

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

***** 691.1810.new THIS NEW SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE
2023 REGULAR SESSION SINE DIE *****

691.1810.new Responsibilities of restrained individual; notification to local law enforcement for failure to comply; compliance hearing; warrants.

Sec. 10. (1) Not later than 1 business day after the restrained individual has received a copy of the extreme risk protection order, or the restrained individual has actual notice of the order, the restrained individual shall do either of the following:

(a) File with the court that issued the order 1 or more documents or other evidence verifying that all firearms previously in the individual's possession or control were surrendered to or seized by the local law enforcement agency designated under section 9(1)(g) and that any concealed pistol license was surrendered to the county clerk as required by the order and section 8 of 1927 PA 372, MCL 28.428, and verify to the court that at the time of the verification the individual does not have any firearms or a concealed pistol license in the individual's possession or control.

(b) File with the court that issued the order 1 or more documents or other evidence verifying that both of the following are true:

(i) At the time the order was issued, the individual did not have a firearm or a concealed pistol license in the individual's possession or control.

(ii) At the time of the verification, the individual does not have a firearm or a concealed pistol license in the individual's possession or control.

(2) If a restrained individual has not satisfied the requirements of subsection (1)(a) or (b) within 1 business day after the extreme risk protection order was served or the restrained individual received actual notice of the order, the clerk of the court that issued the order shall inform the local law enforcement agency designated under section 9(1)(g) of that fact.

(3) A local law enforcement agency that receives a notification under subsection (2) shall make a good-faith effort to determine whether there is evidence that the restrained individual has failed to surrender a firearm or concealed pistol license in the restrained individual's possession or control as required.

(4) The court shall schedule a compliance hearing to be held not later than 5 days after an extreme risk protection order is served on the restrained individual or after the restrained individual receives actual notice of the order. If the restrained individual has satisfied the requirements of subsection (1)(a) or (b) before the hearing, the court may cancel the hearing. If the restrained individual has failed to comply with the requirements of subsection (1)(a) or (b) or fails to appear at the compliance hearing, the court shall issue a bench warrant and issue a search warrant under 1966 PA 189, MCL 780.651 to 780.659, to seize any firearms and may hold the restrained individual in contempt.

(5) At any time while an extreme risk protection order is in effect, the prosecuting attorney for the county in which the order was issued or a law enforcement officer may file an affidavit with the court that issued the order alleging that the restrained individual has a firearm or a concealed pistol license in the individual's possession or control. If an affidavit is filed under this subsection, the court shall determine whether probable cause exists to believe that the restrained individual has a firearm or concealed pistol license in the individual's possession or control. If the court finds that probable cause exists, the court may issue an arrest warrant or order a hearing. The court shall also issue a search warrant under 1966 PA 189, MCL 780.651 to 780.659, describing the firearm or firearms or the concealed pistol license believed to be in the restrained individual's possession or control and authorizing a designated law enforcement agency to search the location or locations where the firearm or firearms or concealed pistol license is believed to be and to seize any firearm or concealed pistol license discovered by the search.

History: 2023, Act 38, Eff. (sine die).

Popular name: Red flag law