

A-Engrossed
Senate Bill 719

Ordered by the Senate April 26
Including Senate Amendments dated April 26

Sponsored by COMMITTEE ON JUDICIARY

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Directs State Court Administrator to study methods for improving efficiency of courts and to report to appropriate committee or interim committee of Legislative Assembly no later than September 1, 2018.]

Creates process for obtaining extreme risk protection order prohibiting person from possessing deadly weapon when court finds that person presents risk in near future, including imminent risk, of suicide or causing injury to another person. Establishes procedures for law enforcement officer or family or household member of person to apply for order. Establishes procedures for respondent to request hearing, and for continuance of order after hearing or if hearing is not requested. Establishes procedures for termination and renewal of order.

Requires court to order respondent to surrender deadly weapons and concealed handgun license within 24 hours of service of initial order, and immediately upon service of continued or renewed order. Provides for law enforcement officer serving order to request immediate surrender of deadly weapons and concealed handgun license and authorizes law enforcement officer to take possession of surrendered items. Allows respondent to surrender deadly weapons to gun dealer or third party in lieu of law enforcement officer.

Punishes violation of order, or false application for order, by maximum of one year's imprisonment, \$6,250 fine, or both.

Permits service upon attorney or party in juvenile dependency proceeding by electronic mail or electronic service through court's electronic filing system.

Prescribes how proof of service is to be made when service is by facsimile communication device, electronic mail or electronic service.

A BILL FOR AN ACT

1
2 Relating to courts; creating new provisions; and amending ORS 419B.812, 419B.848 and 419B.851.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. As used in sections 1 to 8 of this 2017 Act:**

5 **(1) "Deadly weapon" means:**

6 **(a) Any instrument, article or substance specifically designed for and presently capable**
7 **of causing death or serious physical injury; or**

8 **(b) A firearm, whether loaded or unloaded.**

9 **(2) "Family or household member" means a spouse, intimate partner, mother, father,**
10 **child or sibling of the respondent, or any person living within the same household as the**
11 **respondent.**

12 **(3) "Gun dealer" has the meaning given that term in ORS 166.412.**

13 **(4) "Law enforcement agency" means an agency or department of the State of Oregon**
14 **or of a political subdivision of the State of Oregon whose principal function is the appre-**
15 **hension of criminal offenders.**

16 **(5) "Law enforcement officer" means a member of the Oregon State Police, a sheriff, a**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 municipal police officer or an authorized tribal police officer as defined in ORS 181A.680.

2 (6) "Petitioner" means a person who petitions for an order under sections 1 to 8 of this
3 2017 Act.

4 (7) "Respondent" means a person against whom an order is filed under sections 1 to 8
5 of this 2017 Act.

6 **SECTION 2.** (1) A law enforcement officer or a family or household member of a person
7 may file a petition requesting that the court issue an extreme risk protection order enjoining
8 the person from having in the person's custody or control, owning, purchasing, possessing
9 or receiving, or attempting to purchase or receive, a deadly weapon.

10 (2) An extreme risk protection order petition shall be heard by the court and issued or
11 denied on the same day the petition is submitted to the court or on the judicial business day
12 immediately following the day the petition is filed.

13 (3) The petition for an extreme risk protection order must be supported by a written af-
14 fidavit signed by the petitioner under oath, or an oral statement taken under oath by the
15 petitioner or any other witness the petitioner may produce.

16 (4) In determining whether to issue an extreme risk protection order, the court shall
17 consider the following:

18 (a) A history of suicide threats or attempts or acts of violence by the respondent directed
19 against another person;

20 (b) A history of use, attempted use or threatened use of physical force by the respondent
21 against another person;

22 (c) A previous conviction for:

23 (A) A misdemeanor involving violence as defined in ORS 166.470;

24 (B) A stalking offense under ORS 163.732 or 163.750, or a similar offense in another ju-
25 risdiction;

26 (C) An offense constituting domestic violence as defined in ORS 135.230;

27 (D) Driving under the influence of intoxicants under ORS 813.010 or 813.011; or

28 (E) An offense involving cruelty or abuse of animals;

29 (d) Evidence of recent unlawful use of controlled substances;

30 (e) Previous unlawful and reckless use, display or brandishing of a deadly weapon by the
31 respondent;

32 (f) A previous violation by the respondent of a court order issued pursuant to ORS 107.716
33 or 107.718;

34 (g) Evidence of an acquisition or attempted acquisition within the previous 180 days by
35 the respondent of a deadly weapon; and

36 (h) Any additional information the court finds to be reliable, including a statement by the
37 respondent.

