

SB 360-FN - AS INTRODUCED

2024 SESSION

24-2837
09/05

SENATE BILL ***360-FN***

AN ACT relative to extreme risk protection orders.

SPONSORS: Sen. Altschiller, Dist 24; Sen. Watters, Dist 4; Sen. Soucy, Dist 18; Sen. D'Allesandro, Dist 20; Sen. Perkins Kwoka, Dist 21; Sen. Rosenwald, Dist 13; Sen. Fenton, Dist 10; Sen. Whitley, Dist 15; Sen. Chandley, Dist 11; Sen. Prentiss, Dist 5; Rep. Knab, Rock. 12; Rep. Bradley, Hills. 41; Rep. Meuse, Rock. 37; Rep. M. Paige, Rock. 11; Rep. Selig, Straf. 10

COMMITTEE: Judiciary

ANALYSIS

This bill establishes a procedure for issuing extreme risk protection orders to protect against persons who pose an immediate risk of harm to themselves or others.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT relative to extreme risk protection orders.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Statement of Purpose. The general court finds that allowing family or household members or
2 law enforcement officers to petition for a court order to temporarily restrict access to firearms by
3 individuals who are found to pose an immediate risk to themselves or others would advance public
4 safety. This act shall not apply in cases of domestic abuse or stalking where the petitioner is eligible
5 to petition for relief under RSA 173-B or RSA 633:3-a.

6 2 New Chapter; Extreme Risk Protection Orders. Amend RSA by inserting after chapter 159-E
7 the following new chapter:

CHAPTER 159-F

EXTREME RISK PROTECTION ORDERS

10 159-F:1 Definitions. In this chapter:

11 I. “Extreme risk protection order” means a temporary, ex parte, or final order issued
12 pursuant to this chapter to temporarily restrict access to firearms by individuals who are found to
13 pose an immediate or significant risk to themselves or others.

14 II. “Family or household member” means:

15 (a) A spouse, ex-spouse, person cohabiting with another person, and a person who
16 cohabited with another person in the preceding 24 months but who no longer shares the same
17 residence.

18 (b) A parent or other person related by consanguinity or affinity, other than a minor
19 child who resides with the respondent.

20 III. “Firearm” means any weapon, including a starter gun, which will, is designed to, or may
21 be readily converted to expel a projectile by the action of an explosive.

22 IV. “Intimate partner” means a person who is currently or who, in the preceding 24 months,
23 has been involved in a romantic relationship with another, whether or not such relationship was
24 ever sexually consummated.

25 V. “Law enforcement officer” means a sheriff or deputy sheriff of any county, a state police
26 officer, a constable or police officer of any city or town, or a conservation officer.

27 VI. “Petitioner” means a law enforcement officer, family or household member, or intimate
28 partner of the respondent who files a petition for an extreme risk protection order under this
29 chapter.

30 VII. “Respondent” means an individual who is identified as the respondent in a petition filed
31 under this chapter.

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1 159-F:2 Jurisdiction and Venue.

2 I. The district division of the circuit court shall have jurisdiction over all proceedings under
3 this chapter.

4 II. The petitioner may commence proceedings pursuant to RSA 159-F:3 in the county or
5 district where either the petitioner or the respondent resides.

6 III. Proceedings under this chapter may be transferred to another court upon the motion of
7 any party or of the court as the interests of justice or the convenience of the parties may require.

8 159-F:3 Commencement of Proceedings; Petition; Hearing.

9 I. A petitioner may seek relief under this chapter by filing a petition, in the county or
10 district where the petitioner or respondent resides, alleging that the respondent poses a significant
11 risk of causing bodily injury to himself or herself or others by having a firearm or any ammunition in
12 his or her custody or control or by purchasing, possessing, or receiving a firearm or any ammunition.

13 II. A petition for an extreme risk protection order shall:

14 (a) Be accompanied by a written affidavit, signed by the petitioner under oath. The
15 affidavit shall contain specific factual allegations regarding the factors that give rise to petitioner's
16 belief that respondent poses a significant risk of causing bodily injury to himself or herself or others
17 by having a firearm or any ammunition in his or her custody or control or by purchasing, possessing,
18 or receiving a firearm or any ammunition.

