

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0457.01 Owen Hatch x2698

SENATE BILL 26-004

SENATE SPONSORSHIP

Sullivan,

HOUSE SPONSORSHIP

Froelich,

Senate Committees
State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING WHO MAY PETITION A COURT FOR AN EXTREME RISK**
102 **PROTECTION ORDER.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill adds a health-care facility that employs a health-care professional or mental health professional and a co-responder who is part of a co-responder community response to the list of community members who may petition the court for an extreme risk protection order. The bill adds health-care facilities, behavioral health treatment facilities, K-12 schools, and institutions of higher education as institutional petitioners

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

that may petition a court for an extreme risk protection order.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 13-14.5-102, **amend**
3 (1), (2), and (11); and **add** (6.5) as follows:

4 **13-14.5-102. Definitions.**

5 As used in this article 14.5, unless the context otherwise clearly
6 requires:

7 (1) "Community member" means:

8 (a) A licensed health-care professional or mental health
9 professional who, through a direct professional relationship, provided
10 care to the respondent or the respondent's child within six months before
11 requesting the protection order; **or**

12 (b) A HEALTH-CARE FACILITY THAT EMPLOYS THE LICENSED
13 HEALTH-CARE PROFESSIONAL OR MENTAL HEALTH PROFESSIONAL
14 DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION IF THE HEALTH-CARE
15 FACILITY IS LICENSED OR CERTIFIED IN ACCORDANCE WITH THE
16 REQUIREMENTS OF PART 1 OF ARTICLE 3 OF TITLE 25 AND PROVIDED CARE
17 TO THE RESPONDENT OR THE RESPONDENT'S CHILD WITHIN SIX MONTHS
18 BEFORE REQUESTING THE PROTECTION ORDER;

19 (c) An educator who, through a direct professional relationship,
20 interacted with the respondent or the respondent's child within six months
21 before requesting the protection order; **OR**

22 (d) A CO-RESPONDER WHO IS PART OF A CO-RESPONDER
23 COMMUNITY RESPONSE, AS DEFINED IN SECTION 24-32-3501 (8)(d), WHO,
24 IN THEIR CAPACITY AS A CO-RESPONDER, INTERACTED WITH THE
25 RESPONDENT OR THE RESPONDENT'S CHILD WITHIN SIX MONTHS BEFORE

1 REQUESTING THE PROTECTION ORDER BUT WHO IS NOT A LAW
2 ENFORCEMENT OFFICER WHO RESPONDED TO A BEHAVIORAL
3 HEALTH-RELATED CALL INVOLVING THE RESPONDENT.

4 (2) "Educator" means a teacher employed to instruct students or
5 a school administrator in a school district, private school, charter school
6 institute, or an individual charter school; or a faculty member at an
7 institution of higher education, INCLUDING A COMMUNITY COLLEGE, A
8 LOCAL DISTRICT COLLEGE, OR AN AREA TECHNICAL COLLEGE.

9 (6.5) "INSTITUTIONAL PETITIONER" MEANS AN ENTITY THAT
10 EMPLOYS OR CONTRACTS WITH A COMMUNITY MEMBER AS DEFINED IN THIS
11 SECTION, INCLUDING, BUT NOT LIMITED TO:

12 (a) A SCHOOL DISTRICT;

13 (b) A PRIVATE SCHOOL;

14 (c) THE STATE CHARTER SCHOOL INSTITUTE CREATED IN SECTION
15 22-30.5-503;

16 (d) AN INDIVIDUAL DISTRICT CHARTER SCHOOL OR INSTITUTE
17 CHARTER SCHOOL;

18 (e) AN INSTITUTION OF HIGHER EDUCATION, INCLUDING A
19 COMMUNITY COLLEGE, A LOCAL DISTRICT COLLEGE, OR AN AREA
20 TECHNICAL COLLEGE;

21 (f) A HOSPITAL OR HEALTH-CARE FACILITY LICENSED IN
22 ACCORDANCE WITH THE REQUIREMENTS OF PART 1 OF ARTICLE 3 OF TITLE
23 25; OR

24 (g) A BEHAVIORAL HEALTH OR SUBSTANCE USE DISORDER
25 TREATMENT FACILITY OR OTHER FACILITY WHERE BEHAVIORAL HEALTH
26 CRISIS SERVICES ARE OFFERED.

