

**2018 -- H 7688 SUBSTITUTE A AS AMENDED**

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LC003029/SUB A  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2018**

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A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE--COURTS -- EXTREME RISK  
PROTECTION ORDERS -- CRIMINAL OFFENSES -- WEAPONS

Introduced By: Representatives Canario, Mattiello, Costantino, Marshall, and Fellela

Date Introduced: February 23, 2018

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 8 of the General Laws entitled "COURTS AND CIVIL PROCEDURE  
2 - COURTS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 8.3

4 EXTREME RISK PROTECTION ORDERS

5 **8-8.3-1. Definitions.**

6 When used in this chapter, the following words and phrases shall have the following  
7 meanings:

8 (1) "Court" means the superior court in the county in which the respondent resides.

9 (2) "Extreme risk protection order" means either a temporary order or a one year order  
10 granted under this chapter.

11 (3) "Family or household member" means present and former family members (as  
12 defined in § 15-15-1), parents (as defined in § 15-15-1), stepparents, legal guardians, persons who  
13 are or have been in a substantive dating or engagement relationship within the past one year (as  
14 defined in § 15-15-1), and cohabitants (as defined in § 8-8.1-1).

15 (4) "Firearm" means and includes any machine gun, pistol, rifle, air rifle, air pistol,  
16 "blank gun," "BB gun," or other instrument from which steel or metal projectiles are propelled, or  
17 which may readily be converted to expel a projectile, except crossbows, recurve, compound, or  
18 longbows, and except instruments propelling projectiles which are designed or normally used for

1 a primary purpose other than as a weapon. The frame or receiver of the weapon shall be construed  
2 as a firearm pursuant to the provisions of this section.

3 (5) "Law enforcement agency" means the police department of any city or town, and the  
4 division of the Rhode Island state police established pursuant to chapter 28 of title 42.

5 (6) "Law enforcement officer" means a sworn member of a law enforcement agency as  
6 defined herein.

7 (7) "One year extreme risk protection order" means an extreme risk protection order  
8 granted pursuant to the provisions of § 8-8.3-5 or renewed pursuant to the provisions of § 8-8.3-7.

9 (8) "Petitioner" means a law enforcement agency that petitions for an order pursuant to  
10 this chapter.

11 (9) "Respondent" means the person who is identified as the respondent in a petition filed  
12 pursuant to this chapter.

13 (10) "Social media" means any cell phone or internet based tools and applications that are  
14 used to share and distribute information.

15 (11) "Temporary extreme risk protection order" means an extreme risk protection order  
16 issued pursuant to the provisions of § 8-8.3-4.

17 **8-8.3-2. Filing of petition.**

18 Proceedings under this chapter shall be filed, heard and determined in the superior court  
19 of the county in which the respondent resides. Any proceedings under this chapter shall not  
20 preclude any other available civil or criminal remedies. A party filing a petition under this chapter  
21 may do so without payment of any filing fee. There shall be no minimum residence requirements  
22 for the filing of a petition under this chapter. All matters filed under this chapter, as well as any  
23 documents submitted in conjunction with proceedings under this chapter, shall be maintained as  
24 confidential or non-public by the superior court.

25 **8-8.3-3. Contents of petition.**

26 (a) A petition for an extreme risk protection order shall be filed only by a law  
27 enforcement agency.

28 (b) A petitioner may file a petition with the court requesting an extreme risk protection  
29 order that shall enjoin the respondent from having in their possession, custody or control any  
30 firearms and shall further enjoin the respondent from purchasing, receiving or attempting to  
31 purchase or receive any firearms while the order is in effect. The petitioner shall concurrently file  
32 a sworn affidavit for a search warrant pursuant to chapter 5 of title 12 for the search of any  
33 firearms in the possession, custody, or control of the respondent.

34 (c) A petitioner shall file a petition upon receipt of credible information that the

1 respondent poses a significant danger of causing imminent personal injury to self or others by  
2 having in their custody or control, or by purchasing, possessing, or receiving, a firearm.

