

EXTREME RISK PROTECTION ORDER ACT (EXCERPT)
Act 38 of 2023

***** 691.1809.new THIS NEW SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE
2023 REGULAR SESSION SINE DIE *****

691.1809.new Contents of extreme risk protection order; effectiveness and enforceability.

Sec. 9. (1) If the court determines under section 7 that an extreme risk protection order should be issued, the court shall include all of the following provisions in the order:

(a) That the restrained individual shall not purchase or possess a firearm. That if the individual has been issued a license under section 2 of 1927 PA 372, MCL 28.422, that the individual has not used and that is not yet void, the individual shall not use it and shall surrender it to the law enforcement agency designated under subdivision (g).

(b) That the restrained individual shall not apply for a concealed pistol license and, if the restrained individual has been issued a license to carry a concealed pistol, the license will be suspended or revoked under section 8 of 1927 PA 372, MCL 28.428, once the order is entered into the law enforcement information network and that the individual shall surrender the license as required by section 8 of 1927 PA 372, MCL 28.428.

(c) That the restrained individual shall, within 24 hours or, at the court's discretion, immediately after being served with the order, surrender any firearms in the individual's possession or control to the law enforcement agency designated under subdivision (g) or, if allowed as ordered by the court, to a licensed firearm dealer on the list prepared under section 18.

(d) If the petitioner has identified any firearms under section 5(6), a specific description of the firearms to be surrendered or seized.

(e) If the order is issued under section 7(2), a statement that, if requested by the restrained individual, a hearing will be held within 14 days or 5 days, as applicable under section 7(3), after the restrained individual is served with or receives actual notice of the order and that the restrained individual may appear at the hearing and request the court to modify or rescind the order.

(f) A statement that the restrained individual may file a motion to modify or rescind the order as allowed under this act and that motion forms and filing instructions are available from the clerk of the court.

(g) A designation of the law enforcement agency that is responsible for forwarding the order to the Federal Bureau of Investigation under section 15(1). The law enforcement agency designated under this subdivision must be an agency within whose jurisdiction the restrained individual resides.

(h) Directions to a local entering authority or the law enforcement agency designated under subdivision (g) to enter the order into the law enforcement information network.

(i) A statement that violation of the order will subject the restrained individual to immediate arrest, the contempt powers of the court, an automatic extension of the order, and criminal penalties, including imprisonment for up to 1 year for an initial violation and up to 5 years for a subsequent violation.

(j) A statement that the restrained individual has a right to seek the advice of an attorney.

(k) An expiration date that is 1 year after the date of issuance.

(l) If the court has ordered the restrained individual to surrender the individual's firearms immediately, a statement that the law enforcement agency designated under subdivision (g) must proceed to seize the restrained individual's firearms after the restrained individual is served with or receives actual notice of the extreme risk protection order, after giving the restrained individual an opportunity to surrender the individual's firearms.

(2) An extreme risk protection order is effective and enforceable immediately after it is issued by the court. The order may be enforced anywhere in this state by a law enforcement agency that receives a true copy of the order, is shown a copy of it, or has verified its existence on the law enforcement information network as provided by the C.J.I.S. policy council act or on an information network maintained by the Federal Bureau of Investigation.

History: 2023, Act 38, Eff. (sine die).

Popular name: Red flag law