38 (5)(a) The petitioner has the burden of proof at the ex parte hearing.

39 (b) The petitioner may appear in person or by electronic video transmission.

40 (c) The court may continue a hearing under this section upon a showing of good cause.

41 (6)(a) The court shall issue an extreme risk protection order if the court finds by clear
42 and convincing evidence, based on the petition and supporting documentation and after con-
43 sidering a statement by the respondent, if provided, that the respondent presents a risk in
44 the near future, including an imminent risk, of suicide or of causing physical injury to an-
45 other person. The court may not include in the findings any mental health diagnosis or any

1 connection between the risk presented by the respondent and mental illness.

2 (b) Upon making the findings described in paragraph (a) of this subsection, the court
3 shall issue an extreme risk protection order prohibiting the respondent from having in the
4 respondent's custody or control, owning, purchasing, possessing or receiving, or attempting
5 to purchase or receive, a deadly weapon.

6 (7) An extreme risk protection order issued under this section must include:

7 (a) A statement of the evidence and the court's findings supporting issuance of the order;

8 (b) The date and time the order was issued;

9 (c) A description of the manner in which the respondent may request a hearing described
10 in subsection (9) of this section;

11 (d) The address of the court to which a request for a hearing must be sent;

12 (e) A description of the requirements for surrender of deadly weapons in the respondent's
13 possession under section 6 of this 2017 Act; and

14 (f) A statement in substantially the following form:
15
16

17 To the subject of this protection order: An extreme risk protection order has been issued
18 by the court and is now in effect. You are required to surrender all deadly weapons in your
19 custody, control or possession. You may not have in your custody or control, purchase,
20 possess, receive, or attempt to purchase or receive, deadly weapons while this order is in
21 effect. You must, within 24 hours, surrender all deadly weapons in your custody, control or
22 possession to (insert name of local law enforcement agency), a gun dealer or a third party
23 who may lawfully possess the deadly weapons. You must, within 24 hours, surrender to (in-
24 sert name of local law enforcement agency) any concealed handgun license issued to you.
25 You may request a hearing to contest this order. If you do not request a hearing, the ex-
26 treme risk protection order against you will be in effect for one year unless terminated by
27 the court. You have the right to request one hearing to terminate this order during the 12
28 months that this order is in effect starting from the date of this order. You may seek the
29 advice of an attorney as to any matter connected with this order.
30

31
32 (8)(a) The respondent shall be personally served with both a copy of the extreme risk
33 protection order and a hearing request form described in subsection (9) of this section.

34 (b) Whenever an extreme risk protective order is served on a respondent, the person
35 serving the order shall immediately deliver to the county sheriff a true copy of proof of
36 service, on which it is stated that personal service of the order was made on the respondent,
37 and a copy of the order. Proof of service may be made by affidavit or by declaration under
38 penalty of perjury in the form required by ORCP 1 E.

39 (c) If the person serving the order cannot complete service within 10 days, the person
40 shall notify the petitioner, at the address provided by the petitioner, that the documents
41 have not been served. If the petitioner does not respond within 10 days, the person shall hold
42 the order and petition for future service and file a return to the clerk of the court showing
43 that service was not completed.

44 (d) Upon receipt of a copy of the order and notice of completion of service by a member
45 of a law enforcement agency, the county sheriff shall immediately enter the order into the

1 Law Enforcement Data System maintained by the Department of State Police and request
2 that the order be entered into the databases of the National Crime Information Center of the
3 United States Department of Justice. If the order was served on the respondent by a person
4 other than a member of a law enforcement agency, the county sheriff shall enter the order
5 into the Law Enforcement Data System, and shall request that the information be entered
6 into the databases of the National Crime Information Center, upon receipt of a true copy of
7 proof of service. The sheriff shall provide the petitioner with a true copy of the proof of
8 service. Entry into the Law Enforcement Data System constitutes notice to all law enforce-
9 ment agencies of the existence of the order. Law enforcement agencies shall establish pro-
10 cedures adequate to ensure that an officer at the scene of an alleged violation of the order
11 may be informed of the existence and terms of the order. The order is fully enforceable in
12 any county in this state.

13 (9)(a) Within 30 days after an extreme risk protection order is served on the respondent
14 under this section, the respondent may request a court hearing using a form prescribed by
15 the State Court Administrator.