3 (d) A petition must state the specific statements, actions, or facts that support the belief  
4 that the respondent poses a significant danger of causing imminent personal injury to self or  
5 others by having in their custody or control, or by purchasing, possessing, or receiving, a firearm.

6 (e) A petition for an extreme risk protection order must be supported by a written  
7 affidavit signed by the petitioner under oath. The petitioner may produce sworn statements or  
8 testimony of other witnesses to support the petition.

9 (f) If the petitioner believes there are firearms in the respondent's current ownership,  
10 possession, custody, or control, the petition and search warrant affidavit shall identify the  
11 number, types, and locations of all such firearms, if known.

12 (g) A petitioner for an extreme risk protection order, at the time of the filing, shall  
13 identify all known restraining orders, orders of protection and pending lawsuits, complaints,  
14 petitions or actions pending, active or filed within one year prior to the petition involving the  
15 respondent, including, but not limited to, an order entered pursuant to chapter 8.1 of title 8 or  
16 chapter 15 of title 15.

17 **8-8.3-4. Temporary orders -- Proceedings.**

18 (a) Upon the filing of a petition under this chapter, the court may enter a temporary order  
19 if the court finds there is probable cause from specific facts shown by the petition that the  
20 respondent poses a significant danger of causing imminent personal injury to self or others by  
21 having in their custody or control, or by purchasing, possessing, or receiving, a firearm before  
22 notice can be served and a hearing held.

23 (b) If the court finds probable cause under subsection (a) of this section and from the  
24 sworn affidavit, a search warrant shall issue pursuant to chapter 5 of title 12 for the search for any  
25 firearms in the possession, custody, or control of the respondent. Such warrant shall be executed  
26 pursuant to chapter 5 of title 12.

27 (c) When the court is unavailable after the close of business a petition and affidavit may  
28 be filed before any available superior court judge.

29 (d) Any order and warrant issued under this section and any documentation in support of  
30 an order and warrant shall be filed immediately with the clerk of the superior court. The filing  
31 shall have the effect of commencing proceedings under this chapter and invoking the other  
32 provisions of this chapter.

33 (e) A temporary extreme risk protection order must include:

34 (1) A statement of the grounds supporting the issuance of the order;

1           (2) The date and time the order was issued;

2           (3) A statement that the order shall continue until such time as a court considers the  
3 petition pursuant to § 8-8.3-5 at a hearing;

4           (4) The address of the court that issued the order and in which any responsive pleading  
5 should be filed;

6           (5) The date and time of the scheduled hearing;

7           (6) The following statement: "To the subject of this protection order: This order will  
8 continue until the hearing scheduled on the date and time noted above. If any of your firearms  
9 have not been seized by the petitioner, you are under an obligation to immediately contact the  
10 petitioner to arrange for the surrender of any other firearms that you own and/or are in your  
11 custody, control, or possession, that have not been seized. You must surrender to the petitioner all  
12 firearms that you own and/or are in your custody, control, or possession, and also immediately  
13 surrender to the licensing authority or the attorney general any concealed carry permit issued to  
14 you pursuant to § 11-47-11 or § 11-47-18. While this order is in effect, it is illegal for you to have  
15 any firearm in your possession, custody or control or for you to purchase, receive, or attempt to  
16 purchase or receive any firearm. You may seek the advice of an attorney as to any matter  
17 connected with this order. If you believe you cannot afford an attorney, you are hereby referred to  
18 the public defender for an intake interview, and if eligible, the court shall appoint an attorney for  
19 you."

20           (7) Any temporary extreme risk protection order issued pursuant to this section shall  
21 continue until the time of the hearing pursuant to § 8-8.3-5. If the court continues a hearing  
22 pursuant to § 8-8.3-5, the temporary order shall remain in effect until the next hearing date.

23           (f) The court shall schedule a hearing within fourteen (14) days of the issuance of a  
24 temporary extreme risk protection order to determine if a one-year extreme risk protection order  
25 should be issued under this chapter.