19 (b) Identify the quantities, types, and locations of all firearms and ammunition the
20 petitioner believes to be in the respondent's current ownership, possession, custody, or control.

21 (c) Identify if there is a known existing protection order in effect against the respondent
22 under RSA 173-B or any other applicable statute.

23 (d) Identify what steps if any have been taken to voluntarily remove firearms from the
24 respondent.

25 III. Any person who files a petition under this chapter containing allegations the petitioner
26 knows to be false, or who files a petition with intent to harass the respondent, shall be subject to
27 criminal penalties, as set forth in RSA 159-F:11.

28 IV. Notice of the pendency of the action and of the facts alleged against the respondent shall
29 be given to the respondent, either personally or as provided in paragraph V. The petitioner shall be
30 permitted to supplement or amend the petition only if the respondent is provided an opportunity
31 prior to the hearing to respond to the supplemental or amended petition. All petitions filed under
32 this chapter shall include the home and work telephone numbers of the respondent, if known.
33 Notice of the whereabouts of the petitioner may be kept confidential by order of the court for good
34 cause shown. Any answer by the respondent shall be filed with the court and a copy shall be
35 provided to the petitioner by the court.

36 V. No filing fee or fee for service of process shall be charged for a petition or response under
37 this section, and the petitioner or respondent may proceed without legal counsel. A law enforcement

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1 officer shall serve process under this section. Any proceeding under this chapter shall not preclude
2 any other available civil or criminal remedy.

3 VI. The clerk of the circuit court shall supply forms for petitions and for relief under this
4 chapter designed to facilitate pro se proceedings. All such petitions shall contain the following
5 statement: "I swear that the foregoing information is true and correct to the best of my knowledge.
6 I understand that making a false statement on this petition will subject me to criminal penalties."

7 VII. The findings of facts shall be final, but questions of law may be transferred from the
8 circuit court to the superior court.

9 VIII.(a) The court shall hold a hearing within 7 days of the filing of a petition under this
10 section or within 4 days of service of process upon the respondent, whichever occurs later.

11 (b) The time frame established in this paragraph may be extended for an additional 7
12 days upon motion by the respondent for good cause shown. A recusal by the judge or any act of God
13 or closing of the court that interferes with the originally scheduled hearing shall not be cause for the
14 dismissal of the petition. The court shall reschedule any hearing under this section in an
15 expeditious manner.

16 IX. In any proceeding under this chapter, the court shall not be bound by the technical rules
17 of evidence and may admit evidence which it considers relevant, reliable, and material.

18 159-F:4 Temporary Relief.

19 I. A petitioner may request, and the court may enter, a temporary extreme risk protection
20 order with or without actual notice to respondent. The court shall issue a temporary extreme risk
21 protection order if it finds, by a preponderance of the evidence, that the respondent poses an
22 immediate and significant risk of causing bodily injury to himself or herself or others by having a
23 firearm or any ammunition in his or her custody or control or by purchasing, possessing, or receiving
24 a firearm or ammunition.

25 II. If a temporary extreme risk protection order is requested, the court shall hold a
26 temporary ex parte risk protection order hearing in person or by telephone on the day the petition is
27 filed or on the business day immediately following the day the petition is filed.

28 III. The court shall determine, by a preponderance of the evidence, whether there is reason
29 to believe that the respondent poses an immediate risk of causing bodily injury to himself or herself
30 or others by having a firearm or any ammunition in his or her custody or control or by purchasing,
31 possessing, or receiving a firearm or ammunition. The court shall consider any relevant, reliable,
32 and material evidence.

33 IV. Temporary orders issued under this section shall prohibit the respondent from
34 purchasing, possessing, or receiving any firearms and ammunition for the duration of the order and
35 shall further direct the respondent to relinquish to a law enforcement officer all firearms and
36 ammunition in the control, ownership, or possession of the respondent or any other person on behalf
37 of the respondent, and any license to carry a loaded pistol or revolver issued to the respondent under

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1 RSA 159:6, for the duration of the protective order. The court shall require proof, which may be in
2 the form of a verbal attestation under oath or sworn affidavit, that the respondent has surrendered
3 any firearms or ammunition owned by the respondent or in his or her custody, control, or possession.