16 (b) If the respondent requests a hearing under paragraph (a) of this subsection, the clerk
17 of the court shall notify the petitioner and the respondent of the date and time of the hearing
18 and shall supply the petitioner with a copy of the respondent's request for a hearing. The
19 petitioner and the respondent shall give to the clerk of the court information sufficient to
20 allow such notification.

21 (c) The hearing shall occur within 21 days of the date of the respondent's request for a
22 hearing.

23 (10) If the respondent fails to request a hearing within 30 days after an extreme risk
24 protection order is served, the protection order is confirmed by operation of law and is ef-
25 fective for a period of one year from the date the original order was issued or until the order
26 is terminated, whichever is sooner.

27 (11) A filing fee, service fee or hearing fee may not be charged for proceedings under this
28 section or section 3 or 4 of this 2017 Act.

29 (12) If the court declines to issue an extreme risk protection order under this section,
30 the court shall state with particularity the reasons for the denial on the record.

31 **SECTION 3.** (1) At a hearing on an extreme risk protection order requested by the re-
32 spondent under section 2 (9) of this 2017 Act, the court may:

33 (a) Examine under oath the petitioner, the respondent and any witness either party may
34 produce, including a mental health professional selected by the respondent, or, in lieu of ex-
35 amination, consider sworn affidavits of the petitioner, the respondent or a witness of either
36 party; and

37 (b) Ensure that a reasonable search has been conducted for criminal history records re-
38 lated to the respondent.

39 (2)(a) The Oregon Evidence Code shall apply in a hearing under this section.

40 (b) The court may continue a hearing under this section upon a showing of good cause.
41 If the court continues a hearing under this paragraph, the extreme risk protection order
42 shall remain in effect until the next hearing date.

43 (3)(a) At the hearing, the court shall determine:

44 (A) Whether to terminate the extreme risk protection order or continue the order for a
45 duration of one year; and

1 (B) Whether any deadly weapons surrendered to a law enforcement agency pursuant to
2 section 6 of this 2017 Act shall be returned to the respondent or retained by the law
3 enforcement agency.

4 (b) The petitioner has the burden of proving, by clear and convincing evidence, that the
5 respondent presents a risk in the near future, including an imminent risk, of suicide or of
6 causing physical injury to another person.

7 (c) If the court finds that the petitioner has met the burden of proof, the court shall:

8 (A) Order that the extreme risk protection order continue for the duration of one year
9 from the date the original order was issued.

10 (B) Order that any deadly weapons surrendered to a law enforcement agency pursuant
11 to section 6 of this 2017 Act remain in the custody of the law enforcement agency while the
12 order is in effect.

13 (d) The court may not include in findings made under this subsection any mental health
14 diagnosis or any connection between the risk presented by the respondent and mental illness.

15 (4) An extreme risk protection order continued under this section must include:

16 (a) A statement of the evidence and the court's findings supporting issuance of the order;

17 (b) The date and time the order was issued;

18 (c) The date and time of the expiration of the order;

19 (d) A description of the requirements for surrender of deadly weapons in the respondent's
20 possession under section 6 of this 2017 Act; and

21 (e) A statement in substantially the following form:

22 _____
23
24 To the subject of this protection order: This order is valid until the date and time noted
25 above. If you have not done so already, you are required to surrender all deadly weapons in
26 your custody. You must immediately surrender all deadly weapons in your custody, control
27 or possession to (insert name of local law enforcement agency), a gun dealer or a third party
28 who may lawfully possess the deadly weapons. You must immediately surrender to (insert
29 name of local law enforcement agency) any concealed handgun license issued to you. You
30 may not have in your custody or control, purchase, possess, receive, or attempt to purchase
31 or receive, a deadly weapon while this order is in effect. You have the right to request one
32 hearing to terminate this order during the 12 months that this order is in effect starting
33 from the date of this order. You may seek the advice of an attorney as to any matter con-
34 nected with this order.

35 _____
36
37 (5) When the court continues an extreme risk protection order under this section, the
38 court shall inform the respondent that the respondent is entitled to request termination of
39 the order in the manner described in section 4 of this 2017 Act. The court shall provide the
40 respondent with a form with which to request a termination hearing.

41 (6) The respondent need not be served if an order of the court indicates that the re-
42 spondent appeared in person before the court.

43 (7) If the court terminates an extreme risk protection order after a hearing under this
44 section:

45 (a) The court shall state with particularity the reasons for the termination on the record.

