

Judicial Impact Fiscal Note

Bill Number: 1857 HB	Title: Extreme risk protec. orders	Agency: 055-Admin Office of the Courts
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

Account	FY 2016	FY 2017	2015-17	2017-19	2019-21
Counties					
Cities					
Total \$					

Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.

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Request # 1857 HB-1

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact on the Courts

Summary:

This bill would create a new order called an extreme risk protective order . It would prevent the subject from possession or purchase of a firearm. Four new misdemeanors are created, and the felony unlawful possession of a firearm in the second degree is expanded to include situations where a person is subject to this order .

Sections with potential court impact:

Section 3 would create a new order called an emergency extreme risk protective order . It would require a substantial likelihood that the subject poses a significant danger of personal injury to himself, herself, or another by the subject's possession of a firearm . Petitioning for such an order with false information would be a new misdemeanor . Purchase or possession of a firearm by the subject of the emergency extreme risk protective order would be a new misdemeanor, and would prohibit possession for a one-year period, commencing upon the expiration of the existing order .

Section 6 would create a new order called an extreme risk protective order . It would require a substantial likelihood that the subject poses a significant danger of personal injury to himself, herself, or another by the subject's possession of a firearm . The order would have a limited duration of one year . Petitioning for such an order with false information would be a new misdemeanor . Purchase or possession of a firearm by the subject of the extreme risk protective order would be a new misdemeanor, and would prohibit possession for a five-year period, commencing upon the expiration of the existing order .

Section 8 would allow the subject of an extreme risk protective order to petition once for the termination of the order .

Section 9 would allow a hearing for renewal of the extreme risk protective order for an additional one year .

Section 10 would require the subject of the order to file with the clerk of the court a proof of surrender and receipt form, or a declaration of nonsurrender within 5 judicial days. By December 1, 2015, the Administrative Office of the Courts would be required to develop the forms for the subject of the order to complete and file .

Section 11 would require the clerk of the court to enter the extreme risk protective order into the statewide judicial information system within one judicial day after issuance. The court would be required to forward notice of the extreme risk protective order to the Washington State Patrol when the order is entered and dissolved or terminated within five judicial days after issuance .

Section 13 would amend RCW 9.41.040 to include being subject to any type of extreme risk protective order within the circumstances amounting to unlawful possession of a firearm in the second degree .

Section 14 would amend RCW 9.41.047 to include extreme risk protective orders within the situations where the court must warn the person of the ineligibility to possess a firearm unless his right to do so is restored by a court of record. (Note : The warning is not amended to add that the loss of right due to the extreme risk protective order will expire on its own.) The clerk must forward notice of the extreme risk protective order to the Department of Licensing .

Section 15 would create a new statute authorizing a search warrant for firearms owned or possessed by the subject of an extreme risk protective order where the subject has been served with the order and has not surrendered any firearms .

II. B - Cash Receipts Impact

No revenues are expected as a result of this bill.

II. C - Expenditures

This bill would create a new protection order, and new misdemeanors for violation of the order and for filing petitions with false information. There is insufficient judicial data to estimate how many cases would be filed each year as a result of this bill . For illustrative purposes, we can use data for similar cases to show what the costs might be . Based upon these comparisons, we assume that this bill would result in expenditures greater than \$50,000, but the actual amount would be speculative . Except for the System

Modifications section, the numbers given below are for illustrative purposes only.

New Protection Order Cases:

This bill would create a new extreme risk protective order. These would be filed as new cases in the superior courts (as there is no authority in the bill to allow the district and municipal courts to hear these cases). There is insufficient judicial data to estimate how many cases would be filed each year as a result of this bill. We do have examples of other protection orders which could be helpful.

Domestic Violence Protection Orders: over the last five years, there has been an average of 17,435 petitions for domestic violence protection orders filed in the superior, district, and municipal courts. If we assume that there will be 5% as many extreme risk protective orders, we would see 872 new cases filed in the state's superior courts each year. This would result in increased expenditures of:

- County costs: \$278,101
- State costs: \$63,593
- Total costs: \$341,694

Stalking Protection Orders: over the last two years (this order was recently created), there has been an average of 386 petitions for stalking protection orders filed in the superior, district, and municipal courts. If we assume that there will be approximately the same number of extreme risk protective orders, we would see 386 new cases filed in the state's superior courts each year. This would result in increased expenditures of:

- County costs: \$123,104
- State costs: \$28,150
- Total costs: \$151,254

As we have no data to allow accurate estimations of the number of cases which would be filed under this bill, we expect that the expenditures for the superior courts would be greater than \$50,000, but beyond that would be speculative.

New Crimes and More Cases Filed:

Sections 3 and 6 of this bill create new crimes for including false information in the petition for the new protection order. There is no judicial data to estimate how many cases would be filed each year as a result of this bill. Based on filings for other similar types of crimes, we expect the number of cases filed in the superior, district, and municipal courts would be small, and the cost to those courts would be minimal.

Section 13 of this bill would amend the felony of unlawful possession of a firearm in the second degree to include those who possess a firearm when subject to this new protection order. There is no judicial data to estimate how many cases would be filed each year as a result of this bill. If 50 more criminal cases are filed as a result, the superior courts would see increased expenditures of:

- County costs: \$25,917
- State costs: \$5,926
- Total costs: \$31,843

System Modifications:

This bill would require modifications to the Judicial Information System (JIS) to add new codes for the new protection order and the new crimes. These modifications are estimated to take 239 hours of AOC staff time which equates to a one-time cost of \$12,667. It is important to note that the passage of several bills requiring JIS modifications would have a cumulative impact and could exceed current resources.

Part III: Expenditure Detail

Part IV: Capital Budget Impact