4 V. The court may issue such temporary orders by telephone or facsimile. Such
5 telephonically issued orders shall be made by a circuit court judge to a law enforcement officer and
6 shall be valid in any jurisdiction in the state. Such orders shall be returnable to the circuit court
7 where the petitioner resides, unless otherwise ordered by the issuing judge. If non-telephonic
8 temporary orders are made ex parte, the party against whom such relief is issued may file a written
9 request with the clerk of the court and request an expedited hearing on such orders. Such hearing
10 shall be held no less than 3 business days and no more than 5 business days after the request is
11 received by the clerk. Such hearing may constitute the final hearing under RSA 159-F:3, VIII.

12 VI. A temporary extreme risk protection order shall expire upon the hearing on a final
13 extreme risk protection order under RSA 159-F:3, VIII.

14 VII. The court may subsequently issue a search warrant authorizing a law enforcement
15 officer to search for and seize any and all firearms and ammunition in the respondent's possession,
16 custody or control, if there is probable cause to believe respondent has firearms or ammunition and if
17 the court has reason to believe that such firearms or ammunition have not been relinquished by the
18 respondent.

19 VIII. The court shall state the particular reasons for denying or granting the petitioner's
20 request for a temporary extreme risk protection order.

21 159-F:5 Relief.

22 I. After notice to respondent and a hearing, and upon a showing by the petitioner that there
23 is clear and convincing evidence that the respondent poses a significant and ongoing risk of causing
24 bodily injury to himself or herself or others by having a firearm or any ammunition in his or her
25 custody or control or by purchasing, possessing, or receiving a firearm or ammunition, the court shall
26 issue an extreme risk protection order for a period not to exceed 12 months.

27 II. An extreme risk protection order issued under this section shall prohibit the respondent
28 from purchasing, possessing, or receiving any firearms and ammunition for the duration of the order
29 and shall further direct the respondent to relinquish to a law enforcement officer all firearms and
30 ammunition in the control, ownership, or possession of the respondent, and any license to carry a
31 loaded pistol or revolver issued to the respondent under RSA 159:6 for the duration of the order.

32 III. In determining whether there is clear and convincing evidence to believe that the
33 respondent poses an immediate risk of causing bodily injury to himself or herself or others by having
34 a firearm or any ammunition in his or her custody or control or by purchasing, possessing, or
35 receiving a firearm or ammunition, the court shall consider any relevant, reliable, and material
36 evidence.

1 IV. A person, including an officer of the court, who offers evidence or recommendations
2 relating to a petition filed under this chapter either shall present the evidence or recommendations
3 in to the court in a sworn written affidavit, with copies to each party and his or her attorney, if one is
4 retained, or shall present the evidence under oath at a hearing at which all parties are present.

5 V. During the hearing, the court shall determine if a mental health evaluation or chemical
6 dependency evaluation is appropriate and may order such evaluation if the court finds there is clear
7 and convincing evidence that the respondent has a serious mental illness or recurring mental health
8 condition that is likely to lead to the respondent being a danger to themselves or others. A mental
9 health evaluation ordered pursuant to this paragraph shall comply with the requirements of RSA
10 135-C.

11 VI. The court may subsequently issue a search warrant authorizing a law enforcement
12 officer to search for and seize all firearms and ammunition in the respondent's possession, custody,
13 or control, if there is probable cause to believe respondent has firearms or ammunition and if the
14 court has probable cause to believe that such firearms or ammunition have not been relinquished by
15 the respondent. The court shall require proof, which may be in the form of a verbal attestation
16 under oath or sworn affidavit, that the respondent has surrendered any firearms or ammunition
17 owned by the respondent or in his or her custody, control, or possession.

18 159-F:6 Contents of Extreme Risk Protection Orders.

