the respondent of a peace order under  
22 Title 3, Subtitle 15 of the Courts Article; and

23 5. any abuse of a controlled dangerous substance or alcohol  
24 by the respondent, including any conviction for a criminal offense involving a controlled  
25 dangerous substance or alcohol.

26 (2) A petition for an extreme risk protective order may include, to the  
27 extent disclosure is not otherwise prohibited, health records or other health information  
28 concerning the respondent.

29 (b) A petitioner seeking an extreme risk protective order under this subtitle may  
30 file a petition with:

31 (1) the District Court; or

32 (2) when the Office of the District Court Clerk is closed, a District Court  
33 commissioner.

1 (c) (1) All court records relating to a petition for an extreme risk protective  
2 order made under this subtitle are confidential and the contents may not be divulged, by  
3 subpoena or otherwise, except by order of the court on good cause shown.

4 (2) This subsection does not prohibit review of a court record relating to a  
5 petition by:

6 (i) personnel of the court;

7 (ii) the respondent or counsel for the respondent;

8 (iii) authorized personnel of the Maryland Department of Health;

9 (iv) authorized personnel of a local core service agency or local  
10 behavioral health authority;

11 (v) a law enforcement agency; [or]

12 (vi) a person authorized by a court order on good cause shown; **OR**

13 **(VII) RESEARCHERS AFFILIATED WITH INSTITUTIONS OF HIGHER**  
14 **EDUCATION THAT HAVE ENTERED INTO AN AGREEMENT WITH THE MARYLAND**  
15 **JUDICIARY PROVIDING FOR THE CONFIDENTIALITY OF THE RECORD IN**  
16 **ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION CONDUCTING RELATED**  
17 **ACADEMIC OR POLICY RESEARCH.**

18 **(D) (1) THE MARYLAND JUDICIARY SHALL REQUIRE AN INSTITUTION OF**  
19 **HIGHER EDUCATION THAT HAS RESEARCHERS REVIEWING COURT RECORDS**  
20 **RELATING TO EXTREME RISK PROTECTIVE ORDERS TO ENTER INTO AN AGREEMENT**  
21 **THAT PROVIDES FOR THE STORAGE AND HANDLING OF THE RECORDS.**

22 **(2) THE AGREEMENT SHALL PROVIDE THAT:**

23 **(I) EACH RECORD RELATING TO AN EXTREME RISK**  
24 **PROTECTIVE ORDER SHALL REMAIN IN THE CUSTODY OF THE INSTITUTION OF**  
25 **HIGHER EDUCATION RECEIVING THE RECORD;**

26 **(II) EACH RECORD RELATING TO AN EXTREME RISK**  
27 **PROTECTIVE ORDER MAY BE USED ONLY FOR THE RESEARCH AND STUDY FOR WHICH**  
28 **IT WAS ASSEMBLED OR OBTAINED; AND**

29 **(III) A PERSON MAY NOT DISCLOSE A RECORD RELATING TO AN**  
30 **EXTREME RISK PROTECTIVE ORDER TO ANY PERSON WHO IS NOT ENGAGED IN THE**  
31 **RESEARCH OR STUDY PROJECT.**

1           **(3) THE AGREEMENT UNDER THIS SUBSECTION MAY NOT APPLY TO**  
 2 **OR RESTRICT THE USE OR PUBLICATION OF ANY STATISTICS, INFORMATION, OR**  
 3 **OTHER MATERIAL THAT SUMMARIZES OR REFERS TO RECORDS IN THE AGGREGATE,**  
 4 **WITHOUT DISCLOSING THE IDENTITY OF ANY PERSON WHO IS THE SUBJECT OF THE**  
 5 **RECORD.**

6           **(4) THE MARYLAND JUDICIARY, ON ITS OWN MOTION, MAY**  
 7 **INSTITUTE AN INJUNCTION AND ANY OTHER APPROPRIATE REMEDY:**

8                   **(I) FOR A VIOLATION OF THE AGREEMENT UNDER THIS**  
 9 **SUBSECTION; AND**

10                   **(II) TO PREVENT THE UNAUTHORIZED DISCLOSURE OF A**  
 11 **RECORD RELATING TO AN EXTREME RISK PROTECTIVE ORDER BY ANY PERSON.**

12           ~~(d)~~ **(E)**       A petitioner who, in good faith, files a petition under this subtitle is not  
 13 civilly or criminally liable for filing the petition.

14           ~~(e)~~ **(F)**       Nothing in this subtitle may be interpreted to require a health care  
 15 provider to disclose health records or other health information concerning a respondent  
 16 except:

17                   (1)   in accordance with a subpoena directing delivery of the records or  
 18 information to the court under seal; or

19                   (2)   by order of the court.

20           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 21 October 1, 2024.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.