

HB 687-FN - AS INTRODUCED

2019 SESSION

19-0007

04/05

HOUSE BILL

***687-FN***

AN ACT                   relative to extreme risk protection orders.

SPONSORS:           Rep. Altschiller, Rock. 19; Rep. Fenton, Ches. 8; Rep. Knirk, Carr. 3; Rep. Backus, Hills. 19; Rep. Espitia, Hills. 31; Rep. Mulligan, Graf. 12; Sen. Watters, Dist 4; Sen. Sherman, Dist 24; Sen. Hennessey, Dist 5; Sen. Dietsch, Dist 9; Sen. Kahn, Dist 10

COMMITTEE:       Criminal Justice and Public Safety

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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.

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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                          Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

*In the Year of Our Lord Two Thousand Nineteen*

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

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

## EXTREME RISK PROTECTION ORDERS

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

1 this chapter.

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

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

6 159-E:3 Commencement of Proceedings; Hearing.

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

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

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

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

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

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

25 IV. Notice of the pendency of the action and of the facts alleged against the respondent  
26 shall be given to the respondent, either personally or as provided in paragraph V. The petitioner  
27 shall be permitted to supplement or amend the petition only if the respondent is provided an  
28 opportunity prior to the hearing to respond to the supplemental or amended petition. All petitions  
29 filed under this chapter shall include the home and work telephone numbers of the respondent, if  
30 known. Notice of the whereabouts of the petitioner shall not be revealed except by order of the  
31 court for good cause shown. Any answer by the respondent shall be filed with the court and a copy  
32 shall be provided to the petitioner by the court.

33 V. No filing fee or fee for service of process shall be charged for a petition or response under  
34 this section, and the petitioner or respondent may proceed without legal counsel. A law  
35 enforcement officer shall serve process under this section. Any proceeding under this chapter shall  
36 not preclude any other available civil or criminal remedy.

37 VI. The clerk of the circuit court shall supply forms for petitions and for relief under this  
38 chapter designed to facilitate pro se proceedings. All such petitions shall contain the following

1 statement: "I swear that the foregoing information is true and correct to the best of my knowledge.  
2 I understand that making a false statement on this petition will subject me to criminal penalties."

3 VII. The findings of facts shall be final, but questions of law may be transferred from the  
4 circuit court to the supreme court.

5 VIII.(a) The court shall hold a hearing within 14 days of the filing of a petition under this  
6 section or within 7 days of service of process upon the respondent, whichever occurs later.

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

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

14 159-E:4 Temporary Relief.

15 I. A petitioner may request, and court may enter, a temporary extreme risk protection  
16 order with or without actual notice to respondent. Upon a showing by the petitioner that there is  
17 reasonable cause to believe that the respondent poses an immediate risk of causing bodily injury to  
18 himself or herself or others by having a firearm or any ammunition in his or her custody or control  
19 or by purchasing, possessing, or receiving a firearm or ammunition, the court shall issue a  
20 temporary extreme risk protection order.

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

24 III. In determining whether the grounds for a temporary extreme risk protection order  
25 exist, the court shall consider any relevant evidence, including but not limited to the evidence  
26 described in RSA 159-E:5, III.

27 IV. Temporary orders issued under this section shall prohibit the respondent from  
28 purchasing, possessing, or receiving any firearms and ammunition for the duration of the order and  
29 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 or any other person on behalf  
31 of the respondent, and any license to carry a loaded pistol or revolver issued to the respondent  
32 under RSA 159:6, for the duration of the protective order.

33 V. The court may issue such temporary orders by telephone or facsimile. Such  
34 telephonically issued orders shall be made by a circuit court judge to a law enforcement officer and  
35 shall be valid in any jurisdiction in the state. Such orders shall be returnable to the circuit court  
36 where the petitioner resides, unless otherwise ordered by the issuing judge. If non-telephonic  
37 temporary orders are made ex parte, the party against whom such relief is issued may file a written  
38 request with the clerk of the court and request an expedited hearing on such orders. Such hearing

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1 shall be held no less than 3 business days and no more than 5 business days after the request is  
2 received by the clerk. Such hearing may constitute the final hearing under RSA 159-E:3, VIII.