19 I. An extreme risk protection order issued under this chapter shall include all of the
20 following:

- 21 (a) A statement of the grounds supporting the issuance of the order.
22 (b) The date the order was issued.
23 (c) The date the order expires.
24 (d) Whether a mental health evaluation or chemical dependency evaluation of the
25 respondent is required and, if so, when the results of said evaluation must be provided to the court.
26 (e) The address of the court in which any responsive pleading should be filed.
27 (f) A description of the requirements for the surrender of all firearms and ammunition in
28 the control, ownership, or possession of the respondent under RSA 159-F:8.
29 (g) The following statement:

30 “To the subject of this extreme risk protection order: This order will remain in effect until the date
31 noted above. If you have not done so already, you shall surrender immediately to the (insert name of
32 local law enforcement agency) all firearms and ammunition that you own or that are in your custody,
33 control, or possession and any license to carry a loaded pistol or revolver issued to you under RSA
34 159:6. You may seek the advice of an attorney as to any matter connected with this order.”

35 II. If the court issues a temporary extreme risk protection order under RSA 159-F:4, the
36 court shall inform the respondent, in writing, that he or she is entitled to request an expedited

1 hearing as provided in RSA 159-F:4, V. The court shall provide the respondent with a form to
2 request such a hearing.

3 III. If the court issues an extreme risk protection order under RSA 159-F:5, the court shall
4 inform the respondent, in writing, that he or she is entitled to request a hearing to vacate the order
5 in the manner provided in RSA 159-F:10. The court shall provide the respondent with a form to
6 request a hearing to vacate.

7 IV. The court shall state the particular reasons for granting or denying the petitioner's
8 request for an extreme risk protection order.

9 159-F:7 Notification; Reporting of Orders.

10 I. A copy of any order made under this chapter shall be promptly transmitted to the local
11 law enforcement agency having jurisdiction to enforce such order and, if such person has been issued
12 a license to carry a loaded pistol or revolver under RSA 159:6, notice shall also be promptly made to
13 the issuing authority of the license.

14 II. Extreme risk protection orders, including temporary extreme risk protection orders, shall
15 be promptly served on the respondent by the law enforcement officer. Modifications, extensions, and
16 any order vacating an extreme risk protection order shall be sent to the respondent's last address of
17 record. The respondent shall be responsible for informing the court of any changes of address. Law
18 enforcement agencies shall establish procedures whereby a law enforcement officer at the scene of an
19 alleged violation of such an order may be informed of the existence and terms of such order.

20 III. The clerk of the court shall enter any order issued under this chapter into a statewide
21 judicial information system on the same day such order is issued. The order shall remain in the
22 information system as long as the order remains in effect.

23 IV. The clerk of the court shall forward a copy of any order issued under this section the
24 same day such order is issued to the department of safety, which in turn shall forward a copy to the
25 Federal Bureau of Investigation, or its successor agency, for inclusion in the National Instant
26 Criminal Background Check database.

27 V. Any court-ordered changes, extensions, or modifications to the order shall be effective
28 upon issuance of such changes, extensions, or modifications and shall be mailed or otherwise
29 provided to the appropriate law enforcement agency, issuing authority, and transmitted to the
30 department of safety within 24 hours of the entry of such changes, extensions, or modifications.

31 159-F:8 Surrender of Firearms and Ammunition.

32 I. Upon issuance of any extreme risk protection under this chapter, including a temporary
33 ex parte extreme risk protection order, the court shall order the respondent to surrender to the local
34 law enforcement agency all firearms and ammunition owned by the respondent or in his or her
35 custody, control, or possession and any license to carry a loaded pistol or revolver issued to the
36 respondent under RSA 159:6.

1 II. The law enforcement officer serving an extreme risk protection order under this section,
2 including a temporary extreme risk protection order, shall request that the respondent immediately
3 surrender all firearms and ammunition owned by the respondent or in his or her custody, control, or
4 possession and any license to carry a loaded pistol or revolver issued to the respondent under RSA
5 159:6. The law enforcement officer shall take possession of all firearms and ammunition and any
6 license to carry a loaded pistol or revolver issued to them under RSA 159:6, which are surrendered.
7 Alternatively, if personal service by a law enforcement officer is not possible or is not required
8 because the respondent was present at the extreme risk protection order hearing, the respondent
9 shall surrender any firearms and ammunition owned by the respondent or in his or her custody,
10 control, or possession and any license to carry a loaded pistol or revolver issued to them under RSA
11 159:6, held by the respondent, in a safe manner to the control of the local law enforcement agency
12 immediately after being served with the order by service or immediately after the hearing at which
13 the respondent was present.

