

# STATE OF NEW YORK

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260--A

2025-2026 Regular Sessions

## IN SENATE

(Prefiled)

January 8, 2025

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Introduced by Sens. MARTINEZ, ADDABBO -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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. Subdivisions 2 and 3 of section 6340 of the civil practice  
2 law and rules, subdivision 2 as amended by chapter 425 of the laws of  
3 2024, subdivision 3 as added by chapter 19 of the laws of 2019, are  
4 amended to read as follows:  
5 2. "Petitioner" means: (a) a law enforcement agency that employs a  
6 police officer, as such term is defined in section 1.20 of the criminal  
7 procedure law, or a police officer, deputy sheriff, or district attorney  
8 with jurisdiction in the county or city where the person against whom  
9 the order is sought resides; (b) a family or household member, as  
10 defined in subdivision two of section four hundred fifty-nine-a of the  
11 social services law, of the person against whom the order is sought; (c)  
12 a school administrator as defined in section eleven hundred twenty-five  
13 of the education law, or a school administrator's designee, of any  
14 school in which the person against whom the order is sought is currently  
15 enrolled or has been enrolled in the six months immediately preceding  
16 the filing of the petition; or (d) a licensed physician, licensed  
17 psychiatrist, licensed psychologist, registered nurse, licensed clinical  
18 social worker, certified clinical nurse specialist, certified nurse  
19 practitioner, licensed clinical marriage and family therapist, regis-  
20 tered professional nurse, licensed master social worker or licensed  
21 mental health counselor who has treated the person against whom the  
22 order is sought in the six months immediately preceding the filing of

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

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1 the petition. For purposes of this article, a school administrator's  
2 designee shall be employed at the same school as the school administra-  
3 tor and shall be any of the following who has been designated in writing  
4 to file a petition with respect to the person against whom the order is  
5 sought: a school teacher, school guidance counselor, school psychol-  
6 ogist, school social worker, school nurse, or other school personnel  
7 required to hold a teaching or administrative license or certificate,  
8 and full or part-time compensated school employee required to hold a  
9 temporary coaching license or professional coaching certificate.

10 3. "Respondent" means the person, twelve years of age or older,  
11 against whom an extreme risk protection order is or may be sought under  
12 this article.

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

15 § 6341. Application for an extreme risk protection order. 1. In  
16 accordance with this article, a petitioner may file an application,  
17 which shall be sworn, and accompanying supporting documentation, setting  
18 forth the facts and circumstances justifying the issuance of an extreme  
19 risk protection order. Provided, however, that a petitioner that is a  
20 law enforcement agency that employs a police officer, as such term is  
21 defined in section 1.20 of the criminal procedure law, or is a police  
22 officer, deputy sheriff, or district attorney with jurisdiction in the  
23 county or city where the person against whom the order is sought resides  
24 shall file such application upon the receipt of credible information  
25 that an individual is likely to engage in conduct that would result in  
26 [~~serious harm to himself or others, as defined in paragraph one or two~~  
27 ~~of subdivision (a) of section 9.39 of the mental hygiene law~~]: (a)  
28 substantial risk of physical harm to himself as manifested by threats  
29 of or attempts at suicide or serious bodily harm or other conduct demon-  
30 strating that such respondent is dangerous to himself; or (b) a  
31 substantial risk of physical harm to other persons as manifested by  
32 homicidal or other violent behavior by which others are placed in  
33 reasonable fear of serious physical harm, unless such petitioner deter-  
34 mines that there is no probable cause for such filing.

35 2. A police officer, deputy sheriff, or district attorney who would  
36 otherwise be required to file an application under this section has the  
37 discretion not to file such an application if the police officer, deputy  
38 sheriff, or district attorney can determine with reasonable certainty  
39 that the respondent: (a) has previously been deemed certified not suit-  
40 able to possess a rifle or shotgun pursuant to subdivision sixteen of  
41 section 265.00 of the penal law; (b) is a person presently subject to an  
42 extreme risk protection order; (c) is a person presently incarcerated  
43 whose earliest release date is no less than one year from the date of  
44 the filing of the petition; or (d) is a person under the age of eigh-  
45 teen, and the petition would be based only upon such person's likelihood  
46 to engage in conduct posing a threat of harm to himself, and the person  
47 did not threaten or use physical force directed at another person or a  
48 school, and the person did not use or threaten the use of a firearm,  
49 rifle or shotgun, and there is no evidence of a firearm, rifle, shotgun  
50 or ammunition possessed by anyone in the person's household.

