

INSTRUCTIONS FOR FILING A PETITION FOR A RISK PROTECTION ORDER (With or Without Requesting a Temporary Ex Parte Risk Protection Order)

Who may file this form?

This petition must be filed by either a law enforcement officer or a law enforcement agency through an employee or person authorized to file the petition on their behalf (the “Petitioner”). No one other than law enforcement may file a petition for a risk protection order. It is not necessary for the Petitioner to be an attorney.

When should this form be used?

This form should be used in situations when there is evidence that a person (the “Respondent”) poses a significant danger of harming himself or herself or others by possessing a firearm or ammunition.

This form can be used to request a court order that will require the Respondent to 1) surrender to law enforcement all firearms, ammunition, and any license to carry a concealed weapon or firearm in their possession, custody or control; and 2) be prohibited from purchasing, attempting to purchase, receiving, or possessing any firearms or ammunition for a specified period of time, up to one year.

The Petitioner may also use this form to request a temporary ex parte risk protection order. A temporary ex parte risk protection order may be issued without notice to the Respondent upon a showing that the Respondent poses a significant danger of causing personal injury to himself or herself or others in the near future. Such an order is in effect only until the hearing on the petition for a final risk protection order at which time the Respondent will have received notice and an opportunity to participate in the hearing.

If the Petitioner requests a temporary ex parte risk protection order, there are two additional requirements that are not otherwise required for a petition for a final risk protection order: 1) the sworn facts that demonstrate that Respondent poses a significant danger of causing injury must be *based on personal knowledge*; and 2) the sworn facts must demonstrate that the danger may occur *in the near future*.

If issued, a temporary ex parte risk protection order 1) will require the Respondent to immediately surrender all firearms and ammunition in the Respondent’s custody, control, or possession and any license to carry a concealed weapon or firearm issued to the Respondent under section 790.06, Florida Statutes, and 2) will temporarily prohibit the Respondent from purchasing, attempting to purchase, receiving, or possessing a firearm or ammunition.

Where must this form be filed?

This petition must be filed in the clerk’s office for the circuit court 1) in the county where the Petitioner’s law enforcement office is located or 2) in the county where the Respondent resides.

What must be shown?

The petition and accompanying affidavit(s) must provide facts that give rise to a reasonable fear that Respondent poses a significant danger of causing personal injury to themselves/others by having a firearm or ammunition in their custody, control, or possession. The burden of persuasion for a temporary ex parte risk protection order is “reasonable cause.” The burden of persuasion for a final risk protection order is “clear and convincing evidence.”

As much of the Respondent’s identifying and demographic information as possible must be included in the appropriate spaces in Section II.

Other important instructions:

Depending on the facts and circumstances, the Petitioner may either file a petition only for a final risk protection order, or file a petition for a final risk protection order with a request for a temporary ex parte risk protection order. The Petitioner should indicate immediately under the title whether the Petitioner **does** or does **not** request a temporary ex parte risk protection order.

Pursuant to section 790.401(2)(h), Florida Statutes, there are no fees for filing a petition.

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

_____,
Petitioner
(Law Enforcement Officer/Agency)

Case No.: _____

v.

Division: _____

_____,
Respondent

PETITION FOR RISK PROTECTION ORDER
(With or Without Request for Temporary Ex Parte Risk Protection Order)

This petition DOES or DOES NOT request a Temporary Ex Parte Risk Protection Order.

SECTION I. PETITIONER

Petitioner must be a law enforcement officer or a law enforcement agency.

1. Petitioner's full legal name or name of petitioning agency: _____
2. Petitioner's office/agency is located at *{street address, city, state, and zip code}*:

3. Petitioner's telephone number for 24 hour accessibility: _____

SECTION II. RESPONDENT *{Petitioner is to fill out as much information as possible.}*

1. Respondent's full legal name: _____
2. Respondent's address: *{street address, city, state, and zip code}*

3. Identifying information of Respondent:
Race: _____ Gender Expression: Male ___ Female ___ Other _____
Date of Birth: _____
Height: _____ Weight: _____ Eye Color: _____ Hair Color: _____
4. Distinguishing marks or scars: _____
5. Vehicle: *{make/model}* _____ Color: _____ Tag #: _____
6. Other names Respondent goes by: *{aliases or nicknames}* _____
7. Respondent's email address: _____