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

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

10 VIII. If the court denies the petitioner's request for a temporary extreme risk protection  
11 order, the court shall state the particular reasons for the denial.

12 159-E:5 Relief.

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

18 II. An extreme risk protection order issued under this section shall prohibit the respondent  
19 from purchasing, possessing, or receiving any firearms and ammunition for the duration of the  
20 order and shall further direct the respondent to relinquish to a law enforcement officer all firearms  
21 and ammunition in the control, ownership, or possession of the respondent or any other person on  
22 behalf of the respondent, and any license to carry a loaded pistol or revolver issued to the  
23 respondent under RSA 159:6 for the duration of the order

24 III. In determining whether the grounds for an extreme risk protection order exist, the  
25 court shall consider any relevant evidence, including but not limited to any of the following:

26 (a) An act or threat of violence within the past 24 months by the respondent against  
27 himself or herself or others, whether or not such violence or threat of violence involves a firearm.

28 (b) Evidence of the respondent having a serious mental illness or recurring mental  
29 health condition.

30 (c) A violation by the respondent of a domestic violence protection order issued under  
31 RSA 173-B.

32 (d) A previous or existing risk protection order issued against the respondent.

33 (e) A violation of a previous or existing risk protection order issued against the  
34 respondent.

35 (f) Whether the respondent, in this state or any other state, has been convicted of,  
36 had adjudication withheld on, or pled nolo contendere to a crime that constitutes domestic violence  
37 as defined in RSA 173-B:1.

38 (g) Whether the respondent has used, or has threatened to use, against himself or

1 herself or others any weapons.

2 (h) The unlawful or reckless use, display, or brandishing of a firearm by the respondent.

3 (i) The recurring use of, or threat to use, physical force by the respondent against  
4 another person or the respondent stalking another person.

5 (j) Whether the respondent, in this state or any other state, has been arrested for,  
6 convicted of, had adjudication withheld on, or pled nolo contendere to a crime involving violence or  
7 a threat of violence.

8 (k) Corroborated evidence of the abuse of controlled substances or alcohol by the  
9 respondent.

10 (l) Evidence of recent acquisition of firearms or ammunition by the respondent.

11 (m) Witness testimony, taken while the witness is under oath, relating to the matter  
12 before the court.

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

17 V. During the hearing, the court shall consider whether a mental health evaluation or  
18 chemical dependency evaluation is appropriate and, if such determination is made, may order such  
19 evaluations, if appropriate.

20 VI. The court may subsequently issue a search warrant authorizing a law enforcement  
21 officer to search for and seize all firearms and ammunition in the respondent's possession, custody  
22 or control, if there is probable cause to believe respondent has firearms or ammunition and if the  
23 court has reason to believe that such firearms or ammunition have not been relinquished by the  
24 respondent.

25 159-E:6 Contents of Extreme Risk Protection Orders.

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

28 (a) A statement of the grounds supporting the issuance of the order.

29 (b) The date the order was issued.

30 (c) The date the order expires.

31 (d) Whether a mental health evaluation or chemical dependency evaluation of the  
32 respondent is required and, if so, when the results of said evaluation must be provided to the court.

33 (e) The address of the court in which any responsive pleading should be filed.

34 (f) A description of the requirements for the surrender of all firearms and ammunition  
35 in the control, ownership, or possession of the respondent under RSA 159-E:8.

36 (g) The following statement:

37 "To the subject of this extreme risk protection order: This order will remain in effect until the date  
38 noted above. If you have not done so already, you shall surrender immediately to the (insert name

1 of local law enforcement agency) all firearms and ammunition that you own or that are in your  
2 custody, control, or possession and any license to carry a loaded pistol or revolver issued to you  
3 under RSA 159:6. You may seek the advice of an attorney as to any matter connected with this  
4 order."

5 II. If the court issues a temporary extreme risk protection order under RSA 159-E:4, the  
6 court shall inform the respondent, in writing, that he or she is entitled to request an expedited  
7 hearing as provided in RSA 159-E:4, V. The court shall provide the respondent with a form to  
8 request such a hearing.

