

HOUSE BILL 1446

By DeBerry

AN ACT to amend Tennessee Code Annotated, Title 33;
Title 38; Title 39 and Title 40, relative to weapons.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 17, Part 13, is amended by adding the following new section:

39-17-1366.

(a) As used in this section:

(1) "Eligible petitioner" means a:

(A) Law enforcement officer;

(B) Person who is the current or former spouse of the respondent;

(C) Person who lives or lived with the respondent;

(D) Person who is dating, has dated, or is or has been engaged in a sexual relationship with the respondent. "Dating" and "dated" do not include fraternization between two (2) individuals in a business or social context;

(E) Person related to the respondent by blood or adoption; or

(F) Person who is or was related to the respondent by marriage;

and

(2) "Extreme risk protection order" means a temporary ex parte order or a final order granted under this section.

(b) An eligible petitioner under subsection (c) may file a petition for an extreme risk protection order in any court with jurisdiction over domestic relations matters or in

general sessions court. The petition must be filed in the county where the respondent resides. A petition for an extreme risk protection order must contain:

(1) Allegations that the respondent poses a significant risk of causing personal injury to the respondent or others by possessing a firearm;

(2) A sworn affidavit detailing specific statements, actions, and facts that give rise to a reasonable fear that the respondent will commit future dangerous acts if the extreme risk protection order is not granted;

(3) The quantity, types, and locations, if known, of any firearms and ammunition the respondent possesses or to which the respondent has access; and

(4) Whether the respondent is currently subject to an order of protection issued pursuant to title 36, chapter 3, part 6, or a similar order of protection from another jurisdiction.

(c) If the petitioner is a law enforcement officer, the petitioner must make a good faith effort to notify the respondent's family and any other person the petitioner believes may be in danger prior to filing the petition.

(d) A petition filed under this section shall not incur a filing fee.

(e) Upon filing the petition, the clerk shall mail a copy of the petition and a notice of the scheduled hearing on the petition to the respondent and to the law enforcement agency with jurisdiction. The court shall schedule a hearing on the petition no later than fifteen (15) days from the date the petition is filed.

(f) The court may issue a temporary ex parte extreme risk protection order pending a hearing on the petition, for good cause shown. If the court issues such an order, the order shall be mailed to the respondent. The temporary ex parte extreme risk protection order shall prohibit the respondent from purchasing, possessing, receiving, or having in the respondent's custody or control a firearm, firearm ammunition, or firearm accessories until the hearing.

(g) At the hearing on the petition, the court shall issue an extreme risk protection order if the court finds by clear and convincing evidence that the respondent poses a significant risk of causing personal injury to the respondent or others by possessing a firearm. The extreme risk protection order shall prohibit the respondent from purchasing, possessing, receiving, or having in the respondent's custody or control a firearm, firearm ammunition, or firearm accessories for a period of one (1) year.

(h) Upon issuance of an extreme risk protection order, the clerk of court shall forward a copy of the order to the Tennessee bureau of investigation for submission into the federal bureau of investigation's national instant criminal background check index.

(i) An eligible petitioner may petition for a renewal of an extreme risk protection order in the same manner set out in this section.

(j) A respondent may file a motion with the court that issued an extreme risk protection order to dismiss the order. The court shall review the motion and any evidence submitted by the respondent and original petitioner, and determine if there is reasonable cause to believe that the respondent is no longer a threat. If the court finds there is no longer clear and convincing evidence that the respondent poses a significant risk of causing personal injury to the respondent or others by possessing a firearm, the court shall vacate the order. The clerk of court shall forward a vacated order to the Tennessee bureau of investigation for submission into the federal bureau of investigation's national instant criminal background check index.

(k)

(1) A person commits an offense who purchases or possesses a firearm, firearm ammunition, or firearm accessory while subject to an extreme risk protection order.

(2) A violation of this subsection (k) is a Class A misdemeanor.

SECTION 2. This act shall take effect July 1, 2019, the public welfare requiring it.