

Extreme Risk Protection Orders

“Red Flag Bill”

This Extreme Risk Protection Orders bill was reintroduced in January 2019 and passed both the Senate (Y 42/N 21) and Assembly (Y 83/N 32) on 1/29/19. The bill now awaits transmittal to the Governor’s office for action. The intent of this bill is to prevent certain individuals from purchasing or possessing or attempting to purchase a firearm, rifle or shotgun. The court would determine whether such an individual was likely to engage in conduct that would be harmful to themselves or others. SAANYS is bringing this bill to our member’s attention as the bill includes school administrators or their designee to the list of petitioners who may submit an application requesting such a restraint. The following will provide information on the salient parts of the bill that impact administrators.

Reason for the proposed bill

Currently, a court may only issue a temporary order of protection when family members contact law enforcement should they believe that a family member poses a threat of carrying out an act of violence. At the current time there, is no provision for a court to issue a temporary order to seize firearms from someone thought to present a threat to himself/herself or to others unless that person has also been accused of a crime or family offense.

What the bill proposes

The bill would establish a process for petitioning the court to issue an order of protection that would prohibit a person from purchasing, possessing or attempting to purchase a firearm, rifle or shotgun.

A petitioner may file an application to petition the court which must state (with appropriate documentation) the justification as to why the issuance of an extreme risk protection order is warranted.

A petitioner may be police officer, family or household member, or **school administrator or their designee**. A school administrator is defined as a “principal, or the equivalent title, in a school, or other chief school officer” (Section 1125 of Education Law). Any designee must be employed at the same schools as the administrator and must be designated in writing as permitted to file a petition. The designee may be a school teacher, school guidance counselor, school psychologist, school social worker, school nurse, other school personnel required to hold a teaching or administrative license or certificate and a full or part time employee compensated to hold a temporary coaching license or professional coaching experience.

An application is filed in the Supreme Court in the county in which the respondent resides. Based on documentation, the court may issue a temporary extreme risk protection order from purchasing, possessing or attempting to purchase a firearm, rifle or shotgun.

The respondent is informed that there will be a hearing to determine whether a final extreme risk protection order will be issued. Once a temporary extreme risk order is issued the court must notify the state police, other law enforcement agency with jurisdiction, all licensing officers and the division of criminal justice. Once the division of criminal justice receives the order they must notify the FBI. A law enforcement officer serving the temporary extreme risk order must request that the respondent immediately surrender all firearms, rifles and shotguns.

The bill goes on to stipulate details regarding the hearing and issuance of the final extreme risk protection order or revocation of such an order.

We will keep you all updated as to any further progress of this bill. Please feel free to contact Cindy Gallagher with any questions or requests for further information at cgallagher@saanys.org or 518 782-0600.