1 (b) The clerk of the court shall immediately deliver a copy of the termination order to
2 the county sheriff with whom the original order was filed. Upon receipt of the termination
3 order, the county sheriff shall promptly remove the original order from the Law Enforcement
4 Data System and shall request that the order be removed from the databases of the
5 National Crime Information Center of the United States Department of Justice.

6 **SECTION 4.** (1) The petitioner or the respondent of an extreme risk protection order is-
7 sued or continued under section 2 or 3 of this 2017 Act may each submit a written request
8 once during the 12-month effective period of the order, and once during any 12-month effec-
9 tive period of an order renewed under section 5 of this 2017 Act, for a hearing to terminate
10 the order. A hearing under this section is in addition to any hearing requested under section
11 2 of this 2017 Act.

12 (2) Upon receipt of a request described in subsection (1) of this section, the court shall
13 schedule a termination hearing and provide notice of the hearing to both parties at least five
14 days before the hearing.

15 (3)(a) The person filing the termination request has the burden of proving, by clear and
16 convincing evidence, that the respondent no longer presents a risk in the near future, in-
17 cluding an imminent risk, of suicide or of causing physical injury to another person.

18 (b) The Oregon Evidence Code shall apply in a hearing under this section.

19 (c) The court may continue a hearing under this section upon a showing of good cause.
20 If the court continues a hearing under this paragraph, the extreme risk protection order
21 shall remain in effect until the next hearing date.

22 (4)(a) If the court finds that the petitioner has met the burden of proof as described in
23 subsection (3) of this section, the court shall terminate the extreme risk protection order.

24 (b) The court may not include in findings made under this subsection any mental health
25 diagnosis or any connection between the risk presented by the respondent and mental illness.

26 (5) When an extreme risk protection order is terminated by order of the court, the clerk
27 of the court shall immediately deliver a copy of the termination order to the county sheriff
28 with whom the original order was filed. Upon receipt of the termination order, the county
29 sheriff shall promptly remove the original order from the Law Enforcement Data System and
30 shall request that the order be removed from the databases of the National Crime Informa-
31 tion Center of the United States Department of Justice.

32 **SECTION 5.** (1) A law enforcement officer or a family or household member of a re-
33 spondent, including but not limited to the law enforcement officer or family or household
34 member who petitioned the court for the original extreme risk protection order issued under
35 section 2 of this 2017 Act, may request a renewal of the order within 90 days before the ex-
36 piration date of the order by filing a written request with the court.

37 (2) Upon receipt of the request for renewal described in subsection (1) of this section, the
38 court shall schedule a hearing and provide notice of the hearing to both parties at least 14
39 days before the hearing.

40 (3) At a hearing to determine whether to renew an extreme risk protection order under
41 this section, the court may:

42 (a) Examine under oath the petitioner, the respondent and any witness either party may
43 produce or, in lieu of examination, consider sworn affidavits of the petitioner, the respondent
44 or a witness of either party; and

45 (b) Ensure that a reasonable search has been conducted for criminal history records re-

1 lated to the respondent.

2 (4) The person requesting the renewal of the extreme risk protection order has the bur-
3 den of proving, by clear and convincing evidence, that the respondent continues to present
4 a risk in the near future, including an imminent risk, of suicide or of causing physical injury
5 to another person.

6 (5)(a) The Oregon Evidence Code shall apply in a hearing under this section.

7 (b) The court may continue a hearing under this section upon a showing of good cause.
8 If the court continues a hearing under this paragraph, the original extreme risk protection
9 order shall remain in effect until the next hearing date.

10 (c) The petitioner may appear in person or by electronic video transmission.

11 (6)(a) If the court finds that the petitioner has met the burden of proof, the court may
12 renew the extreme risk protection order for a duration of up to one year.

13 (b) The court may not include in findings made under this subsection any mental health
14 diagnosis or any connection between the risk presented by the respondent and mental illness.

