

HB 458 -- RISK PROTECTION ORDERS

SPONSOR: Merideth

This bill allows law enforcement officers or agencies to file a petition for a risk protection order (RPO) when the officer or agency believes an individual poses a significant danger of causing injury to himself or others by having possession of a firearm. The petition for an RPO shall identify the quantity, types, and location of all firearms believed to be in the respondents possession and identify whether there are any other known protection orders currently issued against the respondent.

The petitioner, the law enforcement officer or agency, shall make a good faith effort to provide notice to a family or household member of the respondent, and to any known third party who may be at risk of violence.

Upon receipt of a petition, the court shall order a hearing to be held no later than 14 days after the date of the order and shall issue a notice of hearing to the respondent. The court shall cause a copy of the notice of hearing and petition be forwarded on or before the next business day to the appropriate law enforcement agency for service upon the respondent, as provided.

A petitioner may request and the court may issue, without notice to the respondent and on a finding of reasonable cause, a temporary ex parte RPO (TRPO) pending the hearing. A request for a TRPO shall include detailed allegations based on personal knowledge that the respondent poses a significant danger of causing personal injury in the near future by having a firearm in his or her custody or control. The court shall hold a hearing on the TRPO in person or by telephone on the day or on the business day immediately following the day the petition is filed. Such TRPO shall be served concurrently with the notice of hearing and petition. If the court denies the petitioner's request for a TRPO, the court shall state the particular reasons for the denial.

In determining whether grounds for a RPO exist, the court may consider any relevant evidence, including but not limited to:

- (1) Recent acts or threats or other acts or threats of violence within the last 12 months by the respondent;
- (2) Evidence of the respondent being seriously mentally ill or having recurring mental health issues;
- (3) Any violation of previous or existing risk protection orders against the respondent;

- (4) Any convictions of domestic violence against the respondent, in this or other any other state;
- (5) Any relevant information from family or household members; and
- (6) Any witness testimony, taken by a witness under oath, relating to the matter before the court.

During the hearing, the court shall consider, and may order if appropriate, a mental health evaluation or chemical dependency evaluation of the respondent. If the court denies the petitioner's request for an RPO, the court shall state the particular reasons for the denial.

The court shall provide a copy of the notice of the hearing, petition, and TRPO or RPO, as applicable, to the sheriff of the county in which the respondent resides or can be found. The sheriff shall serve it upon the respondent as soon as practicable on any day of the week and at any time of the day or night.

Additionally, the chief judge of each circuit, in consultation with the appropriate sheriff, may authorize a law enforcement agency within the jurisdiction to effect service. Such law enforcement agency effecting service shall use service and verification procedures consistent with those of the sheriff. In issuing an RPO, the court shall inform the respondent that he or she is entitled to request a hearing to vacate the order.

Within 24 hours after issuance, the court shall enter any RPO or TRPO into the uniform case reporting system and forward a copy of any such order to the appropriate law enforcement agency. Upon receipt, the agency shall enter any such order received into the Missouri Uniform Law Enforcement System (MULES) and the National Crime Information Center (NCIC).

Upon service of an RPO or TRPO, a respondent shall immediately surrender all firearms owned by the respondent in his or her custody or control and any concealed carry permit. The law enforcement officer shall take possession of all such firearms. The law enforcement officer may seek a search warrant to conduct a search for firearms owned by the respondent if the officer has probable cause to believe there are firearms owned by the respondent which have not been surrendered. At the time of surrender, the law enforcement officer shall issue a copy of a receipt identifying all such firearms to the respondent, and file the original receipt with the court.

All law enforcement agencies shall develop policies and procedures regarding the acceptance, storage, and return of firearms and licenses.

If an RPO is vacated or ends without extension, the law enforcement agency holding the firearm or concealed carry permit owned by the respondent shall return such surrendered firearm or permit upon request by the respondent after confirming through a background check the respondent is currently eligible to own or possess a firearm. The agency shall provide notice to any family or household members of the respondent prior to returning any surrendered firearm to the respondent. Any firearm that remains unclaimed for one year shall be disposed of in accordance with the agency's policies and procedures.

The Office of the State Courts Administrator shall develop and prepare instructions and informational brochures, standard petition and RPO forms, and a court staff handbook on the RPO process. The Office shall determine the significant non-English-speaking populations in the state and prepare these materials in those languages. Such materials shall be prepared in consultation with relevant stakeholders as described in the bill.

A person who makes a false statement under oath in a hearing in regard to any material matter under the provisions of this bill shall be guilty of a class E felony. Any person who has in his or her custody or control a firearm or who purchases, possesses, or receives a firearm in violation of the provisions of this bill shall be guilty of a class E felony.

This bill is similar to HB 1805 (2022).