

FIRST EXTRAORDINARY SESSION OF THE
FIRST REGULAR SESSION

HOUSE BILL NO. 19

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MACKEY.

2539H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 571, RSMo, by adding thereto seven new sections relating to extreme risk protection orders, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 571, RSMo, is amended by adding thereto seven new sections, to be
2 known as sections 571.600, 571.605, 571.610, 571.615, 571.620, 571.635, and 571.640, to read
3 as follows:

571.600. As used in sections 571.600 to 571.640, the following terms mean:

2 **(1) "Extreme risk protection order", a court order prohibiting a person from**
3 **purchasing, owning, possessing, or controlling a firearm for a period of up to one year;**

4 **(2) "Firearm seizure warrant", a court order directing a law enforcement officer**
5 **to seize any firearm in the possession of a person who is subject to an extreme risk**
6 **protection order and to bring the unloaded firearm before the issuing court;**

7 **(3) "Respondent", the person against whom an extreme risk protection order is**
8 **requested in a petition or, if the order is issued, the person against whom an extreme risk**
9 **protection order has been issued and is in effect.**

571.605. 1. Any person may file a petition with the court that sets forth facts and
2 **circumstances that necessitate the issuance of an extreme risk protection order against a**
3 **person. The court may prescribe the manner and form of the petition.**

4 **2. An extreme risk protection order shall be issued if, based on an affidavit of the**
5 **petitioner and any other provided information, the court determines probable cause that**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

6 the respondent named in the petition poses a significant risk of personal injury to himself,
7 herself, or others by possessing a firearm.

8 3. (1) In determining whether grounds for an extreme risk protection order exist,
9 the court may question the petitioner and any witnesses produced by the petitioner under
10 oath and shall consider:

11 (a) Any recent threat or act of violence by the respondent directed toward others;

12 (b) Any recent threat or act of violence by the respondent directed toward himself
13 or herself;

14 (c) Any recent violation of a restraining order by the respondent; and

15 (d) Any conviction of the respondent for a weapons offense.

16 (2) The court may consider:

17 (a) The reckless use, display, or brandishing of a firearm by the respondent;

18 (b) The history of use, attempted use, or threatened use of physical force by the
19 respondent against another person;

20 (c) Any prior arrest of the respondent for a felony offense;

21 (d) Any history of violation by the respondent of a protective order under chapter
22 455;

23 (e) Evidence of recent or ongoing abuse of controlled substances or alcohol by the
24 respondent; or

25 (f) Evidence of recent acquisition of firearms or other deadly weapons by the
26 respondent.

27 4. The affidavit shall set forth the facts that establish the grounds of the petition or
28 probable cause for such facts. In lieu of a written affidavit, the court may take an oral
29 statement under oath.

30 5. An extreme risk protection order shall include:

31 (1) A statement of the grounds asserted for the order;

32 (2) The date and time the order expires;

33 (3) The address of the circuit court with jurisdiction over the respondent's primary
34 residence;

35 (4) A statement that the respondent shall not own, possess, purchase, or receive, or
36 attempt to purchase or receive, a firearm while the order is in effect;

37 (5) A statement that the respondent is entitled to request in writing one hearing
38 under the rules of the Missouri supreme court to modify or rescind the order at any time
39 during the effective period of the order; and

40 (6) A statement that the respondent may seek legal advice from an attorney
41 regarding the order.

2 **571.610. 1. If there is probable cause to believe that a respondent who is subject**
3 **to an extreme risk protection order possesses or owns a firearm, the court shall issue a**
4 **firearm seizure warrant to the appropriate law enforcement agency directing the agency**
5 **to seize any specified firearm and to retain the firearm subject to the order of the court.**

6 **2. A firearm seizure warrant shall be issued upon probable cause, supported by an**
7 **affidavit, naming or describing with reasonable specificity the facts and circumstances**
8 **justifying the court order and listing any firearm to be seized under the court order.**

9 **3. A firearm described in the firearm seizure warrant may be taken from any place**
10 **or from any person in whose possession the firearm may be.**

11 **4. When a law enforcement officer takes property under a firearm seizure warrant,**
12 **the officer shall give a receipt describing the seized property to the person from whom it**
13 **was taken. In the absence of a person, the officer shall leave the receipt in the place where**
14 **the property was found.**

15 **5. If the location to be searched during the execution of a firearm seizure warrant**
16 **is jointly occupied by multiple parties and a firearm located during the execution of a**
17 **firearm seizure warrant is owned by a person other than the respondent, the firearm shall**
18 **not be seized if the firearm is stored in a manner that the respondent does not have access**
19 **to or control of the firearm and there is no evidence of unlawful possession of the firearm**
20 **by the owner.**

21 **6. If the location to be searched during the execution of a firearm seizure warrant**
22 **is jointly occupied by multiple parties and a gun safe that is owned by a person other than**
23 **the respondent is located therein, the contents of the gun safe shall not be searched except**
24 **in the owner's presence or with the owner's consent, or unless a valid search warrant for**
25 **the gun safe has been obtained.**

26 **571.615. 1. Except as provided under subsection 7 of this section, the court that**
27 **issued the order and seizure warrant shall hold a hearing within fourteen days of the**
28 **execution of such order and warrant to determine whether the respondent may possess,**
29 **own, purchase, or receive a firearm and, if applicable, whether a seized fire arm shall be**
30 **returned to the respondent.**

31 **2. At the hearing, the state shall have the burden of proving by clear and**
32 **convincing evidence that the respondent poses a significant risk of personal injury to**
33 **himself, herself, or others by owning or possessing the firearm.**

34 **3. If at the hearing the respondent is found to pose a significant risk of personal**
35 **injury to himself, herself, or others by purchasing, owning, possessing, or controlling a**
36 **firearm, the firearm seized under the warrant shall be retained by the law enforcement**
37 **agency for a period not to exceed one year. The respondent shall be prohibited from**

13 purchasing, owning, possessing, or controlling a firearm for a period not to exceed one
14 year.