14 III. A law enforcement officer may, pursuant to RSA 159-F:4 and 159-F:5, seek a search
15 warrant from a court of competent jurisdiction to search for and seize any and all firearms and
16 ammunition owned by the respondent or in his or her possession, custody or control if the officer has
17 probable cause to believe that said firearms or ammunition have not been surrendered.

18 IV. At the time of surrender, a law enforcement officer taking possession of any firearm or
19 ammunition owned by the respondent or in his or her custody, control, or possession, or any license
20 to carry a loaded pistol or revolver issued to respondent under RSA 159:6, shall issue a receipt
21 identifying all firearms and the quantity and type of ammunition that have been surrendered, and
22 any license surrendered and shall provide a copy of the receipt to the respondent. Within 72 hours
23 after service of the order, the law enforcement officer serving the order shall file the original receipt
24 with the court and shall ensure that his or her law enforcement agency retains a copy of the receipt.

25 V. Notwithstanding RSA 595-A, upon the sworn statement or testimony of any person
26 alleging that the respondent has failed to comply with the surrender required by any order issued
27 under this chapter, the court shall determine whether probable cause exists to believe that the
28 respondent has failed to surrender any firearms or ammunition owned by the respondent in his or
29 her custody, control, or possession. If the court finds that probable cause exists, the court shall issue
30 a warrant describing the firearms or ammunition owned by the respondent or in his her custody,
31 control or possession and authorizing a search of the locations where any such firearms or
32 ammunition are reasonably believed to be found and the seizure of any such firearms or ammunition
33 discovered pursuant to such search.

34 VI. If a person other than the respondent claims title to any firearms or ammunition
35 surrendered or seized pursuant to this section and he or she is determined by the law enforcement
36 agency to be the lawful owner of the firearm or ammunition, the firearm or ammunition shall be
37 returned to him or her, if:

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1 (a) The lawful owner agrees to store the firearm or ammunition in a manner such that
2 the respondent does not have access to or control of the firearm or ammunition; and

3 (b) The law enforcement agency conducts a background check to determine that the
4 lawful owner is not prohibited under state or federal law from possessing the firearm or
5 ammunition.

6 VII. Upon the issuance of any extreme risk protection order, the court shall order a new
7 hearing date and require the respondent to appear no later than 3 business days after the issuance
8 of the order. The court shall require proof that the respondent has surrendered any firearms or
9 ammunition owned by the respondent or in his or her custody, control, or possession. The court may
10 cancel the hearing upon a satisfactory showing that the respondent is in compliance with the
11 surrender order.

12 VIII. All law enforcement agencies shall develop policies and procedures regarding the
13 acceptance, storage, and return of firearms, ammunition, or licenses required to be surrendered
14 under this section.

15 159-F:9 Return and Disposal of Firearms and Ammunition.

16 I. If an extreme risk protection order is vacated or ends without extension, a respondent
17 may request, by motion to the court, the return of any and all firearms and ammunition that has
18 been surrendered to or seized by the law enforcement pursuant to this chapter. Upon receipt of such
19 a motion, the court shall schedule a hearing no later than 15 days after the expiration of the order.
20 The court shall provide written notice to the petitioner who shall have the right to appear and be
21 heard, and to the law enforcement agency which has control of the firearms and ammunition. The
22 scope of the hearing shall be limited to:

23 (a) Establishing whether the respondent is subject to any state or federal law or court
24 order that prohibits the respondent from owning or possessing a firearm or ammunition; and

25 (b) Under circumstances where the petitioner has requested an extension of the extreme
26 risk protection order, pursuant to section 10 of this chapter, whether the petitioner has established
27 by clear and convincing evidence that the respondent continues to pose a significant risk of causing
28 bodily injury to himself or herself or others by having a firearm or any ammunition in his or her
29 custody or control or by purchasing, possessing, or receiving a firearm or ammunition.

