

C.R.S. 13-14.5-104

Copy Citation

Statutes current and final through all legislation from the 2023 Regular and First Extraordinary Sessions.

- [Colorado Revised Statutes Annotated](#)
- [Title 13. Courts and Court Procedure \(§§ 13-1-101 — 13-100-102\)](#)
- [Civil Protection Orders \(Arts. 14 — 14.5\)](#)
- [Article 14.5. Extreme Risk Protection Orders \(§§ 13-14.5-101 — 13-14.5-116\)](#)

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

(1)

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

(b) Notwithstanding any provision of law to the contrary, a licensed health-care professional or mental health professional authorized to file a petition for an extreme risk protection order, upon filing the petition for an extreme risk protection order, is authorized to disclose protected health information of the respondent as necessary for the full investigation and disposition of the petition for an extreme risk protection order. When disclosing protected health information, the licensed health-care professional or mental health professional shall make reasonable efforts to limit protected health information to the minimum necessary to accomplish the filing of the request. Upon receipt of a petition by a licensed health-care professional or mental health professional and for good cause shown, the court may issue orders to obtain any records or documents relating to diagnosis, prognosis, or treatment, and clinical records of the respondent as necessary for the full investigation and disposition of the petition for an extreme risk protection order. When protected health information is disclosed or when the court receives any records or documents related to diagnosis, prognosis, or treatment or clinical records, the court shall order that the parties are prohibited from using or disclosing the protected health information for any purpose other than the proceedings for a petition for an extreme risk protection order and shall order the return to the covered entity or destroy the protected health information, including all copies made, at the end of the litigation or proceeding. The court shall seal all records and other health information received that contain protected health information. The decision of a licensed health-care professional or mental health professional to disclose or not to disclose records or documents relating to the diagnosis, prognosis, or treatment, and clinical records of a respondent, when made reasonably and in good faith, must not be the basis for any civil, administrative, or criminal liability with respect to the licensed health-care professional or mental health professional.

(2)

(a) Venue for filing a petition pursuant to this section if the petitioner is a family or household member is proper in any county where the acts that are the subject of the petition occur, in any county where one of the parties resides, or in any county where one of the parties is employed. This requirement for venue does not prohibit the change of venue to any other county appropriate under applicable law.

(b) A petition for an extreme risk protection order by a petitioner who is not a family or household member must be filed in the county where the respondent resides.

(3) A petition must:

(a) Allege that the respondent poses a significant risk of causing personal injury to self or others by having in the respondent's custody or control a firearm or by purchasing, possessing, or receiving a firearm and must be accompanied by an affidavit, signed under oath and penalty of perjury, stating the specific statements, actions, or facts that give rise to a reasonable fear of future dangerous acts by the respondent;

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

(c) Identify whether the respondent is required to possess, carry, or use a firearm as a condition of the respondent's current employment;

(d) Identify whether there is a known existing domestic abuse protection order or emergency protection order governing the petitioner or respondent;

(e) Identify whether there is a pending lawsuit, complaint, petition, or other action between the parties to the petition; and

(f) If the petitioner is not a law enforcement agency, identify whether the petitioner informed a local law enforcement agency regarding the respondent.

(4) The court shall verify the terms of any existing order identified pursuant to subsection (3)(d) of this section governing the parties. The court may not delay granting relief because of the existence of a pending action between the parties. A petition for an extreme risk protection order may be granted whether or not there is a pending action between the parties.

(5) If the petition states that disclosure of the petitioner's address would risk harm to the petitioner or any member of the petitioner's family or household, the petitioner's address may be omitted from all documents filed with the court. If the petitioner has not disclosed an address pursuant to this section, the petitioner must designate an alternative address at which the respondent may serve notice of any motions. If the petitioner is a law enforcement officer or agency, the address of record must be that of the law enforcement agency.

(6) A court or public agency shall not charge a fee for filing or service of process to a petitioner seeking relief pursuant to this article 14.5. A petitioner or respondent must be provided the necessary number of certified copies, forms, and instructional brochures free of charge.

(7) A person is not required to post a bond to obtain relief in any proceeding pursuant to this section.

(8) The district and county courts of the state of Colorado have jurisdiction over proceedings pursuant to this article 14.5.

History

Source:L. 2023:Entire article R&RE, (SB 23-170), ch. 124, p. 466, § 1, effective April 28.

▼ Annotations

Research References & Practice Aids

Hierarchy Notes:

C.R.S. Title 13, Art. 14.5