26           (g) A temporary extreme risk protection order shall be immediately personally served by  
27 the petitioner along with supporting documents that formed the basis of the order, the notice of  
28 hearing and petition for the one-year extreme protection order. Alternate service shall be in  
29 accordance with § 8-8.3-6. Service issued under this section takes precedence over the service of  
30 other documents, unless the other documents are of a similar emergency nature. If timely personal  
31 service cannot be made, the court shall set a new hearing date and shall require additional  
32 attempts at obtaining personal service or permit alternate service as provided in this chapter.

33           (h) If the court declines to issue a temporary extreme risk protection order, the court shall  
34 state in writing the reasons for the denial.

1 **8-8.3-5. Hearings on petition – Grounds for issuance – Contents of order.**

2 (a) Upon hearing the matter, if the court finds by clear and convincing evidence that the  
3 respondent poses a significant danger of causing imminent personal injury to self or others by  
4 having in their custody or control, or by purchasing, possessing, or receiving, a firearm, the court  
5 shall issue a one-year extreme risk protection order. An extreme risk protection order issued by  
6 the court shall be for a fixed period of one year, at the expiration of which time the court may  
7 renew the extreme risk protection order as set forth in § 8-8.3-7.

8 (b) In determining whether grounds for an extreme risk protection order exist, the court  
9 may consider any or all of the following, including, but not limited to:

10 (1) A recent act or threat of violence by the respondent against self or others, regardless  
11 of whether such act or threat of violence involves a firearm;

12 (2) A pattern of acts or threats of violence by the respondent within the past twelve (12)  
13 months, including, but not limited to, acts or threats of violence against self or others;

14 (3) The respondent's mental health history;

15 (4) Evidence of the respondent's abuse of controlled substances or alcohol;

16 (5) Previous violations by the respondent of any court order including, but not limited to,  
17 restraining orders, no contact orders issued pursuant to chapter 29 of title 12, and protective  
18 orders issued pursuant to chapter 8.1 of title 8 or chapter 15 of title 15;

19 (6) Previous extreme risk protection orders issued against the respondent;

20 (7) The unlawful, threatening, or reckless use or brandishing of a firearm by the  
21 respondent, including, but not limited to, such act taken or displayed through social media;

22 (8) The respondent's ownership of, access to, or intent to possess firearms;

23 (9) The respondent's criminal history, including, but not limited to, arrests and  
24 convictions for felony offenses, crimes of violence as defined in § 11-47-2, violent misdemeanor  
25 offenses, crimes involving domestic violence as defined in § 12-29-2, and stalking;

26 (10) The history, use, attempted use, or threatened use of physical violence by the  
27 respondent against another person, or the respondent's history of stalking another person, or  
28 evidence of cruelty to animals by the respondent, including, but not limited to, evidence of  
29 violations or convictions pursuant to the provisions of chapter 1 of title 4; and

30 (11) Evidence of recent acquisition or attempts at acquisition of firearms by the  
31 respondent.

32 (c) In determining whether grounds for a one-year extreme risk protection order exist, the  
33 court may also consider any other relevant and credible evidence presented by the petitioner,  
34 respondent and any witnesses they may produce.

1 (d) The court may continue a hearing under this section upon a showing of good cause,  
2 including, but not limited to, whether service was effectuated less than seven (7) days from the  
3 date of the scheduled hearing. If the court continues a hearing under this subsection in a matter in  
4 which a temporary extreme risk protection order has been issued under § 8-8.3-4, the temporary  
5 extreme risk protection order shall remain in effect until the next hearing date.

6 (e) During the hearing the court may consider whether a mental health evaluation or  
7 substance abuse evaluation is appropriate, and may recommend that the respondent seek such  
8 evaluation if appropriate.

9 (f) An extreme risk protection order must include:

10 (1) A statement of the grounds supporting the issuance of the order;

11 (2) The date and time the order was issued;

12 (3) The date and time the order expires;

13 (4) Information pertaining to any recommendation by the court for mental health and/or  
14 substance abuse evaluations, if applicable;

15 (5) The address of the court that issued the order and in which any responsive pleading  
16 should be filed; and