30 II. If the court finds that the respondent is not subject to any state or federal law or court
31 order prohibiting the ownership or possession of firearms, and, if applicable, the court denies the
32 petitioner's request to extend the extreme risk protection order, the court shall issue a written order
33 directing the law enforcement agency to return the requested firearms and ammunition to the
34 respondent.

35 III. Law enforcement agencies shall not release firearms and ammunition without a court
36 order granting such release. The law enforcement agency may charge the respondent a reasonable
37 fee for the storage of any firearms and ammunition taken surrendered or seized to an extreme risk

1 protection order. The fee shall not exceed the actual cost incurred by the law enforcement agency for
2 the storage of the firearms and ammunition. The respondent may make alternative arrangements
3 with a federally-licensed firearms dealer for the storage of firearms, at the respondent's own
4 expense, upon approval of the court. Such firearms shall be turned over to the appropriate law
5 enforcement agency for transfer to the storage facility. Retrieval of such firearms shall be through
6 the law enforcement agency responsible for their transfer to the storage facility pursuant to a court
7 order as prescribed in this paragraph.

8 IV. No law enforcement agency shall be held liable for alleged damage or deterioration due
9 to storage or transportation to any firearms and ammunition and specified deadly weapons held by a
10 law enforcement agency, so long as due care is used.

11 V. If an extreme risk protection order is vacated or ends without extension, the licensing
12 authority, if it has suspended a license to carry a loaded pistol or revolver issued to respondent
13 under RSA 159:6 pursuant to this section, shall reinstate such license only after confirming that the
14 respondent is currently eligible to have such license.

15 VI. The court shall provide written notice, sent via the United States Postal Service to the
16 last known address of the petitioner before the return of any firearm and ammunition surrendered
17 or seized pursuant to this chapter.

18 159-F:10 Termination and Extension of Orders.

19 I. The respondent may submit one written request for a hearing to vacate an extreme risk
20 protection order issued under RSA 159-F:5, starting after the date of the issuance of the order, and
21 may request one additional hearing after every extension of the order, if any.

22 (a) Upon receipt of the request for a hearing to vacate an extreme risk protection order,
23 the court shall set a date for a hearing. Notice of the request shall be served on the petitioner as
24 provided in RSA 159-F:7. The hearing shall occur no sooner than 14 days and no later than 30 days
25 after the date of service of the request upon the petitioner.

26 (b) The respondent shall have the burden of proving by clear and convincing evidence
27 that the respondent no longer poses a significant risk of causing bodily injury to himself or herself or
28 others by having a firearm or any ammunition in his or her custody or control or by purchasing,
29 possessing, or receiving a firearm or ammunition. The court shall consider any relevant, reliable,
30 and material evidence.

31 (c) If the court finds after the hearing that the respondent has met his or her burden of
32 proof, the court shall vacate the order.

33 (d) The law enforcement agency holding any firearm or ammunition or license to carry a
34 loaded pistol or revolver that has been surrendered or seized pursuant to this section shall be
35 notified of the court order to vacate the extreme risk protection order. The court shall also provide
36 notice as required by RSA 159-F:7, V.

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1 II. The court shall notify the petitioner of the impending expiration of an extreme risk
2 protection order. Notice shall be received by the petitioner at least 30 days before the date the order
3 is set to expire.

4 III. The petitioner may, by motion, request an extension of an extreme risk protection order
5 at any time within 30 days before the end of the order.

6 (a) Upon receipt of the motion to extend, the court shall schedule a hearing to be held no
7 later than 14 days after the date the motion to extend is filed. The respondent shall be personally
8 served with notice of the motion to extend as provided in RSA 159-F:7.

9 (b) In determining whether to extend an extreme risk protection order issued under this
10 section, the court shall consider any relevant, reliable, and material evidence.

11 (c) If the court finds by clear and convincing evidence that the requirements for issuance
12 of an extreme risk protection order as provided in RSA 159-F:5 continue to be met, the court shall
13 extend the order.

