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SENATE BILL 5072

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State of Washington

66th Legislature

2019 Regular Session

By Senator O'Ban

Prefiled 01/03/19.

1 AN ACT Relating to extreme risk protection orders; and amending  
2 RCW 7.94.030 and 7.94.060.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 7.94.030 and 2017 c 3 s 4 are each amended to read  
5 as follows:

6 There shall exist an action known as a petition for an extreme  
7 risk protection order.

8 (1) A petition for an extreme risk protection order may be filed  
9 by (a) a family or household member of the respondent or (b) a law  
10 enforcement officer or agency.

11 (2) A petition for an extreme risk protection order may be  
12 brought against a respondent under the age of eighteen years. No  
13 guardian or guardian ad litem need be appointed on behalf of a  
14 respondent to an action under this chapter if such respondent is  
15 sixteen years of age or older. If a guardian ad litem is appointed  
16 for the petitioner or respondent, the petitioner must not be required  
17 to pay any fee associated with such appointment.

18 (3) An action under this chapter must be filed in the county  
19 where the petitioner resides or the county where the respondent  
20 resides.

21 ((+3)) (4) A petition must:

1 (a) Allege that the respondent poses a significant danger of  
2 causing personal injury to self or others by having in his or her  
3 custody or control, purchasing, possessing, or receiving a firearm,  
4 and be accompanied by an affidavit made under oath stating the  
5 specific statements, actions, or facts that give rise to a reasonable  
6 fear of future dangerous acts by the respondent;

7 (b) Identify the number, types, and locations of any firearms the  
8 petitioner believes to be in the respondent's current ownership,  
9 possession, custody, or control;

10 (c) Identify whether there is a known existing protection order  
11 governing the respondent, under chapter 7.90, 7.92, 10.14, 9A.46,  
12 10.99, 26.50, or 26.52 RCW or under any other applicable statute; and

13 (d) Identify whether there is a pending lawsuit, complaint,  
14 petition, or other action between the parties to the petition under  
15 the laws of Washington.

16 ~~((4))~~ (5) The court administrator shall verify the terms of any  
17 existing order governing the parties. The court may not delay  
18 granting relief because of the existence of a pending action between  
19 the parties or the necessity of verifying the terms of an existing  
20 order. A petition for an extreme risk protection order may be granted  
21 whether or not there is a pending action between the parties.

22 ~~((5))~~ (6) If the petitioner is a law enforcement officer or  
23 agency, the petitioner shall make a good faith effort to provide  
24 notice to a family or household member of the respondent and to any  
25 known third party who may be at risk of violence. The notice must  
26 state that the petitioner intends to petition the court for an  
27 extreme risk protection order or has already done so, and include  
28 referrals to appropriate resources, including mental health, domestic  
29 violence, and counseling resources. The petitioner must attest in the  
30 petition to having provided such notice, or attest to the steps that  
31 will be taken to provide such notice.

32 ~~((6))~~ (7) If the petition states that disclosure of the  
33 petitioner's address would risk harm to the petitioner or any member  
34 of the petitioner's family or household, the petitioner's address may  
35 be omitted from all documents filed with the court. If the petitioner  
36 has not disclosed an address under this subsection, the petitioner  
37 must designate an alternative address at which the respondent may  
38 serve notice of any motions. If the petitioner is a law enforcement  
39 officer or agency, the address of record must be that of the law  
40 enforcement agency.

1        ~~((7))~~ (8) Within ninety days of receipt of the master copy from  
2 the administrative office of the courts, all court clerk's offices  
3 shall make available the standardized forms, instructions, and  
4 informational brochures required by RCW 7.94.150. Any assistance or  
5 information provided by clerks under this section does not constitute  
6 the practice of law and clerks are not responsible for incorrect  
7 information contained in a petition.

8        ~~((8))~~ (9) No fees for filing or service of process may be  
9 charged by a court or any public agency to petitioners seeking relief  
10 under this chapter. Petitioners shall be provided the necessary  
11 number of certified copies, forms, and instructional brochures free  
12 of charge.

13        ~~((9))~~ (10) A person is not required to post a bond to obtain  
14 relief in any proceeding under this section.

15        ~~((10))~~ (11) The superior courts of the state of Washington have  
16 jurisdiction over proceedings under this chapter. Additionally,  
17 district and municipal courts have limited jurisdiction over issuance  
18 and enforcement of ex parte extreme risk protection orders issued  
19 under RCW 7.94.050. The district or municipal court shall set the  
20 full hearing provided for in RCW 7.94.040 in superior court and  
21 transfer the case. If the notice and order are not served on the  
22 respondent in time for the full hearing, the issuing court has  
23 concurrent jurisdiction with the superior court to extend the ex  
24 parte extreme risk protection order.

25        **Sec. 2.** RCW 7.94.060 and 2017 c 3 s 7 are each amended to read  
26 as follows:

27        (1) An extreme risk protection order issued under RCW 7.94.040  
28 must be personally served upon the respondent, except as otherwise  
29 provided in this chapter.

30        (2) The law enforcement agency with jurisdiction in the area in  
31 which the respondent resides shall serve the respondent personally,  
32 unless the petitioner elects to have the respondent served by a  
33 private party.

34        (3) If service by a law enforcement agency is to be used, the  
35 clerk of the court shall cause a copy of the order issued under this  
36 chapter to be forwarded on or before the next judicial day to the law  
37 enforcement agency specified in the order for service upon the  
38 respondent. Service of an order issued under this chapter takes

1 precedence over the service of other documents, unless the other  
2 documents are of a similar emergency nature.

3 (4) If the law enforcement agency cannot complete service upon  
4 the respondent within ten days, the law enforcement agency shall  
5 notify the petitioner. The petitioner shall provide information  
6 sufficient to permit such notification.

7 (5) If an order entered by the court recites that the respondent  
8 appeared in person before the court, the necessity for further  
9 service is waived and proof of service of that order is not  
10 necessary.

11 (6) If the court previously entered an order allowing service of  
12 the notice of hearing and petition, or an ex parte extreme risk  
13 protection order, by publication or mail under RCW 7.94.070, or if  
14 the court finds there are now grounds to allow such alternate  
15 service, the court may permit service by publication or mail of the  
16 extreme risk protection order issued under this chapter as provided  
17 in RCW 7.94.070. The court order must state whether the court  
18 permitted service by publication or service by mail.

19 (7)(a) When an extreme risk protection order is issued against a  
20 minor under the age of eighteen, a copy of the order must be served  
21 on the parent or guardian of the minor at any address where the minor  
22 resides.

23 (b) The court shall advise the parent or guardian in writing of  
24 the legal obligation to safely secure any firearm on the premises and  
25 the potential for criminal prosecution if a prohibited person were to  
26 obtain access to the firearm. Notice may be provided at the time the  
27 parent or guardian of the respondent appears in court or may be  
28 served along with a copy of the order.

29 (8) Returns of service under this chapter must be made in  
30 accordance with the applicable court rules.

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