15 (7) An extreme risk protection order renewed under this section must include:

16 (a) A statement of the evidence and the court's findings supporting issuance of the order;

17 (b) The date and time the order was issued;

18 (c) The date and time of the expiration of the order;

19 (d) A description of the requirements for surrender of deadly weapons in the respondent's
20 possession under section 6 of this 2017 Act; and

21 (e) A statement in substantially the following form:

22 _____
23
24 To the subject of this protection order: This renewed order is valid until the date and
25 time noted above. If you have not done so already, you are required to surrender all deadly
26 weapons in your custody. You must immediately surrender all deadly weapons in your cus-
27 tody, control or possession to (insert name of local law enforcement agency), a gun dealer
28 or a third party who may lawfully possess the deadly weapons. You must immediately sur-
29 render to (insert name of local law enforcement agency) any concealed handgun license is-
30 sued to you. You may not have in your custody or control, purchase, possess, receive, or
31 attempt to purchase or receive, a deadly weapon while this order is in effect. You have the
32 right to request one hearing to terminate this renewed order every 12 months that this order
33 is in effect, starting from the date of this order. You may seek the advice of an attorney as
34 to any matter connected with this order.
35 _____

36
37 (8) When the court renews an extreme risk protection order, the court shall inform the
38 respondent that the respondent is entitled to request termination of the renewed order in
39 the manner described in section 4 of this 2017 Act. The court shall provide the respondent
40 with a form with which to request a termination hearing.

41 (9)(a) Service of a renewed extreme risk protective order shall be made by personal de-
42 livery of a copy of the order to the respondent. The respondent need not be served if an order
43 of the court indicates that the respondent appeared in person before the court.

44 (b) Whenever a renewed extreme risk protective order is served on a respondent, the
45 person serving the order shall immediately deliver to the county sheriff a true copy of proof

1 of service, on which it is stated that personal service of the order was made on the re-
2 spondent, and a copy of the order. Proof of service may be made by affidavit or by declara-
3 tion under penalty of perjury in the form required by ORCP 1 E.

4 (c) If service of the order is not required under paragraph (a) of this subsection, a copy
5 of the order must be delivered to the sheriff by the court.

6 (d) Upon receipt of a copy of the order and notice of completion of any required service
7 by a member of a law enforcement agency, the county sheriff shall immediately enter the
8 order into the Law Enforcement Data System maintained by the Department of State Police
9 and request that the order be entered into the databases of the National Crime Information
10 Center of the United States Department of Justice. If the order was served on the respond-
11 ent by a person other than a member of a law enforcement agency, the county sheriff shall
12 enter the order into the Law Enforcement Data System and request that the order be en-
13 tered into the databases of the National Crime Information Center upon receipt of a true
14 copy of proof of service. The sheriff shall provide the petitioner with a true copy of any re-
15 quired proof of service. Entry into the Law Enforcement Data System constitutes notice to
16 all law enforcement agencies of the existence of the order. Law enforcement agencies shall
17 establish procedures adequate to ensure that an officer at the scene of an alleged violation
18 of the order may be informed of the existence and terms of the order. The order is fully
19 enforceable in any county in this state.

20 (10) If the court declines to renew an extreme risk protection order, the court shall state
21 with particularity the reasons for the denial on the record.

22 (11) A renewed extreme risk protection order may be further renewed as described in this
23 section.

24 **SECTION 6.** (1) Upon issuance of an extreme risk protection order under section 2 of this
25 2017 Act, the court shall further order that the respondent:

26 (a) Within 24 hours surrender all deadly weapons in the respondent's custody, control
27 or possession to a law enforcement agency, a gun dealer or a third party who may lawfully
28 possess the deadly weapons; and

29 (b) Within 24 hours surrender to a law enforcement agency any concealed handgun li-
30 cense issued to the respondent under ORS 166.291 and 166.292.

31 (2) Upon continuance of an extreme risk protection order after a hearing under section
32 3 of this 2017 Act, or renewal of an extreme risk protection order under section 5 of this 2017
33 Act, the court shall further order that the respondent:

34 (a) Immediately surrender all deadly weapons in the respondent's custody, control or
35 possession to a law enforcement agency, a gun dealer or a third party who may lawfully
36 possess the deadly weapons; and

37 (b) Immediately surrender to a law enforcement agency any concealed handgun license
38 issued to the respondent under ORS 166.291 and 166.292.

39 (3)(a) A law enforcement officer serving an extreme risk protection order issued under
40 section 2 of this 2017 Act shall request that the respondent immediately surrender to the
41 officer all deadly weapons in the respondent's custody, control or possession and any con-
42 cealed handgun license issued to the respondent under ORS 166.291 and 166.292. The law
43 enforcement officer shall take possession of all deadly weapons appearing to be in the cus-
44 tody, control or possession of the respondent that are surrendered by the respondent. If the
45 respondent indicates an intention to surrender the deadly weapons to a gun dealer or a third

1 party, the law enforcement officer shall request that the respondent identify the gun dealer
2 or third party.

