

HB21-1098 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 **"SECTION 1. Legislative declaration.** (1) The general
4 assembly finds and declares that:

5 (a) The state has a strong interest in protecting its citizens from
6 people who in bad faith use the extreme risk protection order process in
7 article 14.5 of title 13, Colorado Revised Statutes;

8 (b) If a person includes a material factual misrepresentation or
9 material false statement in a petition for an extreme risk protection order,
10 that falsity can create irreparable harm for the person subject to the
11 petition;

12 (c) The person subject to the petition has his or her Second
13 Amendment rights denied when a court issues a temporary extreme risk
14 protection order or ongoing extreme risk protection order based on a
15 material factual misrepresentation or false statement; and

16 (d) The person subject to the petition also suffers great disruption
17 to his or her life when a law enforcement officer serves the person with
18 an order requiring the person to surrender his or her firearms without
19 knowing that a petition had been filed and a court had ordered the person
20 to surrender his or her firearms. A person subject to a petition may also
21 suffer damage to his or her reputation when others observe law
22 enforcement coming to the person's house, or worse, suffer anxiety over
23 having to surrender his or her firearms which is the person's most
24 effective way to protect his or her family and himself or herself.

25 (2) Therefore, it is necessary to provide a remedy to those who
26 have a petition for an extreme risk protection order filed against himself
27 or herself that contains a material factual misrepresentation or false
28 statement that results in the issuance of a temporary or ongoing extreme
29 risk protection order.

30 **SECTION 2.** In Colorado Revised Statutes, **add** 13-21-133 as
31 follows:

32 **13-21-133. Civil liability for false extreme risk protection**
33 **order petitions.** (1) A PERSON OR A PERSONAL REPRESENTATIVE OF A
34 PERSON WHO SUFFERS INJURY OR DAMAGES AS A RESULT OF NOT BEING
35 ABLE TO USE A FIREARM TO DEFEND HIMSELF, HERSELF, OR HIS OR HER
36 FAMILY AS A RESULT OF A TEMPORARY EXTREME RISK PROTECTION ORDER
37 ISSUED PURSUANT TO SECTION 13-14.5-103 OR AN ONGOING EXTREME RISK
38 PROTECTION ORDER ISSUED PURSUANT TO SECTION 13-14.5-104 MAY
39 BRING A CIVIL ACTION TO RECOVER DAMAGES AGAINST THE PERSON WHO

1 FILED THE PETITION FOR AN ORDER PURSUANT TO SECTION 13-14.5-103 OR
2 13-14.5-104 THAT CONTAINED A MATERIAL FACTUAL MISREPRESENTATION
3 OR MATERIAL FALSE STATEMENT.

4 (2) A PLAINTIFF WHO PREVAILS IN AN ACTION PURSUANT TO THIS
5 SECTION IS ENTITLED TO ATTORNEY FEES AND COURT COSTS, IN ADDITION
6 TO FIVE THOUSAND DOLLARS IN DAMAGES TO REASONABLY COMPENSATE
7 THE PLAINTIFF WHO HAS SUFFERED INJURY AS A RESULT OF A FALSELY
8 FILED TEMPORARY OR ONGOING EXTREME RISK PROTECTION ORDER
9 PETITION TO INCLUDE THE DENIAL OF THE PLAINTIFF'S SECOND
10 AMENDMENT RIGHTS.

11 (3) NOTHING IN THIS SECTION PROHIBITS A PERSON FROM
12 PURSUING ANY OTHER REMEDY PROVIDED BY STATE LAW, UNITED STATES
13 CONSTITUTIONAL LAW, OR COMMON LAW.

14 **SECTION 3.** In Colorado Revised Statutes, 13-14.5-113, **amend**
15 (2) as follows:

16 **13-14.5-113. Liability.** (2) A person who files a malicious or
17 false petition for a temporary extreme risk protection order or an extreme
18 risk protection order may be subject to criminal prosecution for those acts
19 AND CIVIL LIABILITY PURSUANT TO SECTION 13-21-133.

20 **SECTION 4. Act subject to petition - effective date.** This act
21 takes effect at 12:01 a.m. on the day following the expiration of the
22 ninety-day period after final adjournment of the general assembly; except
23 that, if a referendum petition is filed pursuant to section 1 (3) of article V
24 of the state constitution against this act or an item, section, or part of this
25 act within such period, then the act, item, section, or part will not take
26 effect unless approved by the people at the general election to be held in
27 November 2022 and, in such case, will take effect on the date of the
28 official declaration of the vote thereon by the governor."

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