27 (11) "Respondent" means the person, INCLUDING A MINOR, who

1 is identified as the respondent in a petition filed pursuant to this article
2 14.5.

3 **SECTION 2.** In Colorado Revised Statutes, 13-14.5-103, amend
4 (1)(a) and (1)(b) as follows:

5 **13-14.5-103. Temporary extreme risk protection orders.**

6 (1) (a) A family or household member of the respondent, a
7 community member, AN INSTITUTIONAL PETITIONER, or a law enforcement
8 officer or agency may request a temporary extreme risk protection order
9 without notice to the respondent by including in the petition for the
10 extreme risk protection order an affidavit, signed under oath and penalty
11 of perjury, supporting the issuance of a temporary extreme risk protection
12 order that sets forth the facts tending to establish the grounds of the
13 petition or the reason for believing they exist and, if the petitioner is a
14 family or household member or community member, attesting that the
15 petitioner is a family or household member or community member. The
16 petition must comply with the requirements of section 13-14.5-104 (3).
17 If the petitioner is a law enforcement officer or law enforcement agency,
18 the law enforcement officer or law enforcement agency shall concurrently
19 file a sworn affidavit for a COURT TO ISSUE A search warrant pursuant to
20 section 16-3-301.5 to search for any firearms in the possession or control
21 of the respondent at a location or locations to be named in the warrant. If
22 a petition filed pursuant to section 27-65-106 is also filed against the
23 respondent, a court of competent jurisdiction may hear that petition at the
24 same time as the hearing for a temporary extreme risk protection order or
25 the hearing for a continuing extreme risk protection order.

26 (b) Notwithstanding any provision of law to the contrary, a
27 licensed health-care professional, ~~or~~ LICENSED mental health professional,

1 OR INSTITUTIONAL PETITIONER authorized to file a petition for a temporary
2 extreme risk protection order, upon filing the petition for a temporary
3 extreme risk protection order, is authorized to disclose protected health
4 information of the respondent as necessary for the full investigation and
5 disposition of the request for a temporary extreme risk protection order.
6 When disclosing protected health information, the licensed health-care
7 professional, ~~or~~ LICENSED mental health professional, OR INSTITUTIONAL
8 PETITIONER shall make reasonable efforts to limit protected health
9 information to the minimum necessary to accomplish the filing of the
10 petition. Upon receipt of a petition by a licensed health-care professional,
11 ~~or~~ LICENSED mental health professional, OR INSTITUTIONAL PETITIONER,
12 and for good cause shown, the court may issue orders to obtain any
13 records or documents relating to diagnosis, prognosis, or treatment, and
14 clinical records, of the respondent as necessary for the full investigation
15 and disposition of the petition for a temporary extreme risk protection
16 order. When protected health information is disclosed or when the court
17 receives any records or documents related to diagnosis, prognosis, or
18 treatment or clinical records, the court shall order that the parties are
19 prohibited from using or disclosing the protected health information for
20 any purpose other than the proceedings for a petition for a temporary
21 extreme risk protection order and shall order the return to the covered
22 entity or destroy the protected health information, including all copies
23 made, at the end of the litigation or proceeding. The court shall seal all
24 records and other health information received that contain protected
25 health information. The decision of a licensed health-care professional,
26 ~~or~~ LICENSED mental health professional, OR INSTITUTIONAL PETITIONER
27 to disclose or not to disclose records or documents relating to the

1 diagnosis, prognosis, or treatment, and clinical records of a respondent,
2 when made reasonably and in good faith, shall not be the basis for any
3 civil, administrative, or criminal liability with respect to the licensed
4 health-care professional, ~~or~~ licensed mental health professional, OR
5 INSTITUTIONAL PETITIONER.