3 (b) A law enforcement officer serving an extreme risk protection order continued after
4 a hearing under section 3 of this 2017 Act, or renewed under section 5 of this 2017 Act, shall
5 request that the respondent immediately surrender to the officer all deadly weapons in the
6 respondent's custody, control or possession and any concealed handgun license issued to the
7 respondent under ORS 166.291 and 166.292. The officer may conduct any search permitted by
8 law for deadly weapons in the custody, control or possession of the respondent and shall take
9 possession of all deadly weapons appearing to be in the custody, control or possession of the
10 respondent that are surrendered, in plain sight or discovered pursuant to a lawful search.

11 (4) At the time of the surrender of any deadly weapons or concealed handgun licenses
12 under subsection (3) of this section, the law enforcement officer taking possession shall issue
13 a receipt identifying all surrendered items and provide a copy of the receipt to the respond-
14 ent. Within 72 hours after service of the order, the law enforcement officer serving the order
15 shall file the original receipt with the court and shall ensure that the law enforcement
16 agency employing the law enforcement officer retains a copy of the receipt.

17 (5) If a third party claims lawful ownership or right of possession of a deadly weapon
18 surrendered pursuant to this section, the law enforcement agency may return the deadly
19 weapon to the third party if the third party provides proof of lawful ownership or right of
20 possession of the deadly weapon, in a sworn affidavit, affirms that:

21 (a) The third party may lawfully possess the deadly weapon;

22 (b) The third party did not consent to the prior possession of the deadly weapon by the
23 respondent; and

24 (c) The third party will prevent the respondent from accessing or possessing the deadly
25 weapon in the future.

26 **SECTION 7.** (1) If an extreme risk protection order is terminated or expires without re-
27 newal, a law enforcement agency holding any deadly weapon or concealed handgun license
28 that has been surrendered pursuant to the order shall return the surrendered items as re-
29 quested by the respondent of the order only after:

30 (a) Confirming through a criminal background check, if the deadly weapon is a firearm,
31 that the respondent is legally eligible to own or possess firearms under state and federal law;
32 and

33 (b) Confirming that the extreme risk protection order is no longer in effect.

34 (2) The owner of a deadly weapon, if the deadly weapon is a firearm, in the custody of a
35 law enforcement agency pursuant to section 6 of this 2017 Act who does not wish to have the
36 firearm returned is entitled to sell or transfer title of any firearm to a licensed gun dealer
37 as defined in ORS 166.412, provided that the firearm is lawful to own or possess and the
38 person has a legal right to transfer title of the firearm.

39 (3) A deadly weapon surrendered by a person pursuant to section 6 of this 2017 Act that
40 remains unclaimed by the owner shall be disposed of in accordance with the law enforcement
41 agency's policies and procedures for the disposal of deadly weapons in the agency's custody.

42 **SECTION 8.** (1) A person commits a Class A misdemeanor if:

43 (a) The person knowingly possesses a deadly weapon; and

44 (b) The person is prohibited from possessing deadly weapons pursuant to an extreme risk
45 protection order:

1 (A) Issued after notice and a hearing under section 3 of this 2017 Act;

2 (B) Confirmed by operation of law after the person failed to request a hearing under
3 section 2 (9) of this 2017 Act; or

4 (C) Renewed under section 5 of this 2017 Act.

5 (2) A person convicted under subsection (1) of this section shall be prohibited from having
6 in the person's custody or control, owning, purchasing, possessing or receiving, or attempt-
7 ing to purchase or receive, any firearms for a five-year period beginning when the extreme
8 risk protection order expires or is terminated, or the judgment of conviction is entered,
9 whichever occurs later.

10 (3) A person who files a petition for any extreme risk protection order under sections 1
11 to 8 of this 2017 Act with the intent to harass the respondent, or knowing that the infor-
12 mation in the petition is false, is guilty of a Class A misdemeanor.

13 **SECTION 9.** ORS 419B.851 is amended to read:

14 419B.851. (1) Except as otherwise provided in ORS 419B.800 to 419B.929, every order, every pe-
15 tition and answer subsequent to the original petition, every written motion other than one that may
16 be heard ex parte and every written request and similar paper must be served upon each of the
17 parties.