15 4. The court shall notify the Missouri uniform law enforcement system (MULES)
16 of the extreme risk protection order no later than the next business day after issuing the
17 order. The court also shall notify MULES of any order restoring the respondent's ability
18 to own or possess firearms no later than the next business day after issuing the order to
19 restore the respondent's right to own or possess any type of firearm that may be lawfully
20 owned and possessed. Any notice or report submitted under this subsection shall be in an
21 electronic format, in a manner prescribed by the Missouri state highway patrol.

22 5. If the court finds that the state has not met the required standard of proof, the
23 firearm seized under the warrant shall be returned to the respondent.

24 6. If the respondent is prohibited by law from purchasing, owning, possessing, or
25 controlling a firearm for a period of one year or more by any other provision of state or
26 federal law, a hearing under this section shall not be required and the court shall issue an
27 order to hold the firearm until either the respondent is no longer prohibited from owning
28 a firearm or the law enforcement agency disposes of the firearm to a licensed firearms
29 dealer in accordance with section 571.095.

30 7. If any other person claims title to a firearm seized under the warrant, the firearm
31 shall be returned to the lawful owner.

32 8. A respondent who is the subject of a court order under subsection 3 of this
33 section may submit one written request at any time during the effective period of the order
34 for a hearing for an order permitting the respondent to possess, own, purchase, or receive
35 a firearm. The request shall be submitted in a form and manner as prescribed by the chief
36 administrator of the courts.

571.620. 1. (1) If a law enforcement agency has probable cause to believe that a
2 respondent continues to pose a significant risk of personal injury to himself, herself, or
3 others by purchasing, owning, possessing, or controlling a firearm, the agency may initiate
4 a request for a renewal of the order setting forth the facts and circumstances necessitating
5 the request. The request shall be submitted in a form and manner as prescribed by the
6 court.

7 (2) A hearing held under this section shall be held in the same court that issued the
8 initial order to determine if a request for renewal of the order shall be issued.

9 (3) The respondent shall be given written notice and an opportunity to be heard.

10 2. The court may, upon its own motion or upon request of a person, issue a renewal
11 of an extreme risk protection order if there is probable cause to believe that the respondent
12 continues to pose a significant risk of personal injury to himself, herself, or others by

13 purchasing, owning, possessing, or controlling a firearm after written notice to the
14 respondent and after the respondent has been given an opportunity for a hearing.

571.635. 1. When a law enforcement officer is at the scene of a domestic violence
2 incident involving a threat to human life or a physical assault, is serving a protective order
3 under chapter 455, or is serving an extreme risk protection order issued under sections
4 571.600 to 571.620, such officer shall take temporary custody of any firearm or other
5 deadly weapon in plain sight or discovered under a consensual or other lawful search as
6 necessary for the protection of the law enforcement officer or other persons present if the
7 law enforcement officer has probable cause to believe that an act of domestic violence has
8 occurred.

9 2. If a firearm is removed from the scene under subsection 1 of this section, the law
10 enforcement officer shall:

11 (1) Provide to the owner of the firearm information on the process for retaking
12 possession of the firearm; and

13 (2) Provide for the safe storage of the firearm during the pendency of any
14 proceeding related to the alleged act of domestic violence.

15 3. Within fourteen days of the conclusion of a proceeding on the alleged act of
16 domestic violence, the owner of the firearm may retake possession of the firearm unless
17 ordered to surrender the firearm under section 571.095.

571.640. 1. It shall be unlawful to possess a firearm for a person who:

2 (1) Is subject to a court order that:

3 (a) Was issued after a hearing of which such person received actual notice and at
4 which such person had an opportunity to participate;

5 (b) Restrains such person from harassing, stalking, or threatening a family or
6 household member of such person or a child of such family or household member or
7 person or engaging in other conduct that would place a family or household member in
8 reasonable fear of bodily injury to the family or household member or child; and

9 (c) Includes a finding that such person represents a credible threat to the physical
10 safety of such family or household member or a child or, by its terms, explicitly prohibits
11 the use, attempted use, or threatened use of physical force against such family or household
12 member or child that would reasonably be expected to cause bodily injury;

13 (2) Is subject to an order of protection under chapter 455;

14 (3) Has been found guilty of or pleaded guilty to a misdemeanor offense involving
15 domestic violence in a court of competent jurisdiction; or

16 (4) Has been found guilty of or pleaded guilty to a misdemeanor sexual offense in
17 a court of competent jurisdiction.

18 **2. For the purposes of this section, "family" and "household member" shall have**
19 **the same meanings as those terms are defined under section 455.010.**

20 **3. Any person who violates the provisions of this section is guilty of a class E felony.**

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