51 3. Such application and supporting documentation shall be filed in the  
52 supreme court in the county in which the respondent resides. If the  
53 petitioner is unable to identify an in-state address for the respondent,  
54 the application and documentation shall be filed in the supreme court in  
55 any county where the conduct alleged in the petition occurred. The chief  
56 administrator of the courts shall adopt forms that may be used for

1 purposes of such applications and the court's consideration of such  
2 applications. Such application form shall allow for affirmation pursuant  
3 to rule twenty-one hundred six of this chapter and include inquiry as to  
4 whether the petitioner knows, or has reason to believe, that the  
5 respondent owns, possesses or has access to a firearm, rifle or shotgun  
6 and if so, a request that the petitioner list or describe such firearms,  
7 rifles and shotguns, and the respective locations thereof, with as much  
8 specificity as possible.

9 § 3. Subdivisions 1, 2, 3 and 8 of section 6342 of the civil practice  
10 law and rules, subdivisions 1, 3 and 8 as added by chapter 19 of the  
11 laws of 2019, and subdivision 2 as amended by chapter 450 of the laws of  
12 2025, are amended to read as follows:

13 1. Upon application of a petitioner pursuant to this article, the  
14 court may issue a temporary extreme risk protection order, ex parte or  
15 otherwise, to prohibit the respondent from purchasing, possessing or  
16 attempting to purchase or possess a firearm, rifle or shotgun, upon a  
17 finding that there is probable cause to believe the respondent is likely  
18 to engage in conduct that would result in [~~serious harm to himself,~~  
19 ~~herself or others, as defined in paragraph one or two of subdivision (a)~~  
20 ~~of section 9.39 of the mental hygiene law~~]; (a) substantial risk of  
21 physical harm to oneself as manifested by threats of or attempts at  
22 suicide or serious bodily harm or other conduct demonstrating that such  
23 respondent is dangerous to oneself; or (b) a substantial risk of phys-  
24 ical harm to other persons as manifested by homicidal or other violent  
25 behavior by which others are placed in reasonable fear of serious phys-  
26 ical harm. Such application for a temporary order shall be determined in  
27 writing on the same day the application is filed.

28 2. In determining whether grounds for a temporary extreme risk  
29 protection order exist, the court shall consider any relevant factors  
30 including, but not limited to, the following acts of the respondent:

31 (a) a threat or act of violence or use of physical force directed  
32 toward self, the petitioner, or another person;

33 (b) a violation or alleged violation of an order of protection;

34 (c) any pending charge or conviction for an offense involving the use  
35 of a weapon;

36 (d) the reckless use, display or brandishing of a firearm, rifle or  
37 shotgun;

38 (e) any history of a violation of an extreme risk protection order;

39 (f) evidence of recent or ongoing abuse of controlled substances or  
40 alcohol;

41 (g) evidence of recent acquisition of a firearm, rifle, shotgun or  
42 other deadly weapon or dangerous instrument, or any ammunition therefor;  
43 or

44 (h) evidence of recent acts of aggravated cruelty to animals as  
45 defined in section three hundred fifty-three-a of the agriculture and  
46 markets law.

47 In considering the factors under this subdivision, the court shall  
48 consider the time that has elapsed since the occurrence of such act or  
49 acts and the age of the person at the time of the occurrence of such act  
50 or acts.

51 For the purposes of this subdivision, "recent" means within the six  
52 months prior to the date the petition was filed.

53 The court shall not consider whether a police officer, deputy sheriff,  
54 or district attorney may have had the discretion to decline to file an  
55 application in determining whether grounds for a temporary extreme risk  
56 protection order exist.