17 (6) The following statement: "To the subject of this protection order: This order will  
18 continue until the date and time noted above unless terminated earlier by court order. If any of  
19 your firearms have not been seized by the petitioner, you are under an obligation to immediately  
20 contact the petitioner to arrange for the surrender of any other firearms that you own and/or are in  
21 your custody, control, or possession, that have not been seized. You must surrender to the  
22 petitioner all firearms that you own and/or are in your in your custody, control, or possession, and  
23 also immediately surrender to the licensing authority or the attorney general any concealed carry  
24 permit issued to you pursuant to § 11-47-11 or § 11-47-18. While this order is in effect, it is  
25 illegal for you to have any firearm in your possession, custody or control or for you to purchase,  
26 receive, or attempt to purchase or receive any firearm. You have the right to request one hearing  
27 to terminate this order within each twelve (12) month period that this order, or any renewal order,  
28 is in effect. You may seek the advice of an attorney as to any matter connected with this order. If  
29 you believe you cannot afford an attorney, you are hereby referred to the public defender for an  
30 intake interview, and if eligible, the court shall appoint an attorney for you."

31 (g) Upon the issuance of a one-year extreme risk protection order, the court shall inform  
32 the respondent that they are entitled to request termination of the order in the manner prescribed  
33 by § 8-8.3-7. The court shall provide the respondent with a form to request a termination hearing.  
34 The court shall also schedule a review hearing of the matter, which hearing shall be scheduled

1 within thirty (30) calendar days before the date the one year extreme risk protection order is set to  
2 expire.

3 (h) If the court declines to issue a one-year extreme risk protection order, the court shall  
4 state in writing the particular reasons for the court's denial and shall also order the return of  
5 weapons to the respondent. Such return should be effectuated consistent with the provisions of §  
6 8-8.3-8.

7 **8-8.3-6. Service of one year extreme risk protection orders.**

8 (a) A one-year extreme risk protection order issued under this chapter shall be personally  
9 served upon the respondent by the division of sheriffs. Provided, the division of sheriffs may  
10 request the assistance of the state police with such service as needed. If the division of sheriffs  
11 cannot complete service of the one-year extreme risk protection order upon the respondent within  
12 seven (7) days of the order's issuance, the deputy sheriff shall notify the petitioner and the court.  
13 The petitioner shall then seek an order for alternate service pursuant to this chapter.

14 (b) If the court determines that after diligent effort, personal service on the respondent  
15 with or of any documents as required pursuant to this chapter cannot be made, then the court may  
16 order an alternate method of service designed to give reasonable notice to the respondent.  
17 Alternative service may include, but shall not be limited to: service by certified and regular mail  
18 at respondent's last-known address or place of employment; leaving copies at the respondent's  
19 dwelling or usual place of abode with a person of suitable age and discretion residing therein; or  
20 by affixing a summons to the door of the respondent's residence. Provided, due to the nature of  
21 these proceedings, notice shall not be given by publication in a newspaper.

22 (c) In the event personal service of any order, notice, or other document issued pursuant  
23 to this chapter cannot be obtained, the court shall have discretion to continue any extreme risk  
24 protection order, and hearing thereon, as the court deems appropriate, until service can be made  
25 upon the respondent.

26 (d) Upon receipt of alternate service of any order, notice, or other document issued  
27 pursuant to this chapter, the respondent shall comply with the order, notice, or document as if  
28 personally served.

29 **8-8.3-7. Termination – Expiration – Renewal of orders.**

30 (a) *Termination of order.* The respondent may submit a single written request for a  
31 hearing to terminate a one-year extreme risk protection order issued under this chapter within the  
32 twelve (12) month period that the order, or any renewal order, is in effect.

33 (1) Upon receipt of the request for a hearing to terminate a one-year extreme risk  
34 protection order, the court shall set a date for a hearing. The respondent shall cause a copy of the

1 notice of the request to be served on the original petitioner. A hearing on this motion shall be  
2 scheduled not later than thirty (30) days from the date of filing the request.

3 (2) At a hearing to terminate a one-year extreme risk protection order prior to its  
4 scheduled date of expiration, the respondent shall have the burden of proving by clear and  
5 convincing evidence that the respondent does not pose a significant danger of causing imminent  
6 personal injury to self or others by having a firearm in their custody or control, or by purchasing,  
7 possessing, or receiving, a firearm. The court may consider any relevant evidence, including  
8 evidence of the considerations enumerated in § 8-8.3-5. In addition, the court may consider  
9 whether the respondent complied with the court's recommendation that the respondent undergo a  
10 mental health and/or substance abuse evaluation.

