

STATE OF NEW YORK

3384

2025-2026 Regular Sessions

IN ASSEMBLY

January 27, 2025

Introduced by M. of A. LAVINE -- read once and referred to the Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to extreme risk protection orders

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 6340 of the civil practice law and rules is amended
2 by adding a new subdivision 5 to read as follows:

3 5. "Exception" means a respondent who: (a) has previously been deemed
4 certified not suitable to possess a rifle or shotgun pursuant to subdivi-
5 vision sixteen of section 265.00 of the penal law; (b) has previously
6 been convicted of a felony, or serious offense as defined by subdivision
7 seventeen of section 265.00 of the penal law; (c) has a current suspen-
8 sion or ineligibility order issued pursuant to the provisions of
9 section 530.14 of the criminal procedure law or section eight
10 hundred forty-two-a of the family court act, with an expiration date no
11 less than one year from the date of the filing of the petition; or (d)
12 is a person under the age of sixteen; and the petition would be based
13 only upon such person's likelihood to engage in conduct posing a threat
14 of harm to himself; and the person did not threaten or use physical
15 force directed at the petitioner or another person or a school; and the
16 person did not use or threaten the use of a firearm, rifle or shotgun;
17 and there is no evidence of a firearm, rifle, shotgun or ammunition
18 possessed by anyone in the person's household.

19 § 2. Section 6341 of the civil practice law and rules, as amended by
20 chapter 425 of the laws of 2024, is amended to read as follows:

21 § 6341. Application for an extreme risk protection order. In accord-
22 ance with this article, a petitioner may file an application, which
23 shall be sworn, and accompanying supporting documentation, setting forth
24 the facts and circumstances justifying the issuance of an extreme risk
25 protection order. Provided, however, that a petitioner that is a law

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 enforcement agency that employs a police officer, as such term defined
2 in section 1.20 of the criminal procedure law, or is a police officer or
3 district attorney with jurisdiction in the county or city where the
4 person against whom the order is sought resides shall file such applica-
5 tion upon the receipt of credible information that an individual is
6 likely to engage in conduct that would result in serious harm to them-
7 self or others, as defined in paragraph one or two of subdivision (a) of
8 section 9.39 of the mental hygiene law, unless such petitioner deter-
9 mines that there is no probable cause for such filing, or unless an
10 exception listed in subdivision five of section sixty-three hundred
11 forty of this article exists, in which case petitioner who is a police
12 officer or district attorney has the discretion whether or not to file
13 such application. Such application and supporting documentation shall be
14 filed in the supreme court in the county in which the respondent
15 resides. The chief administrator of the courts shall adopt forms that
16 may be used for purposes of such applications and the court's consider-
17 ation of such applications. Such application form shall include inquiry
18 as to whether the petitioner knows, or has reason to believe, that the
19 respondent owns, possesses or has access to a firearm, rifle or shotgun
20 and if so, a request that the petitioner list or describe such firearms,
21 rifles and shotguns, and the respective locations thereof, with as much
22 specificity as possible.

23 § 3. Subdivision 1 of section 6342 of the civil practice law and
24 rules, as added by chapter 19 of the laws of 2019, is amended to read as
25 follows:

26 1. Upon application of a petitioner pursuant to this article, the
27 court may issue a temporary extreme risk protection order, ex parte or
28 otherwise, to prohibit the respondent from purchasing, possessing or
29 attempting to purchase or possess a firearm, rifle or shotgun, upon a
30 finding that there is probable cause to believe the respondent is likely
31 to engage in conduct that would result in ~~[serious harm to himself,~~
32 ~~herself or others, as defined in paragraph one or two of subdivision (a)~~
33 ~~of section 9.39 of the mental hygiene law]~~: (a) substantial risk of
34 physical harm to himself as manifested by threats of or attempts at
35 suicide or serious bodily harm or other conduct demonstrating that such
36 respondent is dangerous to himself, or (b) a substantial risk of phys-
37 ical harm to other persons as manifested by homicidal or other violent
38 behavior by which others are placed in reasonable fear of serious phys-
39 ical harm. Such application for a temporary order shall be determined in
40 writing on the same day the application is filed.

41 § 4. Subdivision 2 of section 6343 of the civil practice law and
42 rules, as added by chapter 19 of the laws of 2019, is amended to read as
43 follows:

44 2. At the hearing pursuant to subdivision one of this section, the
45 petitioner shall have the burden of proving, by clear and convincing
46 evidence, that the respondent is likely to engage in conduct that would
47 result in ~~[serious harm to himself, herself or others, as defined in~~
48 ~~paragraph one or two of subdivision (a) of section 9.39 of the mental~~
49 ~~hygiene law]~~: (a) substantial risk of physical harm to himself as mani-
50 fested by threats of or attempts at suicide or serious bodily harm or
51 other conduct demonstrating that such respondent is dangerous to them-
52 self, or (b) a substantial risk of physical harm to other persons as
53 manifested by homicidal or other violent behavior by which others are
54 placed in reasonable fear of serious physical harm. The court may
55 consider the petition and any evidence submitted by the petitioner, any
56 evidence submitted by the respondent, any testimony presented, and the

1 report of the relevant law enforcement agency submitted pursuant to
2 subdivision nine of section sixty-three hundred forty-two of this arti-
3 cle. The court shall also consider the factors set forth in subdivision
4 two of section sixty-three hundred forty-two of this article.
5 § 5. This act shall take effect immediately.