

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

691.1805 Action for extreme risk protection order; filing; complaint requirements; confidentiality of petitioner; jurisdiction.

Sec. 5.

(1) An individual described in subsection (2) may file an action in the family division of the circuit court requesting the court to enter an extreme risk protection order.

(2) Any of the following may file an action under this section:

(a) The spouse of the respondent.

(b) A former spouse of the respondent.

(c) An individual who has a child in common with the respondent.

(d) An individual who has or has had a dating relationship with the respondent.

(e) An individual who resides or has resided in the same household with the respondent.

(f) A family member.

(g) A guardian of the respondent.

(h) A law enforcement officer.

(i) A health care provider, if filing and maintaining the action does not violate requirements of the health insurance portability and accountability act of 1996, Public Law 104-191, or regulations promulgated under that act, 45 CFR parts 160 and 164, or physician-patient confidentiality.

(3) An individual who files an action under this section shall do so by filing a summons and complaint on forms approved by the state court administrative office as directed by the supreme court. The complaint must state facts that show that issuance of an extreme risk protection order is necessary because the respondent can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure himself, herself, or another individual by possessing a firearm, and has engaged in an act or acts or made significant threats that are substantially supportive of the expectation.

(4) An individual may file an action under this section regardless of whether the respondent owns or possesses a firearm.

(5) If the respondent is 1 of the following individuals, and if the petitioner knows the respondent is 1 of the following individuals, the petitioner shall state that in the complaint:

(a) An individual who is required to carry a pistol as a condition of the individual's employment and is issued a license to carry a concealed pistol.

(b) A police officer licensed or certified under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615.

(c) A sheriff.

(d) A deputy sheriff.

(e) A member of the department of state police.

(f) A local corrections officer.

(g) An employee of the department of corrections.

(h) A federal law enforcement officer who carries a pistol during the normal course of the officer's employment or an officer of the Federal Bureau of Prisons.

(6) If the petitioner knows or believes that the respondent owns or possesses firearms, the petitioner shall state that in the complaint and, to the extent possible, identify the firearms, giving their location and any additional information that would help a law enforcement officer to find the firearms.

(7) In an action under this section, the address of the petitioner must not be disclosed in any pleading or paper or otherwise. The clerk of the court shall maintain the petitioner's address as confidential in the court file. The clerk shall provide notice of hearing to the petitioner, using the confidential address, for any motion filed by the respondent or any hearing otherwise scheduled by the court.

(8) Any of the following is a proper county in which to file an action under this section:

(a) If the respondent is an adult, any county in this state, regardless of the residency or location of any party.

(b) If the respondent is a minor, either the petitioner's or respondent's county of residence.

(c) If the respondent does not reside in this state, in the petitioner's county of residence.

History: 2023, Act 38, Eff. Feb. 13, 2024

Popular Name: Red flag law