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

13 IV. If the court denies the petitioner's request for an extreme risk protection order, the  
14 court shall state the particular reasons for the denial.

15 159-E:7 Notification; Reporting of Orders.

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

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

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

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

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

38 159-E:8 Surrender of Firearms and Ammunition.

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

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

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

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

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



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

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

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

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

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

19          159-E:9 Return and Disposal of Firearms and Ammunition.

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

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

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

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

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1           III. Law enforcement agencies shall not release firearms and ammunition without a court  
2 order granting such release. The law enforcement agency may charge the respondent a reasonable  
3 fee for the storage of any firearms and ammunition taken surrendered or seized to an extreme risk  
4 protection order. The fee shall not exceed the actual cost incurred by the law enforcement agency  
5 for the storage of the firearms and ammunition. The petitioner may make alternative  
6 arrangements with a federally licensed firearms dealer for the storage of firearms, at the  
7 respondent's own expense, upon approval of the court. Such firearms shall be turned over to the  
8 appropriate law enforcement agency for transfer to the storage facility. Retrieval of such firearms  
9 shall be through the law enforcement agency responsible for their transfer to the storage facility  
10 pursuant to a court order as prescribed in this paragraph.

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

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

18           VI. A law enforcement agency shall provide written notice, sent via the United States  
19 Postal Service to the last known address of the petitioner and to any family or household members  
20 of the respondent before the return of any firearm and ammunition surrendered or seized pursuant  
21 to this chapter.

22           VII. If a respondent does not file a motion seeking the return of firearms and ammunition  
23 within one year after an extreme risk protection order is vacated or expires and is not renewed, any  
24 firearms and ammunition surrendered by or seized from the respondent under this chapter shall be  
25 deemed abandoned and may be disposed of in accordance with the law enforcement agency's policies  
26 and procedures for the disposal of firearms in police custody.

27           159-E:10 Termination and Extension of Orders.

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

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

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

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1 including evidence of the considerations listed in RSA 159-E:5, III.

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

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

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

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

13 (a) Upon receipt of the motion to extend, the court shall order that a hearing be held no  
14 later than 14 days after the date the order is issued and shall schedule such hearing. The  
15 respondent shall be personally served with notice of the motion to extend as provided in RSA 159-  
16 E:7.

17 (b) In determining whether to extend an extreme risk protection order issued under  
18 this section, the court shall consider any relevant evidence, including evidence of the considerations  
19 listed in RSA 159-E:5, III.

20 (c) If the court finds by clear and convincing evidence that the requirements for  
21 issuance of an extreme risk protection order as provided in RSA 159-E:5 continue to be met, the  
22 court shall extend the order. However, if, after notice and hearing, the motion for extension is  
23 uncontested and no modification of the order is sought, the order may be extended on the basis of a  
24 motion or affidavit stating that there has been no material change in relevant circumstances since  
25 entry of the order and stating the reason for the requested extension.

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

29 (e) The court shall also provide notice of the extension of the order as required in RSA  
30 159-E:7, V.

31 159-E:11 Violation of Extreme Risk Protection Order; Penalties.

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

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

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

5           159-E:12 Orders Enforceable.

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

8           II. Any comparable extreme risk protection order issued by any other state, tribal, or  
9 territorial court, including an ex parte order, shall be deemed valid if the issuing court had  
10 jurisdiction over the parties and matter under the law of the state, tribe, or territory, and the  
11 person against whom the order was made was given reasonable notice and opportunity to be heard.  
12 There shall be a presumption of validity where an order appears facially valid.

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

15           159-E:13 Standard Forms.

16           I. The administrative office of the courts shall develop instructions and informational  
17 brochures, standard petition forms, and extreme risk protection order forms. The standard petition  
18 and order forms shall be used after January 1, 2020, for all petitions filed and orders issued under  
19 this chapter. The instructions, brochures, forms, and handbook shall be prepared in consultation  
20 with interested persons, including representatives of gun violence prevention groups, judges, and  
21 law enforcement personnel. Materials shall be based on best practices and available electronically  
22 online to the public.