11 (3) If the court finds after the hearing that the respondent has met their burden by clear  
12 and convincing evidence, the court shall terminate the one-year order and order return of the  
13 firearms consistent with the provisions of §8-8.3-8.

14 (b) Notice of impending expiration. The original petitioner shall notify in writing all  
15 interested parties, including but not limited to family or household members of the respondent, of  
16 the impending expiration of any one-year extreme risk protection order within fourteen (14)  
17 calendar days before the date the order expires.

18 (c) Motion for renewal of order. The petitioner may by motion request a renewal of a  
19 one-year extreme risk protection order at any time within fourteen (14) calendar days before the  
20 date the order expires.

21 (1) Upon receipt of a motion to renew a one-year extreme risk protection order the court  
22 shall order that a hearing be held not later than fourteen (14) days from the date the motion is  
23 filed. The respondent shall be personally served with notice of the motion, unless otherwise  
24 ordered by the court.

25 (2) In determining whether to renew a one-year extreme risk protection order under this  
26 section, the court shall consider all relevant evidence presented by the petitioner and follow the  
27 same procedures provided in § 8-8.3-5. The court may also consider whether the respondent  
28 complied with any court recommendation for a mental health and/or substance abuse evaluation.

29 (3) If the court finds by clear and convincing evidence that the requirements for issuance  
30 of a one-year extreme risk protection order as provided in § 8-8.3-5 continue to be met, the court  
31 shall renew the order for another year. Further, if, after notice, the motion for renewal is  
32 uncontested and the petitioner seeks no modification of the order, the order may be renewed on  
33 the basis of the petitioner's motion and affidavit stating that there has been no material change in  
34 relevant circumstances since entry of the order which is subject to renewal.



1 (4) A renewal of a one-year extreme risk protection order shall be for another fixed  
2 period of one year, subject to termination as provided in subsection (a) of this section or future  
3 renewal by order of the court pursuant to this subsection.

4 **8-8.3-8. Firearms return -- Disposal.**

5 (a) Any firearm seized or surrendered in accordance with this chapter shall be returned to  
6 the respondent upon their request, within ten (10) days, when:

7 (1) The respondent produces documentation issued by the court indicating that any  
8 extreme risk protective order issued pursuant to this chapter has expired, terminated, or has not  
9 been renewed. Respondent shall not be required to acquire any additional court order granting  
10 the return of seized or surrendered firearms; and

11 (2) The law enforcement agency in possession of the firearms conducts a national  
12 criminal records check and determines that the respondent is not otherwise prohibited from  
13 possessing a firearm under state or federal law.

14 (b) A law enforcement agency shall, if requested by the court or the petitioner, provide  
15 prior notice to any interested party, including but not limited to family or household members of  
16 the respondent, of the impending return of a firearm to a respondent, in the manner provided in §  
17 8-8.3-6.

18 (c) Upon written request of the respondent, any law enforcement agency storing  
19 firearm(s) shall transfer possession of the firearm(s) to a federally licensed firearms dealer, who  
20 may be designated by the respondent if so desired.

21 (1) The respondent may instruct the federally licensed firearms dealer designated by the  
22 respondent where applicable to sell the firearm(s) or to transfer ownership or possession in  
23 accordance with state and federal law, to a qualified named individual who is not a member of the  
24 person's dwelling house, and who is not prohibited from possessing firearms under state or  
25 federal law. The owner of any firearm(s) sold shall receive any financial value received from their  
26 sale, less the cost associated with taking possession of, storing, and transferring of the firearm(s).

27 (2) Any individual to whom possession of a firearm(s) is transferred pursuant to this  
28 subsection shall be prohibited from transferring or returning any firearm(s) to the respondent  
29 while the extreme risk protective order is in effect and shall be informed of this prohibition. Any  
30 knowing violation of this subsection is a felony which shall be punishable by imprisonment for a  
31 term of not more than five (5) years, or by a fine of not more than one thousand dollars (\$1,000),  
32 or both.