1 3. The application of the petitioner and supporting documentation, if  
2 any, shall set forth the factual basis for the request and probable  
3 cause for issuance of a temporary order. The court may conduct an exam-  
4 ination under oath of the petitioner and any witness the petitioner may  
5 produce. Hearsay evidence shall not be excluded and shall be weighed  
6 appropriately.

7 8. A law enforcement officer serving a temporary extreme risk  
8 protection order shall request that the respondent immediately surrender  
9 to the officer all firearms, rifles and shotguns in the respondent's  
10 possession and the officer shall conduct any search permitted by law for  
11 such firearms. The law enforcement officer shall take possession of all  
12 firearms, rifles and shotguns that are surrendered, that are in plain  
13 sight, or that are discovered pursuant to a lawful search. As part of  
14 the order, the court may also direct a police officer or deputy sheriff  
15 to search for firearms, rifles and shotguns in the respondent's  
16 possession in a manner consistent with the procedures of article six  
17 hundred ninety of the criminal procedure law.

18 § 4. Subdivisions 1 and 2 and paragraph (d) of subdivision 3 of  
19 section 6343 of the civil practice law and rules, as added by chapter 19  
20 of the laws of 2019, are amended to read as follows:

21 1. In accordance with this article, no sooner than three business days  
22 nor later than six business days after service of a temporary extreme  
23 risk protection order and, alternatively, no later than ten business  
24 days after service of an application under this article where no tempo-  
25 rary extreme risk protection order has been issued, unless the respond-  
26 ent waives their right to a hearing and consents to the final extreme  
27 risk protection order, the supreme court shall hold a hearing, in the  
28 manner of a summary proceeding, to determine whether to issue a final  
29 extreme risk protection order and, when applicable, whether a firearm,  
30 rifle or shotgun surrendered by, or removed from, the respondent should  
31 be returned to the respondent. The respondent shall be entitled to more  
32 than six business days if a temporary extreme risk protection order has  
33 been issued and the respondent requests a reasonable period of addi-  
34 tional time to prepare for the hearing. Where no temporary order has  
35 been issued, the respondent may request, and the court may grant, addi-  
36 tional time beyond the ten days to allow the respondent to prepare for  
37 the hearing. Upon receipt of waiver and consent the court shall  
38 dispense with a hearing and promptly issue the final extreme risk  
39 protection order.

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

1 evidence shall not be excluded and shall be weighed appropriately. The  
2 court shall not consider whether a police officer or district attorney  
3 may have had the discretion to decline to file an application in deter-  
4 mining whether grounds for an extreme risk protection order exist.

5 (d) A law enforcement officer serving a final extreme risk protection  
6 order shall request that the respondent immediately surrender to the  
7 officer all firearms, rifles and shotguns in the respondent's possession  
8 and the officer shall conduct any search permitted by law for such  
9 firearms. The law enforcement officer shall take possession of all  
10 firearms, rifles and shotguns that are surrendered, that are in plain  
11 sight, or that are discovered pursuant to a lawful search. As part of  
12 the order, the court may also direct a police officer or deputy sheriff  
13 to search for firearms, rifles and shotguns in a respondent's possession  
14 consistent with the procedures of article six hundred ninety of the  
15 criminal procedure law.

16 § 5. Subdivision 1 of section 6344 of the civil practice law and  
17 rules, as added by chapter 19 of the laws of 2019, is amended to read as  
18 follows:

19 1. When a law enforcement officer takes any firearm, rifle or shotgun  
20 pursuant to a temporary extreme risk protection order or a final extreme  
21 risk protection order, the officer or deputy sheriff shall give to the  
22 person from whom such firearm, rifle or shotgun is taken a receipt or  
23 voucher for the property taken, describing the property in detail. In  
24 the absence of a person, the officer or deputy sheriff shall leave the  
25 receipt or voucher in the place where the property was found, mail a  
26 copy of the receipt or voucher, retaining proof of mailing, to the last  
27 known address of the respondent and, if different, the owner of the  
28 firearm, rifle or shotgun, and file a copy of such receipt or voucher  
29 with the court. All firearms, rifles and shotguns in the possession of a  
30 law enforcement official pursuant to this article shall be subject to  
31 the provisions of applicable law, including but not limited to subdivi-  
32 sion six of section 400.05 of the penal law; provided, however, that any  
33 such firearm, rifle or shotgun shall be retained and not disposed of by  
34 the law enforcement agency for at least two years unless legally trans-  
35 ferred by the respondent to an individual permitted by law to own and  
36 possess such firearm, rifle or shotgun.