18 (2)(a) Whenever under ORS 419B.800 to 419B.929 service is required or permitted to be made
19 upon a party, and that party is represented by an attorney, the service must be made upon the at-
20 torney unless otherwise ordered by the court. Service upon the attorney or upon a party must be
21 made by:

22 (A) Delivering a copy to the attorney or party[.];

23 (B) [by] Mailing [it] a copy to the attorney's or party's last known address; [or,]

24 (C) If the party is represented by an attorney, [by] facsimile communication device as provided
25 in subsection (6) of this section;

26 (D) Electronic mail as provided in subsection (7)(a) of this section; or

27 (E) Electronic service through the court's electronic filing system under subsection (7)(b)
28 of this section.

29 (b) As used in [this] paragraph (a) of this subsection, "delivery of a copy" means:

30 (A) Handing it to the person to be served;

31 (B) Leaving it at the person's office with the person's clerk or a person apparently in charge
32 of the office or, if there is no one in charge, leaving it in a conspicuous place in the office; or

33 (C) If the office is closed or the person to be served has no office, leaving it at the person's
34 dwelling house or usual place of abode with a person who is over 14 years of age and who resides
35 at the dwelling house or usual place of abode.

36 [(b)] (c) A party who has appeared without providing an appropriate address for service may
37 be served by placing a copy of the paper required to be served in the court file. Service by mail is
38 complete upon mailing. Service of any notice or other paper to bring a party into contempt may only
39 be upon such party personally.

40 (3) When a petition is filed under subsection (1) of this section alleging that a child who is a
41 foreign national is within the jurisdiction of the court, or when a motion is filed requesting imple-
42 mentation of a plan other than return of a ward to the ward's parent, a copy of the petition or
43 motion shall be served on the consulate for the child or ward's country.

44 (4)(a) All papers required to be served upon a party under subsection (1) of this section must
45 be filed with the court within a reasonable time after service.

1 (b) Except as otherwise provided in ORS 419B.812 to 419B.839 and 419B.845, proof of service
2 of all papers required or permitted to be served may be by:

3 (A) Written acknowledgment of service[.];

4 (B) [by] An affidavit of the person making service; [or by]

5 (C) A certificate of an attorney[.];

6 (D) **When service is made by facsimile communication device, an affidavit or declaration**
7 **of the person making service or a certificate of an attorney with the printed confirmation**
8 **of receipt of the message that is generated by the facsimile machine attached to the affidavit**
9 **or certificate;**

10 (E) **When service is made by electronic mail under subsection (7)(a) of this section, an**
11 **affidavit or declaration of the person making the service, or certificate of an attorney, stat-**
12 **ing either that the party consented to service by electronic mail or that the person received**
13 **confirmation that the message and attachment were received by the party and specifying the**
14 **method by which the person received confirmation from the party; or**

15 (F) **If service is made by electronic service under subsection (7)(b) of this section, an**
16 **affidavit or declaration of the person making service, or by certificate of an attorney, speci-**
17 **fying that service was completed by electronic service.**

18 (c) **The proof of service required under paragraph (b)(E) or (F) of this subsection may**
19 **not be by receipt of an automatically generated message indicating that the party is out of**
20 **the office or an automatically generated delivery status notification.**

21 (d) Proof of service may be made upon the papers served or as a separate document attached
22 to the papers. [*When service is made by facsimile communication device, proof of service must be made*
23 *by an affidavit of the person making service or by a certificate of an attorney. The printed confirmation*
24 *of receipt of the message generated by the facsimile machine must be attached to the affidavit or cer-*
25 *tificate.*]

26 (5) The filing of any papers with the court must be made by filing them with the clerk of the
27 court or the person exercising the duties of that office. The clerk or the person exercising the duties
28 of that office shall indorse the time of day, day of the month, month and year upon the paper. The
29 clerk or person exercising the duties of that office is not required to receive any paper for filing
30 unless:

31 (a) The contents of the paper are legible; and

32 (b) All of the following are legibly indorsed on the front of the paper:

33 (A) The name of the court;

34 (B) The title of the cause and the paper;

35 (C) The names of the parties; and

36 (D) If there is one, the name of the attorney for the parties requesting filing.

37 (6) Whenever under ORS 419B.800 to 419B.929 service is required or permitted to be made upon
38 a party and that party is represented by an attorney, the service may be made upon the attorney
39 by means of a facsimile if the attorney maintains such a device at the attorney's office and the de-
40 vice is operating at the time service is made.