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

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

31           (c) The informational brochure shall describe the use of and the process for obtaining,  
32 modifying, and terminating an extreme risk protection order under this chapter, and provide  
33 relevant forms.

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

38           (e) The court staff handbook shall allow for the addition of a community resource list by

1 the court clerk.

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

6 III. The administrative office of the courts shall distribute a master copy of the petition and  
7 order forms, instructions, and informational brochures to all court clerks and shall distribute a  
8 master copy of the petition and order forms to all clerks of the circuit courts. Distribution of all  
9 documents shall, at a minimum, be in an electronic format or formats accessible to all courts and  
10 court clerks in the state.

11 IV. The administrative office of the courts shall determine the significant non- English-  
12 speaking or limited-English-speaking populations in the state. The administrator shall then  
13 arrange for translation of the instructions and informational brochures required by this section,  
14 which shall contain a sample of the standard petition and order for protection forms, into the  
15 languages spoken by those significant non-English-speaking populations and shall distribute a  
16 master copy of the translated instructions and informational brochures to all clerks of the circuit  
17 court by January 1, 2020.

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

21 159-E:14 Reporting.

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

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

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

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

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

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

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

37 3 Effective Date. This act shall take effect January 1, 2020.

**HB 687-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT relative to extreme risk protection orders.

**FISCAL IMPACT:**    ☒ **State**                    ☒ **County**                    ☐ **Local**                    ☐ **None**

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**COUNTY:**

<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

**METHODOLOGY:**

This bill contains penalties that may have an impact on the New Hampshire judicial and correctional systems. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the entities impacted have provided the potential costs associated with these penalties below.

Judicial Branch	FY 2020	FY 2021
Class A Misdemeanor	\$76	\$77
Routine Criminal Felony Case	\$481	\$486
Protective Orders	\$166	\$167
Issuance of Search Warrants	\$76	\$77
Appeals	Varies	Varies
It should be noted that average case cost estimates for FY 2020 and FY 2021 are based on data that is more than ten years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types. An unspecified misdemeanor can be either class A or class B, with the presumption being a class B misdemeanor.		
Judicial Council		
Public Defender Program	Has contract with State to	Has contract with State to

	provide services.	provide services.
Contract Attorney – Felony	\$825/Case	\$825/Case
Contract Attorney – Misdemeanor	\$300/Case	\$300/Case
Assigned Counsel – Felony	\$60/Hour up to \$4,100	\$60/Hour up to \$4,100
Assigned Counsel – Misdemeanor	\$60/Hour up to \$1,400	\$60/Hour up to \$1,400
It should be noted that a person needs to be found indigent and have the potential of being incarcerated to be eligible for indigent defense services. The majority of indigent cases (approximately 85%) are handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%).		
Department of Corrections		
FY 2018 Average Cost of Incarcerating an Individual	\$40,615	\$40,615
FY 2018 Annual Marginal Cost of a General Population Inmate	\$4,620	\$4,620
FY 2018 Average Cost of Supervising an Individual on Parole/Probation	\$571	\$571
NH Association of Counties		
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$120	\$105 to \$120

In addition, the Judicial Branch indicates the requirement in proposed RSA 173-D:2, VIII that protective orders issued be transmitted to the Administrative Office of the Courts which shall enter the information in a state database that is made available to state, county and local law enforcement departments. The Administrative Office of the Courts currently maintains databases of domestic violence orders, stalking orders and criminal bail protective orders. Two full-time and four part-time employees currently maintain these registries. The Branch states the infrastructure is in place for the database required in this bill; however, the extent to which the volume of "threat of violence" protective orders causes additional expenses resulting in the need for new employees and/ or new computer equipment is unknown.

Many offenses are prosecuted by local and county prosecutors. When the Department of Justice has investigative and prosecutorial responsibility or is involved in an appeal, the Department would likely absorb the cost within its existing budget. If the Department needs to prosecute significantly more cases or handle more appeals, then costs may increase by an indeterminable amount.

#### **AGENCIES CONTACTED:**

Judicial Branch, Judicial Council and Departments of Justice and Corrections and New

Hampshire Association of Counties