

**LEGISLATIVE FISCAL ESTIMATE**  
[First Reprint]  
**ASSEMBLY COMMITTEE SUBSTITUTE FOR**  
**ASSEMBLY, No. 1217**  
**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

DATED: APRIL 16, 2018

**SUMMARY**

**Synopsis:** “Extreme Risk Protective Order Act of 2018”

**Type of Impact:** General Fund expenditure

**Agencies Affected:** The Judiciary, Department of Corrections, Department of Law and Public Safety

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	Indeterminate		

- The Office of Legislative Services (OLS) states that since there is not enough information with which to determine the number of petitions that would be filed with the court for temporary extreme risk protective orders or extreme risk protective orders, it cannot determine the cost to be incurred by the Judiciary for hearing these petitions and updating the Domestic Violence Central registry. In addition, the OLS notes that local law enforcement agencies may incur indeterminate costs to store or destroy after one year those firearms or ammunition surrendered by individuals against whom temporary extreme risk protective orders or extreme risk protective orders are issued.
- The OLS also notes that the committee substitute classifies certain violations of the provisions as third or fourth degree crimes. Offenders convicted of third or fourth degree crimes are subject to terms of up to 18 months (fourth degree) or up to 5 years (third degree). However, convictions for third and fourth degree offenses carry with them the presumption of non-incarceration for first time offenders. Any costs incurred by the Department of Corrections to house these offenders, if incarcerated, would be indeterminate.
- The committee substitute, entitled the “Extreme Risk Protective Order Act of 2018,” establishes a process and procedures for obtaining a protective order against persons who pose a significant danger of bodily injury to themselves or others by possessing or purchasing

- a firearm. The order would prohibit the subject of the order from possessing or purchasing a firearm or ammunition and from holding a firearms purchaser identification card, permit to purchase a handgun, and permit to carry a handgun.

## **BILL DESCRIPTION**

The amended committee substitute, entitled the “Extreme Risk Protective Order Act of 2018,” establishes a process and procedures for obtaining a protective order against persons who pose a significant danger of bodily injury to themselves or others by possessing or purchasing a firearm. The order would prohibit the subject of the order from possessing or purchasing a firearm or ammunition and from holding a firearms purchaser identification card, permit to purchase a handgun, and permit to carry a handgun.

### **TEMPORARY EXTREME RISK PROTECTIVE ORDER**

The amended committee substitute authorizes a family or household member or a law enforcement officer to file a petition for a temporary extreme risk protective order alleging that a person poses a significant danger of bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm.

A temporary extreme risk protective order prohibits the subject of the order from having custody or control of, owning, purchasing, possessing, or receiving firearms or ammunition. It also prohibits the person from securing or holding a firearms purchaser identification card, a permit to purchase a handgun, or a permit to carry a handgun while the order is in effect. Under the order, the subject would be required to surrender firearms and ammunition, as well as the identification card or permits, which would be immediately revoked.

### **EXTREME RISK PROTECTIVE ORDER**

The temporary extreme risk protective order is to remain in effect until the court considers whether a one-year extreme risk protective order should be issued. The one-year order is to be issued if the court finds by a preponderance of the evidence at the hearing that the respondent poses a significant danger of bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm, and is to expire one year following the date of entry of the order.

### **EXTENSION OF EXTREME RISK PROTECTIVE ORDER**

The one-year order may be extended for another year if requested by the family or household member or law enforcement officer any time within three months of the expiration of the current protective order and upon notice to the respondent and a hearing. The court is required to make the same findings, by a preponderance of the evidence, as required for granting the initial one-year order.

### **SURRENDER PROVISIONS**

A person against whom a temporary extreme risk protective order or extreme risk protective order is issued is required to surrender to the local law enforcement agency or to surrender or sell to a federally licensed dealer all firearms and ammunition in the person’s custody or control, or which the person owns or possesses, and to surrender to law enforcement any firearms purchaser identification card, permit to purchase a handgun, or permit to carry a handgun the person holds. The person can petition for the return of the firearms or ammunition within 30 days before the order expires with certain exceptions. The person also may sell the firearms or ammunition to a licensed dealer. A law enforcement agency holding a surrendered firearm or ammunition a year after the order expires is authorized to destroy the firearm or ammunition in accordance with agency policies.

**PETITION TO TERMINATE EXTREME RISK PROTECTIVE ORDER**

The subject of an order has one opportunity to have an order terminated. The subject is required to prove at a hearing, by a preponderance of the evidence, that he or she no longer poses a significant danger of causing bodily injury to self or another by having custody or control of, owning, possessing, purchasing, or receiving a firearm.

**CONTEMPT OF AN EXTREME RISK PROTECTIVE ORDER**

Under the substitute, a respondent who is in contempt of an extreme risk protective order is to be arrested. If a person alleges that a respondent is in contempt of an extreme risk protective order but the facts are insufficient to establish probable cause to arrest the respondent, a law enforcement officer shall advise the petitioner of the procedure for completing and signing a criminal complaint alleging a person is in violation of an extreme risk protective order.

**DOMESTIC VIOLENCE CENTRAL REGISTRY**

The committee substitute further requires the AOC to include in the Domestic Violence Central Registry all persons who have had a final extreme risk protective order entered against them, and all persons who have been charged with a violation of a temporary extreme risk protective order or an extreme risk protective order. These records are to be kept confidential and released only to authorized entities which also are required to keep confidential the information and are prohibited from disseminating it for any reason other than as authorized by law. The substitute further provides that a respondent's information, other than information related to a violation of a temporary or final extreme risk protection order, are to be removed from the registry upon the expiration of the extreme risk protective order.

The committee substitute takes effect on the first day of the seventh month next following enactment and authorizes the Attorney General and the Administrative Director of the Courts to take anticipatory action.

**FISCAL ANALYSIS*****EXECUTIVE BRANCH***

None received.

***OFFICE OF LEGISLATIVE SERVICES***

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This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).