41 (7) **Whenever under ORS 419B.800 to 419B.929 service is required or permitted to be made**
42 **upon a party, unless the party or the party's attorney is exempted from service by electronic**
43 **mail or electronic service by an order of the court, the service may be made by one of the**
44 **following means:**

45 (a) **Electronic mail. Service by electronic mail is complete under this subsection on con-**

1 **firmation of receipt of the electronic mail or, if the party has consented to service by elec-**
2 **tronic mail, on transmission of the electronic mail. A party or a party's attorney must**
3 **provide the name and electronic mail address of that party or that attorney on any document**
4 **served by electronic mail. A party or attorney who has made service by electronic mail must**
5 **notify other parties in writing of any changes to that party's or that attorney's electronic**
6 **mail address.**

7 **(b) Electronic service using the electronic filing system provided by the Judicial Depart-**
8 **ment in the manner prescribed in rules adopted by the Chief Justice of the Supreme Court.**

9 **SECTION 10.** ORS 419B.812 is amended to read:

10 419B.812. (1) As used in this section and ORS 419B.815, 419B.819 and 419B.824, a "true copy"
11 of a summons or petition means an exact and complete copy of the original summons or petition
12 with a certificate upon the copy signed by an attorney of record or a party that indicates that the
13 copy is exact and complete.

14 (2) A summons under ORS 419B.815 or 419B.819 must be titled "In the matter of _____, a
15 child" and must contain the name of the person to be served and the address at which the summons
16 and petition may be served.

17 (3) The summons must be issued no later than 30 days after the filing of a petition alleging ju-
18 risdiction under ORS 419B.100, a petition to establish a permanent guardianship under ORS 419B.365
19 or a petition seeking termination of parental rights under ORS 419B.500, 419B.502, 419B.504,
20 419B.506 or 419B.508.

21 (4) The petitioner, the petitioner's attorney, the juvenile department, the district attorney, the
22 Attorney General or the Department of Human Services may issue a summons.

23 (5) The summons must be signed by the:

24 (a) Petitioner;

25 (b) Petitioner's attorney;

26 (c) Juvenile department;

27 (d) District attorney;

28 (e) Attorney General; or

29 (f) Department of Human Services.

30 (6) The summons must be served with a true copy of the petition.

31 (7) The summons and petition may be served by any competent person 18 years of age or older
32 who is a resident of the state where service is made or of this state.

33 (8) The summons and petition may be transmitted by telegraph, [or] facsimile **or electronic mail**
34 as provided in ORS 419B.848 (3).

35 (9) The court shall fix the date and time for the hearing on a petition at a reasonable time after
36 service or, if service is by publication, final publication of the summons. The time may not be less
37 than 24 hours after service or, if service is by publication, final publication in a proceeding to es-
38 tablish jurisdiction under ORS 419B.100 and may not be less than 10 days after service or, if service
39 is by publication, final publication in a proceeding to establish permanent guardianship or terminate
40 parental rights.

41 **SECTION 11.** ORS 419B.848 is amended to read:

42 419B.848. (1) All process authorized to be issued by any court or officer of the court runs in the
43 name of the State of Oregon and must be signed by the officer issuing the process, and if the process
44 is issued by a clerk of the court, the seal of office of the clerk must be affixed to the process.
45 Summonses and subpoenas are not process.

1 (2) A civil process may be served or executed on Sunday or any legal holiday. No limitation or
2 prohibition stated in ORS 1.060 applies to the service or execution of a civil process on a Sunday
3 or legal holiday.

4 (3)(a) [*An order in any case, and all other*] **All** papers requiring service, may be transmitted
5 **from any place** by telegraph, [*or*] facsimile [*for service in any place*] **or electronic mail**.

6 (b) The facsimile or telegraphic copy, as defined in ORS 165.840, of the order or paper trans-
7 mitted may be served or executed by the officer or person to whom it is sent for that purpose and
8 returned by the officer or person if any return is required in the same manner and with the same
9 force and effect in all respects as if the copy were the original. The officer or person serving or
10 executing the order or paper has the same authority and is subject to the same liabilities as if the
11 copy were the original. The original, if an order, must be filed in the court from which it was issued
12 and a certified copy of the order must be preserved in the office from which it was sent. The oper-
13 ator may use either the original or certified copy to transmit the order or paper.

14 (4) Proof of service or execution of process must be made as provided in ORS **419B.851** or
15 **419B.833**.

16 **SECTION 12. The amendments to ORS 419B.812, 419B.848 and 419B.851 by sections 9 to**
17 **11 of this 2017 Act apply to service of process made in court proceedings on or after the ef-**
18 **fective date of this 2017 Act.**