



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 1018

PRINTER'S NO. 1152

PRIME SPONSOR: O'Mara

COST / (SAVINGS)

FUND	FY 2022/23	FY 2023/24
General Fund	\$0	\$132,500
County Funds		See Fiscal Impact

SUMMARY:

Creates extreme risk protection orders to temporarily prohibit persons who are at substantial risk of suicide or causing death or serious bodily injury to another from possessing a firearm.

ANALYSIS:

House Bill 1018 Printer's Number 1152 adds a chapter to the Judicial Code (Title 42) providing for "extreme risk protection orders" (ERPO) and amends Title 18 and the Uniform Firearm Act to prohibit a person who is subject to an (ERPO) from possessing a firearm.

An "extreme risk protection order" is a court order prohibiting a person from having, purchasing, or receiving a firearm based upon a finding that the person presents a substantial risk of suicide or of causing the death of, or serious bodily injury to, another person.

The court issuing an ERPO must send a copy of the order to the sheriff, the local law enforcement agency, and the Pennsylvania State Police. Upon receipt of the order, the Pennsylvania State Police will enter the order into a database so that notice of the order is provided to the Pennsylvania Instant Check System (PICS) and the Federal Bureau of Investigation National Instant Criminal Background Check System.

The legislation requires the Office of Attorney General to develop and update the petition for an "extreme risk protection order." The Office of Attorney General is also required to develop, prepare, distribute, and update instructions and information brochures, order forms, and a staff handbook on the extreme risk protection order process.

House Bill 1018 creates or expands several offenses. The legislation creates an offense if a person knowingly, intentionally, or recklessly makes a false statement under this section. The offense is a felony of the third degree and is punishable by a fine of not less than \$2,500 nor exceeding \$15,000, or imprisonment not exceeding seven years, or both.

An individual commits a misdemeanor of the second degree, punishable by a fine of not less than \$500 nor more than \$5,000, or imprisonment not exceeding two years, or both, if they intentionally or knowingly fail to relinquish a firearm or firearms license as required by an ERPO.

An individual not licensed to accept a firearm pursuant to the chapter commits a misdemeanor of the third degree, punishable by a fine of not less than \$250 nor more than \$5,000, or imprisonment not exceeding 90 days, or both, if he intentionally or knowingly accepts possession of a firearm or firearms license from a person he knows is the subject of an extreme risk protection order.

A person who possesses a firearm or firearm license commits a misdemeanor of the second degree, punishable by a fine of not less than \$500 nor more than \$5,000, or imprisonment not exceeding two years, or both, if he intentionally or knowingly returns a firearm, other weapon, or ammunition or allows a respondent to have access to the firearm, other weapon, or ammunition prior to the expiration of an extreme risk protection order.

This legislation would take effect in 90 days upon enactment.

FISCAL IMPACT:

Office of Attorney General

According to the Office of Attorney General, the agency will be able to absorb any additional requirements with their current budget and staff.

Pennsylvania State Police

The Pennsylvania State Police estimate that it will cost \$132,500 to implement the database and programmatic updates in the legislation.

Fines/Penalties

The legislation creates or modifies several offenses under Pennsylvania's Uniform Firearms Act. Because the legislation has yet to be enacted, it is not possible to determine the number of people who would be convicted and sentenced for these new offenses.

Similarly, it is not possible to determine the number of people who will make false statements. However, a recent study on the implementation of ERPO legislation in Oregon and published in the journal of Criminology and Public Policy found that "ERPO petitions and orders were overwhelmingly being used as intended," indicating a low incidence of false statements. The authors do note that other states may see different results¹.

It should be noted that the marginal annual cost to incarcerate an additional inmate in a state correctional institution was \$15,213 in FY 2021/22. This cost assumes that fewer than 300 additional individuals were incarcerated. The average annual cost to incarcerate someone in a state correctional institution in 2022 was \$59,598. Offenders with a maximum sentence of less than two years are typically sent to a county jail. Marginal costs are not available for county facilities, but the average annual cost to incarcerate someone in a county jail in 2022 was \$43,701.

Any revenue generated by fines in this section would be distributed to counties depending on the location of the penalty pursuant to 42 Pa.C.S. § 3572.

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House Appropriations Committee (D)

DATE: May 16, 2023

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.

¹ Zeoli, A. M., Paruk, J., Branas, C. C., Carter, P. M., Cunningham, R., Heinze, J., & Webster, D. W. (2021). Use of extreme risk protection orders to reduce gun violence in Oregon. *Criminology & Public Policy*, 20(2), 243– 261. <https://doi.org/10.1111/1745-9133.12544>