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**SENATE BILL 5027**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senator Frockt

Prefiled 12/17/18.

1 AN ACT Relating to extreme risk protection orders; and amending  
2 RCW 7.94.120, 7.94.030, and 7.94.060.

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

4 **Sec. 1.** RCW 7.94.120 and 2017 c 3 s 13 are each amended to read  
5 as follows:

6 (1) Any person who files a petition under this chapter knowing  
7 the information in such petition to be materially false, or with  
8 intent to harass the respondent, is guilty of a gross misdemeanor.

9 (2) Any person who has in his or her custody or control,  
10 purchases, possesses, or receives a firearm with knowledge that he or  
11 she is prohibited from doing so by an order issued under this chapter  
12 is guilty of a gross misdemeanor, and further is prohibited from  
13 having in his or her custody or control, purchasing, possessing, or  
14 receiving, or attempting to purchase or receive, a firearm for a  
15 period of five years from the date the existing order expires.  
16 However, such person is guilty of a class C felony if the person has  
17 (~~two~~) one or more previous convictions for violating an order  
18 issued under this chapter.

19 **Sec. 2.** RCW 7.94.030 and 2017 c 3 s 4 are each amended to read  
20 as follows:

1           There shall exist an action known as a petition for an extreme  
2 risk protection order.

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

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

13           (3) An action under this chapter must be filed in the county  
14 where the petitioner resides or the county where the respondent  
15 resides.

16           (~~(3)~~) (4) A petition must:

17           (a) Allege that the respondent poses a significant danger of  
18 causing personal injury to self or others by having in his or her  
19 custody or control, purchasing, possessing, accessing, or receiving a  
20 firearm, and be accompanied by an affidavit made under oath stating  
21 the specific statements, actions, or facts that give rise to a  
22 reasonable fear of future dangerous acts by the respondent;

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

26           (c) Identify whether there is a known existing protection order  
27 governing the respondent, under chapter 7.90, 7.92, 10.14, 9A.46,  
28 10.99, 26.50, or 26.52 RCW or under any other applicable statute; and

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

32           (~~(4)~~) (5) The court administrator shall verify the terms of any  
33 existing order governing the parties. The court may not delay  
34 granting relief because of the existence of a pending action between  
35 the parties or the necessity of verifying the terms of an existing  
36 order. A petition for an extreme risk protection order may be granted  
37 whether or not there is a pending action between the parties. Relief  
38 under this chapter must not be denied or delayed on the grounds that  
39 relief is available in another action.

1       ~~((+5))~~ (6) If the petitioner is a law enforcement officer or  
2 agency, the petitioner shall make a good faith effort to provide  
3 notice to a family or household member of the respondent and to any  
4 known third party who may be at risk of violence. The notice must  
5 state that the petitioner intends to petition the court for an  
6 extreme risk protection order or has already done so, and include  
7 referrals to appropriate resources, including mental health, domestic  
8 violence, and counseling resources. The petitioner must attest in the  
9 petition to having provided such notice, or attest to the steps that  
10 will be taken to provide such notice.

11       ~~((+6))~~ (7) If the petition states that disclosure of the  
12 petitioner's address would risk harm to the petitioner or any member  
13 of the petitioner's family or household, the petitioner's address may  
14 be omitted from all documents filed with the court. If the petitioner  
15 has not disclosed an address under this subsection, the petitioner  
16 must designate an alternative address at which the respondent may  
17 serve notice of any motions. If the petitioner is a law enforcement  
18 officer or agency, the address of record must be that of the law  
19 enforcement agency.

20       ~~((+7))~~ (8) Within ninety days of receipt of the master copy from  
21 the administrative office of the courts, all court clerk's offices  
22 shall make available the standardized forms, instructions, and  
23 informational brochures required by RCW 7.94.150. Any assistance or  
24 information provided by clerks under this section does not constitute  
25 the practice of law and clerks are not responsible for incorrect  
26 information contained in a petition.

27       ~~((+8))~~ (9) No fees for filing or service of process may be  
28 charged by a court or any public agency to petitioners seeking relief  
29 under this chapter. Petitioners shall be provided the necessary  
30 number of certified copies, forms, and instructional brochures free  
31 of charge.

32       ~~((+9))~~ (10) A person is not required to post a bond to obtain  
33 relief in any proceeding under this section.

34       ~~((+10))~~ (11) The superior courts of the state of Washington have  
35 jurisdiction over proceedings under this chapter. The juvenile court  
36 may hear a proceeding under this chapter if the respondent is under  
37 the age of eighteen years. Additionally, district and municipal  
38 courts have limited jurisdiction over issuance and enforcement of ex  
39 parte extreme risk protection orders issued under RCW 7.94.050. The  
40 district or municipal court shall set the full hearing provided for

1 in RCW 7.94.040 in superior court and transfer the case. If the  
2 notice and order are not served on the respondent in time for the  
3 full hearing, the issuing court has concurrent jurisdiction with the  
4 superior court to extend the ex parte extreme risk protection order.

5 (12) When a respondent is under the age of eighteen years at the  
6 time any extreme risk protection order or ex parte extreme risk  
7 protection order is entered:

8 (a) The order must be entered into and maintained in computer-  
9 based systems as required in RCW 7.94.110;

10 (b) The court records related to the proceedings must remain  
11 confidential as required by chapter 13.50 RCW; and

12 (c) The court records must be administratively sealed after the  
13 latest of (i) the respondent's eighteenth birthday; or (ii) the  
14 termination of the extreme risk protection order.

15 (13) The court shall give law enforcement priority at any extreme  
16 risk protection order calendar because of the importance of immediate  
17 temporary removal of firearms in situations of extreme risk and the  
18 goal of minimizing the time law enforcement must otherwise wait for a  
19 particular case to be called, which can hinder their other patrol and  
20 supervisory duties. In the alternative, the court may allow a law  
21 enforcement petitioner to participate telephonically, or allow  
22 another representative from that law enforcement agency or the  
23 prosecutor's office to present the information to the court if  
24 personal presence of the petitioning officer is not required for  
25 testimonial purposes.

26 (14) Recognizing that an extreme risk protection order may need  
27 to be issued outside of normal business hours, courts shall allow law  
28 enforcement petitioners to petition after-hours for an ex parte  
29 extreme risk protection order using an on-call, after-hours judge, as  
30 is done for approval of after-hours search warrants.

31 **Sec. 3.** RCW 7.94.060 and 2017 c 3 s 7 are each amended to read  
32 as follows:

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

36 (2) The law enforcement agency with jurisdiction in the area in  
37 which the respondent resides shall serve the respondent personally,  
38 unless the petitioner elects to have the respondent served by a  
39 private party.

1 (3) If service by a law enforcement agency is to be used, the  
2 clerk of the court shall cause a copy of the order issued under this  
3 chapter to be forwarded on or before the next judicial day to the law  
4 enforcement agency specified in the order for service upon the  
5 respondent. Service of an order issued under this chapter takes  
6 precedence over the service of other documents, unless the other  
7 documents are of a similar emergency nature.

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

12 (5) If an order entered by the court recites that the respondent  
13 appeared in person before the court, the necessity for further  
14 service is waived and proof of service of that order is not  
15 necessary.

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

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

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

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

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