14 (d) The court may extend an extreme risk protection order for a period that it deems
15 appropriate, up to and including but not exceeding 12 months, subject to an order to vacate as
16 provided in paragraph I or to another extension order by the court.

17 (e) The court shall also provide notice of the extension of the order as required in RSA
18 159-F:7, V.

19 159-F:11 Violation of Extreme Risk Protection Order; Penalties.

20 I. In addition to other applicable charges and penalties, a person shall be guilty of a class A
21 misdemeanor if such person knowingly files a petition under this chapter containing false
22 allegations, or if such person files a petition with intent to harass the respondent.

23 II. In addition to other applicable charges and penalties, a person shall be guilty of a class B
24 felony if he or she knowingly violates an extreme risk protection order issued under this chapter by
25 having in his or her possession, custody, or control any firearm or ammunition while the order is in
26 effect.

27 III. A person who completes and signs an application for purchase of a firearm and who
28 knows that such purchase is illegal because he or she is subject to an extreme risk protection order
29 shall be guilty of a class A misdemeanor for a first offense and a class B felony for a second or
30 subsequent offense.

31 159-F:12 Orders Enforceable.

32 I. Any extreme risk protection order issued under this chapter shall be effective throughout
33 the state.

34 II. Any comparable extreme risk protection order issued by any other state, tribal, or
35 territorial court, including an ex parte order, shall be deemed valid if the issuing court had
36 jurisdiction over the parties and matter under the law of the state, tribe, or territory, and the person

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1 against whom the order was made was given reasonable notice and opportunity to be heard. There
2 shall be a presumption of validity where an order appears facially valid.

3 III. Any valid extreme risk protection order, as defined in paragraph II, shall be accorded
4 full faith and credit throughout the state.

5 159-F:13 Standard Forms.

6 I. The administrative office of the courts shall develop instructions and informational
7 brochures, standard petition forms, and extreme risk protection order forms. The standard petition
8 and order forms shall be developed after September 20, 2024 for use by January 1, 2025, for all
9 petitions filed and orders issued under this chapter. The instructions, brochures, forms, and
10 handbook shall be prepared in consultation with interested persons, judges, and law enforcement
11 personnel. Materials shall be based on best practices and available electronically online to the
12 public.

13 (a) The instructions shall be designed to assist petitioners in completing the petition and
14 shall include a sample of a standard petition and order for protection forms.

15 (b) The instructions and standard petition shall include a means for the petitioner to
16 identify, with only lay knowledge, the firearms the respondent may own, possess, receive, or have in
17 his or her custody or control. The instructions shall provide pictures of types of firearms that the
18 petitioner may choose from to identify the relevant firearms, or an equivalent means to allow
19 petitioners to identify firearms without requiring specific or technical knowledge regarding the
20 firearms.

21 (c) The informational brochure shall describe the use of and the process for obtaining,
22 modifying, and terminating an extreme risk protection order under this chapter, and provide
23 relevant forms. The brochure shall provide plain language explanations of these processes for both
24 petitioners and respondents. The brochure shall also clearly explain the legal requirements and
25 processes for the relinquishment and return of firearms pursuant to an extreme risk protection
26 order.

27 (d) The extreme risk protection order form shall include, in a conspicuous location,
28 notice of criminal penalties resulting from violation of the order, and the following statement: "You
29 have the sole responsibility to avoid or refrain from violating this order's provisions. Only the court
30 can change the order and only upon written application."

31 (e) The court staff handbook shall allow for the addition of a community resource list by
32 the court clerk.

33 II. The clerk of the circuit court may create a community resource list of crisis intervention,
34 mental health, substance abuse, interpreter, counseling, and other relevant resources serving the
35 county in which the court is located. The court may make the community resource list available as
36 part of or in addition to the informational brochures described in paragraph I.

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1 III. The administrative office of the courts shall distribute a master copy of the petition and
2 order forms, instructions, and informational brochures to all court clerks and shall distribute a
3 master copy of the petition and order forms to all clerks of the circuit courts. Distribution of all
4 documents shall, at a minimum, be in an electronic format or formats accessible to all courts and
5 court clerks in the state.

