

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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 OR A COMMUNITY MEMBER, AS
25 DEFINED IN THIS SECTION, WHO, AS PART OF A LAW ENFORCEMENT AGENCY

1 OR EMERGENCY RESPONSE TEAM, PROVIDES ON-SITE CRISIS ASSESSMENT,
2 DE-ESCALATION, OR INTERVENTION SERVICES TO INDIVIDUALS IN CRISIS,
3 WHO, INTERACTED WITH THE RESPONDENT OR THE RESPONDENT'S CHILD
4 WITHIN SIX MONTHS BEFORE REQUESTING THE PROTECTION ORDER BUT
5 WHO IS NOT A LAW ENFORCEMENT OFFICER WHO RESPONDED TO A
6 BEHAVIORAL HEALTH-RELATED CALL INVOLVING THE RESPONDENT.

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

12 (6.5) "INSTITUTIONAL PETITIONER" MEANS AN ENTITY THAT
13 EMPLOYS OR CONTRACTS WITH A COMMUNITY MEMBER AS DEFINED IN THIS
14 SECTION, INCLUDING, BUT NOT LIMITED TO:

15 (a) A SCHOOL DISTRICT;
16 (b) A PRIVATE SCHOOL;
17 (c) THE STATE CHARTER SCHOOL INSTITUTE CREATED IN SECTION
18 22-30.5-503;
19 (d) AN INDIVIDUAL DISTRICT CHARTER SCHOOL OR INSTITUTE
20 CHARTER SCHOOL;

21 (e) AN INSTITUTION OF HIGHER EDUCATION, INCLUDING A
22 COMMUNITY COLLEGE, A LOCAL DISTRICT COLLEGE, OR AN AREA
23 TECHNICAL COLLEGE;

24 (f) A HOSPITAL OR HEALTH-CARE FACILITY LICENSED IN
25 ACCORDANCE WITH THE REQUIREMENTS OF PART 1 OF ARTICLE 3 OF TITLE
26 25; OR

27 (g) A BEHAVIORAL HEALTH OR SUBSTANCE USE DISORDER

1 TREATMENT FACILITY, BEHAVIORAL HEALTH ENTITIES, OR OTHER FACILITY
2 WHERE BEHAVIORAL HEALTH CRISIS SERVICES ARE OFFERED.

3 (11) "Respondent" means the person, INCLUDING A A PERSON
4 UNDER EIGHTEEN YEARS OLD who is identified as the respondent in a
5 petition filed pursuant to this article 14.5.

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

8 **13-14.5-103. Temporary extreme risk protection orders.**

9 (1) (a) A family or household member of the respondent, a
10 community member, AN INSTITUTIONAL PETITIONER, or a law enforcement
11 officer or agency may request a temporary extreme risk protection order
12 without notice to the respondent by including in the petition for the
13 extreme risk protection order an affidavit, signed under oath and penalty
14 of perjury, supporting the issuance of a temporary extreme risk protection
15 order that sets forth the facts tending to establish the grounds of the
16 petition or the reason for believing they exist and, if the petitioner is a
17 family or household member or community member, attesting that the
18 petitioner is a family or household member or community member. The
19 petition must comply with the requirements of section 13-14.5-104 (3).
20 If the petitioner is a law enforcement officer or law enforcement agency,
21 AND IF THE LAW ENFORCEMENT OFFICER OR LAW ENFORCEMENT AGENCY
22 HAS PROBABLE CAUSE TO BELIEVE THE RESPONDENT HAS FIREARMS
23 WITHIN THEIR CUSTODY, CONTROL, OR POSSESSION, the law enforcement
24 officer or law enforcement agency shall concurrently file a sworn
25 affidavit for a COURT TO ISSUE A search warrant pursuant to section
26 16-3-301.5 to search for any firearms in the possession, CUSTODY, or
27 control of the respondent at a location or locations to be named in the

1 warrant. If a petition filed pursuant to section 27-65-106 is also filed
2 against the respondent, a court of competent jurisdiction may hear that
3 petition at the same time as the hearing for a temporary extreme risk
4 protection order or the hearing for a continuing extreme risk protection
5 order.

6 (b) Notwithstanding any provision of law to the contrary, a
7 licensed health-care professional, or mental health professional,
8 COMMUNITY MEMBER OR INSTITUTIONAL PETITIONER authorized to file a
9 petition for a temporary extreme risk protection order, upon filing the
10 petition for a temporary extreme risk protection order, is authorized to
11 disclose protected health information of the respondent as necessary for
12 the full investigation and disposition of the request for a temporary
13 extreme risk protection order. When disclosing protected health
14 information, the licensed health-care professional, or mental health
15 professional, COMMUNITY MEMBER OR INSTITUTIONAL PETITIONER shall
16 make reasonable efforts to limit protected health information to the
17 minimum necessary to accomplish the filing of the petition. Upon receipt
18 of a petition by a licensed health-care professional, or mental health
19 professional, COMMUNITY MEMBER OR INSTITUTIONAL PETITIONER, and
20 for good cause shown, the court may issue orders to obtain any records or
21 documents relating to diagnosis, prognosis, or treatment, and clinical
22 records, of the respondent as necessary for the full investigation and
23 disposition of the petition for a temporary extreme risk protection order.
24 When protected health information is disclosed or when the court receives
25 any records or documents related to diagnosis, prognosis, or treatment or
26 clinical records, the court shall order that the parties are prohibited from
27 using or disclosing the protected health information for any purpose other