33 (3) An individual to whom possession of a firearm(s) is transferred pursuant to this  
34 subsection shall only return a firearm(s) to the respondent if the respondent provides court

1 documentation that the extreme risk protection order issued pursuant to this chapter has expired  
2 or been withdrawn or terminated, and has not been renewed.

3 (d) The Rhode Island state police are authorized to develop rules and procedures  
4 pertaining to the storage and return of firearms seized by or surrendered to the local law  
5 enforcement agency or the state police pursuant to the provisions of this chapter or chapter 8.1 of  
6 title 8. The state police may consult with the Rhode Island Police Chiefs' Association in  
7 developing rules and procedures to effectuate this section.

8 **8-8.3-9. Reporting of orders.**

9 (a) The clerk of the court shall enter any one-year extreme risk protection order or  
10 temporary extreme risk protection order issued pursuant to this chapter into a statewide judicial  
11 information system on the same day such order is issued.

12 (b) The clerk of the court shall forward a copy of any order issued, renewed or terminated  
13 under this chapter the same day such order is issued to the appropriate law enforcement agency  
14 specified in the order and the attorney general.

15 (1) Upon receipt of the copy of an extreme risk protection order, the attorney general  
16 shall enter the order into:

17 (i) The national instant criminal background check system, also known as the NICS  
18 database;

19 (ii) All federal or state computer-based systems and databases used by law enforcement  
20 or others to identify prohibited purchasers of firearms; and

21 (iii) All computer-based criminal intelligence information systems and databases  
22 available in this state used by law enforcement agencies.

23 (2) The order must remain in each system for the period stated in the order, and the law  
24 enforcement agency shall only remove orders from the systems upon notice that they have been  
25 terminated or expired. Entry into the computer-based criminal intelligence information system  
26 constitutes notice to all law enforcement agencies of the existence of the order. The order shall be  
27 fully enforceable in any city or town in the state.

28 (c) The issuing court shall, within three (3) business days after issuance of a one-year  
29 extreme risk protection order or temporary extreme risk protection order, forward a copy of the  
30 respondent's driver's license, or comparable information, along with the date of order issuance, to  
31 the attorney general and the appropriate licensing authority. Upon receipt of the information, the  
32 attorney general or the appropriate licensing authority shall determine if the respondent has a  
33 concealed carry permit. If the respondent does have a concealed carry permit, the attorney general  
34 or the appropriate licensing authority shall immediately revoke the license.

1 (d) If any extreme risk protection order is terminated before its expiration date, the clerk  
2 of the court shall forward, on the same day, a copy of the termination order to the office of the  
3 attorney general and the petitioner. Upon receipt of the order, the attorney general shall promptly  
4 remove the order from any computer-based system into which it was entered pursuant to  
5 subsection (b) of this section.

6 **8-8.3-10. Penalties.**

7 (a) Any violation of any extreme risk protection order shall subject the violator to being  
8 found in contempt of court. The contempt order shall not be exclusive and shall not preclude any  
9 other available civil or criminal remedies.

10 (b) Any violation of an extreme risk protection order issued under this chapter of which  
11 the respondent has actual notice shall be a felony and, upon conviction, shall be punished by  
12 imprisonment for not more than ten (10) years, or a fine of not more than ten thousand dollars  
13 (\$10,000), or both.

14 (c) Filing a petition or providing information pursuant to this chapter knowing the  
15 information in or for such petition to be materially false, or with intent to harass the respondent,  
16 shall be a felony that shall be punished by imprisonment for not more than five (5) years, or a fine  
17 of not more than five thousand dollars (\$5,000), or both.

18 **8-8.3-11. Liability.**

19 Except as provided in §§ 8-8.3-8 and 8-8.3-10, this chapter does not impose criminal or  
20 civil liability on a law enforcement agency, law enforcement officer, or the attorney general or a  
21 member of that department, for acts or omissions related to obtaining any extreme risk protection  
22 order including, but not limited to, reporting, declining to report, investigating, declining to  
23 investigate, filing, or declining to file a petition under this chapter.

