

**NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**

# An Act

SENATE BILL 26-004

BY SENATOR(S) Sullivan and Gonzales J., Amabile, Ball, Cutter, Danielson, Exum, Jodeh, Kipp, Kolker, Lindstedt, Michaelson Jenet, Rodriguez, Wallace, Weissman, Coleman;  
also REPRESENTATIVE(S) Froelich and Willford, Bacon, Boesenecker, Brown, Camacho, Duran, Espenosa, Garcia, Gilchrist, Hamrick, Jackson, Joseph, Lindsay, McCormick, Nguyen, Paschal, Rutinel, Rydin, Sirota, Smith, Stewart R., Story, Titone, Woodrow, Zokaie, McCluskie.

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

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

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

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

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

(1) "Community member" means:

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

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

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

(c) A CO-RESPONDER WHO IS PART OF A CO-RESPONDER COMMUNITY RESPONSE, AS DEFINED IN SECTION 24-32-3501 (8)(d), WHO, IN THEIR CAPACITY AS A CO-RESPONDER, OR A COMMUNITY MEMBER, AS DEFINED IN THIS SECTION, WHO, AS PART OF A LAW ENFORCEMENT AGENCY OR EMERGENCY RESPONSE TEAM, PROVIDES ON-SITE CRISIS ASSESSMENT, DE-ESCALATION, OR INTERVENTION SERVICES TO INDIVIDUALS IN CRISIS, WHO INTERACTED WITH THE RESPONDENT OR THE RESPONDENT'S CHILD WITHIN SIX MONTHS BEFORE REQUESTING THE PROTECTION ORDER BUT WHO IS NOT A LAW ENFORCEMENT OFFICER WHO RESPONDED TO A BEHAVIORAL HEALTH-RELATED CALL INVOLVING THE RESPONDENT.

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

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

(a) A SCHOOL DISTRICT;

(b) A PRIVATE SCHOOL;

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

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

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

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

(g) A BEHAVIORAL HEALTH OR SUBSTANCE USE DISORDER TREATMENT FACILITY, BEHAVIORAL HEALTH ENTITIES, OR OTHER FACILITY WHERE BEHAVIORAL HEALTH CRISIS SERVICES ARE OFFERED.

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

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

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

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

27-65-106 is also filed against the respondent, a court of competent jurisdiction may hear that petition at the same time as the hearing for a temporary extreme risk protection order or the hearing for a continuing extreme risk protection order.

(b) Notwithstanding any provision of law to the contrary, a ~~licensed health-care professional or mental health professional~~ COMMUNITY MEMBER OR INSTITUTIONAL PETITIONER authorized to file a petition for a temporary extreme risk protection order, upon filing the petition for a temporary extreme risk protection order, is authorized to disclose protected health information of the respondent as necessary for the full investigation and disposition of the request for a temporary extreme risk protection order. When disclosing protected health information, the ~~licensed health-care professional or mental health professional~~ COMMUNITY MEMBER OR INSTITUTIONAL PETITIONER shall make reasonable efforts to limit protected health information to the minimum necessary to accomplish the filing of the petition. Upon receipt of a petition by a ~~licensed health-care professional or mental health professional~~, COMMUNITY MEMBER OR INSTITUTIONAL PETITIONER, 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 a temporary 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 a temporary 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~~ COMMUNITY MEMBER OR INSTITUTIONAL PETITIONER 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, shall not be the basis for any civil, administrative, or criminal liability with respect to the ~~licensed health-care professional or licensed mental health professional~~ COMMUNITY MEMBER OR INSTITUTIONAL PETITIONER.

**SECTION 3.** In Colorado Revised Statutes, 13-14.5-104, **amend**

(1)(a) and (1)(b) as follows:

**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, AN INSTITUTIONAL PETITIONER, 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,~~ COMMUNITY MEMBER OR INSTITUTIONAL PETITIONER 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,~~ COMMUNITY MEMBER OR INSTITUTIONAL PETITIONER 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,~~ COMMUNITY MEMBER OR INSTITUTIONAL PETITIONER, 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,~~ COMMUNITY MEMBER OR INSTITUTIONAL PETITIONER 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,~~ COMMUNITY MEMBER OR INSTITUTIONAL PETITIONER.

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

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

**(2) Renewal.**

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

**SECTION 5.** In Colorado Revised Statutes, 13-14.5-113, **amend** (1) and (4) as follows:

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

(1) Except as provided in section 13-14.5-111, this article 14.5 does not impose criminal, administrative, or civil liability on any person, including a community member, AN INSTITUTIONAL PETITIONER, or entity for acts or omissions made in good faith related to obtaining an extreme risk protection order or a temporary extreme risk protection order, including but not limited to reporting, declining to report, investigating, declining to investigate, filing, or declining to file a petition pursuant to this article 14.5.

This article 14.5 does not impose criminal or civil liability on a peace officer lawfully enforcing an order pursuant to this article 14.5.

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

**SECTION 6. Safety clause.** The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for

the support and maintenance of the departments of the state and state institutions.

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James Rashad Coleman, Sr.  
PRESIDENT OF  
THE SENATE

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Julie McCluskie  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Esther van Mourik  
SECRETARY OF  
THE SENATE

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Vanessa Reilly  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_

(Date and Time)

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Jared S. Polis  
GOVERNOR OF THE STATE OF COLORADO