6 IV. The administrative office of the courts shall determine the significant non-English-
7 speaking or limited-English-speaking populations in the state. The administrator shall then arrange
8 for translation of the instructions and informational brochures required by this section to be
9 developed after September 20, 2024, which shall contain a sample of the standard petition and order
10 for protection forms, into the languages spoken by those significant non-English-speaking
11 populations and shall distribute a master copy of the translated instructions and informational
12 brochures to all clerks of the circuit court by January 1, 2025.

13 V. The administrative office of the courts shall update the instructions, brochures, standard
14 petition, and extreme risk protection order forms, and court staff handbook as necessary, including
15 when changes in the law make an update necessary.

16 159-F:14 Reporting.

17 I. No later than January 31 of each year, clerks of the circuit courts shall report to the
18 administrative office of the courts the following information:

19 (a) The total number of petitions for an extreme risk protection order, and the total
20 number of those petitions that requested the order be issued ex parte during the previous year.

21 (b) The total number of temporary extreme risk protection orders issued and the total
22 number denied during the previous year.

23 (c) The total number of extreme risk protection orders issued and the total number
24 denied during the previous year.

25 (d) The total number of extreme risk protection orders vacated upon petition by the
26 respondent during the previous year.

27 (e) The total number of extreme risk protection orders extended during the previous
28 year.

29 II. No later than April 1 of each year the administrative office of the courts shall compile
30 and publish on its website a report which aggregates the information received pursuant to
31 paragraph I and lists each category by county and type of court.

32 3 Effective Date.

33 I. RSA 159-F:13, as inserted by section 2 of this act shall take effect September 20, 2024.

34 II. The remainder of this act shall take effect January 1, 2025.

**SB 360-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to extreme risk protection orders.

FISCAL IMPACT: ☒ State ☒ County ☒ Local ☐ None

Estimated State Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund</i>	None			
Expenditures	Indeterminable			
<i>Funding Source</i>	General Fund			
Appropriations	\$0	\$0	\$0	\$0
<i>Funding Source</i>	None			

Estimated Political Subdivision Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
County Revenue	\$0	\$0	\$0	\$0
County Expenditures	Indeterminable			
Local Revenue	\$0	Indeterminable Increase		
Local Expenditures	Indeterminable			

METHODOLOGY:

This bill adds, deletes, or modifies a criminal penalty, or changes statute to which there is a penalty for violation. Therefore, this bill may have an impact on the judicial and correctional systems, which could affect prosecution, incarceration, probation, and parole costs, for the state, as well as county and local governments. A summary of such costs can be found at: https://gencourt.state.nh.us/lba/Budget/Fiscal_Notes/JudicialCorrectionalCosts.pdf

The Judicial Branch states, in addition to the above, the bill would establish a new case type and the Branch anticipates that litigation would increase. The Branch indicates it is not possible to estimate how this change in law would impact the number of filings in the courts.

The Department of Safety states it is current practice for the communications personnel to inform officers on the road of any protection orders in place and the terms of those orders. The Department assumes extreme risk protection orders would be no different, however a new

category would need to be added to the Department's training program within the NCIC system. The Department assumes there would be nothing more than negligible costs to the Department of Safety.

The New Hampshire Municipal Association indicates the bill would establish a process whereby municipal police departments would be involved in the legal processes involving the restriction of access to firearms by individuals who are found to pose an immediate or significant risk to themselves or others. Some of this process will require investigations by municipal police departments as well as use of the Department resources in legal proceedings. It is unclear whether any reduction in costs associated with the implementation of a 'red flag' law would offset any additional costs associated with additional investigation and court time related to implementation of the law. The Association notes that the Bipartisan Safer Communities Act provided \$1.4 billion to the U.S. Justice Department over a five year period for gun violence prevention measures, including more than \$750 million dedicated to states to help implement 'red flag' laws. The Association assumes New Hampshire municipalities would become eligible for some of the remaining funds. As such, there may be an increase in local revenue as a consequence of this bill.

AGENCIES CONTACTED:

Judicial Branch, Judicial Council, Departments of Justice, Safety and Corrections, New Hampshire Association of Counties, and New Hampshire Municipal Association