

HB 40 -- FIREARMS

SPONSOR: Lavender

This bill establishes an extreme risk order of protection. The bill allows any individual to file a petition with a court for an extreme risk protection order based on specified criteria. The court shall issue the order if the court finds the respondent poses a significant risk of personal injury to himself or herself, or others. A respondent subject to such an order is required to surrender all firearms in his or her possession.

The bill allows a gun seizure warrant to be issued when there is probable cause to believe that the individual issued the restraining order failed to comply with the order to surrender a firearm. Criteria for determining whether jointly owned guns may be seized are provided in the bill.

A hearing is required no later than 14 days after the execution of the protection order and seizure warrant. The state's burden of proof is by clear and convincing evidence. An order prohibiting the individual from purchasing, owning, possessing, or controlling a firearm, rifle, or shotgun cannot be extended longer than one year unless it is renewed by a judge after a new hearing as specified in the bill.

The bill specifies criteria for seizing firearms discovered in plain sight during specified police investigations involving domestic violence or gun violence. The bill specifies that it is unlawful and a class D felony for any person subject to an extreme risk order of protection to possess a firearm.

This bill is the same as HB 1340 (2018) and HB 365 (2017).