8. Respondent's telephone number: _____

9. Respondent's Driver's License number: _____

10. Respondent's attorney's name, address, and telephone number: _____

11. Is Respondent in jail? Yes _____ No _____

If yes, date of arrest _____ Jail #: _____ Cell #: _____

12. Is Respondent a juvenile? Yes _____ No _____

SECTION III. BASIS FOR PETITION

In support of this petition, the undersigned Law Enforcement Officer/Agency alleges:

1. Respondent poses a significant danger of causing personal injury to themselves or others by having a firearm or any ammunition in their custody or control or by purchasing, possessing, or receiving a firearm or any ammunition.

_____ **Respondent poses a significant danger of causing personal injury to themselves or others in the near future.** [Required for a Temporary Ex Parte Risk Protection Order.]

2. An affidavit (or affidavits) alleging specific facts that give rise to a reasonable fear of significant dangerous acts by the Respondent is attached to this petition as Exhibit A and is incorporated by reference. {If a temporary risk protection order is requested, facts supporting the allegation that Respondent poses a significant danger of causing personal injury to themselves or others IN THE NEAR FUTURE must be provided from someone with PERSONAL KNOWLEDGE of those facts.}
3. The quantities, types, and locations of all firearms and ammunition the Petitioner believes to be in the Respondent's ownership, possession, custody, or control are listed below and/or on the attached Exhibit B.

Quantity: _____ Type: _____ Location: _____

Quantity: _____ Type: _____ Location: _____

Quantity: _____ Type: _____ Location: _____

Respondent _____ was issued _____ was not issued a concealed weapon/firearms license.

____ See attached Exhibit B for firearms and/or ammunition.

4. Petitioner _____ is aware _____ is not aware of an existing protection order governing the

Respondent under s. 741.30, s. 784.046, or s. 784.0485, Florida Statutes, or under any other applicable statute. If aware, list the existing protection order case number(s) and attach a copy, if available. _____.

5. Relevant evidence for the Court's consideration is detailed in the attached affidavit(s) that demonstrates the Respondent:

_____ was involved in a recent act or threat of violence against themselves or others;

_____ engaged in an act or threat of violence, including but not limited to acts or threats of violence against themselves, within the past 12 months;

_____ may be seriously mentally ill or may have recurring mental health issues;

_____ has violated a risk protection order or no contact order issued under section(s) 741.30, 784.046, or 784.0485, Florida Statutes;

_____ is the subject of a previous or existing risk protection order;

_____ has violated a previous or existing risk protection order;

_____ has been convicted of, had adjudication withheld on, or pled *nolo contendere* in Florida or in any other state to a crime that constitutes domestic violence as defined in s. 741.28, Florida Statutes;

_____ has used, or threatened to use, against themselves or others, any weapons;

_____ has unlawfully or recklessly used, displayed, or brandished a firearm;

_____ has used, or threatened to use on a recurring basis, physical force against another person or has stalked another person;

_____ has been arrested for, convicted of, had adjudication withheld, or pled *nolo contendere* to a crime involving violence or a threat of violence in Florida or in any other state;

_____ has abused or is abusing controlled substances or alcohol;

_____ has recently acquired firearms or ammunition;

_____ is required to possess firearm(s) and/or ammunition in the scope and duties of their occupation;

_____ has been the subject of proceedings under the Baker Act or Marchman Act;

_____ other (Additional relevant information may be included as attached exhibits. This may include reports or conclusions from a threat assessment team.).

SECTION IV. NOTICE

_____ Petitioner has made a good faith effort to provide notice to a family or household member of the Respondent and to any known third party who may be at risk of violence in compliance with s. 790.401(2)(f), Florida Statutes; or

_____ Petitioner will take the following steps to provide notice as required by s. 790.401(2)(f), Florida Statutes.

SECTION V. [TEMPORARY] RISK PROTECTION ORDERS

For the foregoing reasons, Petitioner requests the Court to:

_____ enter a Temporary Risk Protection Order.

_____ schedule a hearing to be held within 14 days of the date of the order to determine if a Final Risk Protection Order should be entered.

Respectfully submitted this _____ day of _____, 20_____.

Signature of Petitioner

Name of person filing petition

Law Enforcement Agency

Service address

Email address

Telephone Number