24 **8-8.3-12. Required notice on orders – Confidentiality of proceedings.**

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

29 (b) All filings, petitions, orders, warrants, affidavits, evidence, and any other document  
30 filed pursuant to this chapter shall be deemed confidential documents and shall not be available  
31 for public inspection or disclosure absent a court order. This section shall not prohibit the entry of  
32 orders into appropriate databases as required pursuant to § 8-8.3-9.

33 **8-8.3-13. Appeal.**

34 Any order under this chapter shall remain in effect during the pendency of an appeal to

1 [the supreme court unless the order is stayed by a justice of the supreme court.](#)

2 **8-8.3-14. Severability.**

3 [If any section of this chapter or its application to any person or circumstance is held](#)  
4 [invalid by a court of competent jurisdiction, the remainder of the chapter and the application of](#)  
5 [the section to other persons or circumstances shall not be affected. The invalidity or](#)  
6 [unconstitutionality of any section or sections or part of any section or sections of this chapter](#)  
7 [shall not affect the validity of the remainder of this chapter and to this end the sections of this](#)  
8 [chapter are severable.](#)

9 SECTION 2. Section 12-5-2 of the General Laws in Chapter 12-5 entitled "Search  
10 Warrants" is hereby amended to read as follows:

11 **12-5-2. Grounds for issuance.**

12 A warrant may be issued under this chapter to search for and seize any of the following:

13 (1) Property stolen or embezzled, or obtained by any false pretense, or pretenses, with  
14 intent to cheat or defraud within this state, or elsewhere;

15 (2) Property kept, suffered to be kept, concealed, deposited, or possessed in violation of  
16 law, or for the purpose of violating the law;

17 (3) Property designed or intended for use, or which is or has been used, in violation of  
18 law, or as a means of committing a violation of law;

19 (4) Property which is evidence of the commission of a crime; or

20 (5) Samples of blood, saliva, hair, bodily tissues, bodily fluids, or dental impressions  
21 from the body of a person, that may yield evidence of the identity of the perpetrator of a crime  
22 when subjected to scientific or other forensic analysis. The foregoing samples, and the results of  
23 any scientific or other forensic analysis, shall be admissible in all criminal proceedings, subject to  
24 application of the rules of evidence and criminal procedure. When any of the foregoing samples  
25 are seized for scientific or forensic analysis, the seizure shall be conducted in accordance with the  
26 regulations, guidelines, or protocols of the department of health or the state crime laboratory, as  
27 may be appropriate under the circumstances; ~~or~~

28 (6) Samples of blood or breath that may yield evidence of the presence of alcohol or a  
29 controlled substance when subjected to a chemical test, as contemplated in § 31-27-2. When any  
30 of the foregoing samples are seized for purposes of performing the aforementioned chemical test,  
31 the seizure shall be conducted in accordance with the regulations of the department of health that  
32 apply to the consensual collection of such a sample for purposes of the chemical test  
33 contemplated by Rhode Island general laws § 31-27-2; [or](#)

34 [\(7\) Property of a respondent under chapter 8.3 of title 8 where firearms may be under the](#)

1 [possession, custody or control of the respondent.](#)

1 SECTION 3. This act shall take effect upon passage.

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LC003029/SUB A  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE--COURTS -- EXTREME RISK  
PROTECTION ORDERS -- CRIMINAL OFFENSES -- WEAPONS

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1           This act would establish a new chapter 8-8.3, entitled "Extreme Risk Protection Orders."  
2           Under this new chapter, the superior court would have authority to issue "extreme risk protection  
3           orders" when the court finds that a respondent named in a petition poses a significant danger of  
4           causing imminent personal injury to self or others by having a firearm in their custody or control,  
5           or by purchasing, possessing, or receiving, a firearm. The petition would be filed by a law  
6           enforcement agency. The act would also provide that a person subject to an extreme risk  
7           protection order must surrender all firearms and carry permits while subject to such an order. The  
8           act would also authorize the court to issue a search warrant to seize the respondent's firearms and  
9           concealed carry permits.

10           This act would take effect upon passage.

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