37 § 6. Section 6345 of the civil practice law and rules, as added by  
38 chapter 19 of the laws of 2019, is amended to read as follows:

39 § 6345. Request for renewal of an extreme risk protection order. 1. If  
40 a petitioner believes a person subject to an extreme risk protection  
41 order continues to be likely to engage in conduct that would result in  
42 [~~serious harm to himself, herself, or others, as defined in paragraph~~  
43 ~~one or two of subdivision (a) of section 9.39 of the mental hygiene~~  
44 ~~law~~]: (a) substantial risk of physical harm to himself as manifested by  
45 threats of or attempts at suicide or serious bodily harm or other  
46 conduct demonstrating that such respondent is dangerous to himself; or  
47 (b) a substantial risk of physical harm to other persons as manifested  
48 by homicidal or other violent behavior by which others are placed in  
49 reasonable fear of serious physical harm, such petitioner may, at any  
50 time within sixty days prior to the expiration of such existing extreme  
51 risk protection order, initiate a request for a renewal of such order,  
52 setting forth the facts and circumstances necessitating the request. The  
53 chief administrator of the courts shall adopt forms that may be used for  
54 purposes of such applications and the court's consideration of such  
55 applications. The court may issue a temporary extreme risk protection  
56 order in accordance with section sixty-three hundred forty-two of this

1 article, during the period that a request for renewal of an extreme risk  
2 protection order is under consideration pursuant to this section.

3 2. A hearing held pursuant to this section shall be conducted in the  
4 supreme court, in accordance with section sixty-three hundred forty-  
5 three of this article, to determine if a request for renewal of the  
6 order shall be granted. The court shall not consider whether a police  
7 officer, deputy sheriff, or district attorney may have had the  
8 discretion to decline to file an application in determining whether to  
9 renew the extreme risk protection order. The respondent shall be served  
10 with written notice of an application for renewal a reasonable time  
11 before the hearing, and shall be afforded an opportunity to fully  
12 participate in the hearing. The court shall direct service of such  
13 application and the accompanying papers in the manner and in accordance  
14 with the protections for the petitioner set forth in subdivision six of  
15 section sixty-three hundred forty-two of this article.

16 § 7. Subdivision 1 of section 6346 of the civil practice law and  
17 rules, as added by chapter 19 of the laws of 2019, is amended to read as  
18 follows:

19 1. A protection order issued pursuant to this article, and all records  
20 of any proceedings conducted pursuant to this article, shall be sealed  
21 upon expiration of such order and the clerk of the court wherein such  
22 proceedings were conducted shall immediately notify the commissioner of  
23 the division of criminal justice services, the heads of all appropriate  
24 police and sheriff departments, applicable licensing officers, and all  
25 other appropriate law enforcement agencies that the order has expired  
26 and that the record of such protection order shall be sealed and not be  
27 made available to any person or public or private entity, except that  
28 such records shall be made available to:

29 (a) the respondent or the respondent's designated agent;

30 (b) courts in the unified court system;

31 (c) police forces and departments having responsibility for enforce-  
32 ment of the general criminal laws of the state, including sheriff  
33 departments;

34 (d) any state or local officer or agency with responsibility for the  
35 issuance of licenses to possess a firearm, rifle or shotgun, when the  
36 respondent has made application for such a license; and

37 (e) any prospective employer of a police officer or peace officer as  
38 those terms are defined in subdivisions thirty-three and thirty-four of  
39 section 1.20 of the criminal procedure law, in relation to an applica-  
40 tion for employment as a police officer or peace officer; provided,  
41 however, that every person who is an applicant for the position of  
42 police officer or peace officer shall be furnished with a copy of all  
43 records obtained under this subparagraph and afforded an opportunity to  
44 make an explanation thereto.

45 § 8. This act shall take effect immediately.