6 **SECTION 3.** In Colorado Revised Statutes, 13-14.5-104, amend
7 (1)(a) and (1)(b) as follows:

8 **13-14.5-104. Petition for extreme risk protection order.**

9 (1) (a) A petition for an extreme risk protection order may be filed
10 by a family or household member of the respondent, a community
11 member, AN INSTITUTIONAL PETITIONER, or a law enforcement officer or
12 agency. If the petition is filed by a law enforcement officer or agency, a
13 county or city attorney shall represent the officer or agency in any judicial
14 proceeding upon request. If the petition is filed by a family or household
15 member or community member, the petitioner, to the best of the
16 petitioner's ability, shall notify the law enforcement agency in the
17 jurisdiction where the respondent resides of the petition and the hearing
18 date with enough advance notice to allow for participation or attendance.
19 Upon the filing of a petition, the court shall appoint an attorney to
20 represent the respondent, and the court shall include the appointment in
21 the notice of hearing provided to the respondent pursuant to section
22 13-14.5-105 (1)(a). The respondent may replace the attorney with an
23 attorney of the respondent's own selection at any time at the respondent's
24 own expense. The court shall pay the attorney fees for an attorney
25 appointed for the respondent.

26 (b) Notwithstanding any provision of law to the contrary, a
27 licensed health-care professional, ~~or~~ LICENSED mental health professional,

1 OR INSTITUTIONAL PETITIONER authorized to file a petition for an extreme
2 risk protection order, upon filing the petition for an extreme risk
3 protection order, is authorized to disclose protected health information of
4 the respondent as necessary for the full investigation and disposition of
5 the petition for an extreme risk protection order. When disclosing
6 protected health information, the licensed health-care professional, ~~or~~
7 LICENSED mental health professional, OR INSTITUTIONAL PETITIONER shall
8 make reasonable efforts to limit protected health information to the
9 minimum necessary to accomplish the filing of the request. Upon receipt
10 of a petition by a licensed health-care professional, ~~or~~ LICENSED mental
11 health professional, OR INSTITUTIONAL PETITIONER, and for good cause
12 shown, the court may issue orders to obtain any records or documents
13 relating to diagnosis, prognosis, or treatment, and clinical records of the
14 respondent as necessary for the full investigation and disposition of the
15 petition for an extreme risk protection order. When protected health
16 information is disclosed or when the court receives any records or
17 documents related to diagnosis, prognosis, or treatment or clinical
18 records, the court shall order that the parties are prohibited from using or
19 disclosing the protected health information for any purpose other than the
20 proceedings for a petition for an extreme risk protection order and shall
21 order the return to the covered entity or destroy the protected health
22 information, including all copies made, at the end of the litigation or
23 proceeding. The court shall seal all records and other health information
24 received that contain protected health information. The decision of a
25 licensed health-care professional, ~~or~~ LICENSED mental health professional,
26 OR INSTITUTIONAL PETITIONER to disclose or not to disclose records or
27 documents relating to the diagnosis, prognosis, or treatment, and clinical

1 records of a respondent, when made reasonably and in good faith, must
2 not be the basis for any civil, administrative, or criminal liability with
3 respect to the licensed health-care professional, ~~or~~ LICENSED mental
4 health professional, OR INSTITUTIONAL PETITIONER.

5 **SECTION 4.** In Colorado Revised Statutes, 13-14.5-107, **amend**
6 (2)(b) as follows:

7 **13-14.5-107. Termination or renewal of protection orders.**

8 **(2) Renewal.**

9 (b) A petitioner, a family or household member of a respondent,
10 a community member, AN INSTITUTIONAL PETITIONER, or a law
11 enforcement officer or agency may, by motion, request a renewal of an
12 extreme risk protection order at any time within sixty-three calendar days
13 before the expiration of the order.

14 **SECTION 5.** In Colorado Revised Statutes, 13-14.5-113, **amend**
15 (4) as follows:

16 **13-14.5-113. Liability.**

17 (4) This article 14.5 does not require a family or household
18 member of the respondent, a community member, AN INSTITUTIONAL
19 PETITIONER, or a law enforcement officer or agency to file a petition for
20 a temporary emergency extreme risk protection order or petition for an
21 extreme risk protection order.

22 **SECTION 6. Safety clause.** The general assembly finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, or safety or for appropriations for
25 the support and maintenance of the departments of the state and state
26 institutions.