1 than the proceedings for a petition for a temporary extreme risk protection
2 order and shall order the return to the covered entity or destroy the
3 protected health information, including all copies made, at the end of the
4 litigation or proceeding. The court shall seal all records and other health
5 information received that contain protected health information. The
6 decision of a licensed health-care professional, or mental health
7 professional, COMMUNITY MEMBER OR INSTITUTIONAL PETITIONER to
8 disclose or not to disclose records or documents relating to the diagnosis,
9 prognosis, or treatment, and clinical records of a respondent, when made
10 reasonably and in good faith, shall not be the basis for any civil,
11 administrative, or criminal liability with respect to the licensed
12 health-care professional, or mental health professional, COMMUNITY
13 MEMBER OR INSTITUTIONAL PETITIONER.

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

16 **13-14.5-104. Petition for extreme risk protection order.**

17 (1)(a) A petition for an extreme risk protection order may be filed
18 by a family or household member of the respondent, a community
19 member, AN INSTITUTIONAL PETITIONER, or a law enforcement officer or
20 agency. If the petition is filed by a law enforcement officer or agency, a
21 county or city attorney shall represent the officer or agency in any judicial
22 proceeding upon request. If the petition is filed by a family or household
23 member or community member, the petitioner, to the best of the
24 petitioner's ability, shall notify the law enforcement agency in the
25 jurisdiction where the respondent resides of the petition and the hearing
26 date with enough advance notice to allow for participation or attendance.
27 Upon the filing of a petition, the court shall appoint an attorney to

1 represent the respondent, and the court shall include the appointment in
2 the notice of hearing provided to the respondent pursuant to section
3 13-14.5-105 (1)(a). The respondent may replace the attorney with an
4 attorney of the respondent's own selection at any time at the respondent's
5 own expense. The court shall pay the attorney fees for an attorney
6 appointed for the respondent.

7 (b) Notwithstanding any provision of law to the contrary, a
8 licensed health-care professional, or mental health professional,
9 COMMUNITY MEMBER OR INSTITUTIONAL PETITIONER authorized to file a
10 petition for an extreme risk protection order, upon filing the petition for
11 an extreme risk protection order, is authorized to disclose protected health
12 information of the respondent as necessary for the full investigation and
13 disposition of the petition for an extreme risk protection order. When
14 disclosing protected health information, the licensed health-care
15 professional, or mental health professional, COMMUNITY MEMBER OR
16 INSTITUTIONAL PETITIONER shall make reasonable efforts to limit
17 protected health information to the minimum necessary to accomplish the
18 filing of the request. Upon receipt of a petition by a licensed health-care
19 professional, or mental health professional, COMMUNITY MEMBER OR
20 INSTITUTIONAL PETITIONER, and for good cause shown, the court may
21 issue orders to obtain any records or documents relating to diagnosis,
22 prognosis, or treatment, and clinical records of the respondent as
23 necessary for the full investigation and disposition of the petition for an
24 extreme risk protection order. When protected health information is
25 disclosed or when the court receives any records or documents related to
26 diagnosis, prognosis, or treatment or clinical records, the court shall order
27 that the parties are prohibited from using or disclosing the protected

1 health information for any purpose other than the proceedings for a
2 petition for an extreme risk protection order and shall order the return to
3 the covered entity or destroy the protected health information, including
4 all copies made, at the end of the litigation or proceeding. The court shall
5 seal all records and other health information received that contain
6 protected health information. The decision of a licensed health-care
7 professional, or mental health professional, COMMUNITY MEMBER OR
8 INSTITUTIONAL PETITIONER to disclose or not to disclose records or
9 documents relating to the diagnosis, prognosis, or treatment, and clinical
10 records of a respondent, when made reasonably and in good faith, must
11 not be the basis for any civil, administrative, or criminal liability with
12 respect to the licensed health-care professional, or mental health
13 professional, COMMUNITY MEMBER OR INSTITUTIONAL PETITIONER.

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

16 **13-14.5-107. Termination or renewal of protection orders.**

17 **(2) Renewal.**

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

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

25 **13-14.5-113. Liability.**

26 (4) This article 14.5 does not require a family or household
27 member of the respondent, a community member, INSTITUTIONAL

1 PETITIONER, or a law enforcement officer or agency to file a petition for
2 a temporary emergency extreme risk protection order or petition for an
3 extreme risk protection order.

4 **SECTION 6. Safety clause.** The general assembly finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, or safety or for appropriations for
7 the support and maintenance of the departments of the state and state
8 institutions.