

**Department of Legislative Services**

Maryland General Assembly

2024 Session

**FISCAL AND POLICY NOTE**

**Enrolled**

Senate Bill 905

(Senator Kelly, *et al.*)

Judicial Proceedings

Judiciary

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**Public Safety – Extreme Risk Protective Orders – Review of Court Records**

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This bill authorizes review of a court record related to a petition for an extreme risk protective order by researchers affiliated with institutions of higher education conducting related academic or policy research that have entered into an agreement with the Maryland Judiciary providing for the confidentiality of the record in accordance with the bill's provisions. The Maryland Judiciary must require an institution of higher education that has researchers reviewing court records relating to extreme risk protective orders to enter into an agreement that provides for the storage and handling of the records, as specified. The agreement may not apply to or restrict the use or publication of any statistics, information, or other material that summarizes or refers to records in the aggregate, without disclosing the identity of any person who is the subject of the record. The Maryland Judiciary, on its own motion, may institute an injunction and any other appropriate remedy (1) for a violation of the agreement and (2) to prevent the unauthorized disclosure of a record relating to an extreme risk protective order by any person.

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**Fiscal Summary**

**State Effect:** The bill is not anticipated to materially affect governmental finances.

**Local Effect:** The bill is not anticipated to materially affect local government finances.

**Small Business Effect:** None.

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## Analysis

**Bill Summary:** The required agreement between the Maryland Judiciary and an institution of higher education must provide that (1) each record relating to an extreme risk protective order must remain in the custody of the institution of higher education receiving the record; (2) each record relating to an extreme risk protective order may be used only for the research and study for which it was assembled or obtained; and (3) a person may not disclose a record relating to an extreme risk protective order to any person who is not engaged in the research or study project.

**Current Law:** Statutory provisions set forth a process by which a petitioner may seek an extreme risk protective order to prevent a respondent from purchasing or possessing any firearm or ammunition for the duration of the order under specified circumstances. Individuals specifically authorized to petition for such an order include specified health professionals, law enforcement officers, and individuals who meet specified relationship requirements. A petition must meet specified requirements, such as the inclusion of a description of the behavior and statements of the respondent or any other information that led the petitioner to believe that the respondent presents an immediate and present danger of causing personal injury to self or others.

A petitioner initiates the process for an order during court operating hours by filing a petition for a temporary order in the District Court. If the court is not open, a petitioner initiates the process by filing a petition for an interim order with a District Court Commissioner. Generally, if an interim order is granted by a District Court Commissioner, a temporary order hearing is heard on the first or second day on which a District Court judge is sitting after issuance of the interim order. Generally, if a temporary order is granted, a final extreme risk protective order hearing occurs one week later.

A judge may enter a final extreme risk protective order to prohibit the respondent from possessing a firearm if the judge finds by clear and convincing evidence that the respondent poses a danger of causing personal injury to the respondent, the petitioner, or another by possessing a firearm. The judge must consider all relevant evidence presented by the petitioner and the respondent and the amount of time that has elapsed since any of the events described in the petition.

The final extreme risk protective order must order the respondent to surrender to law enforcement authorities any firearm and ammunition in the respondent's possession and prohibit the respondent from purchasing or possessing any firearm (or ammunition) for the duration of the order, as specified. All relief granted in a final extreme risk protective order is effective for the period stated in the order, not to exceed one year. Final orders may also be modified, rescinded, and (for good cause shown) extended for an additional six months, as specified. A subsequent circuit court order pertaining to any of the provisions included

in the final extreme risk protective order supersedes those provisions. Among other provisions, statute also addresses (1) referrals for emergency evaluations and (2) procedures regarding the surrender and storage of firearms and ammunition and the return of such items after the expiration or termination of an order.

With specified exceptions, court records relating to a petition for an extreme risk protective order are confidential and the contents may not be divulged, by subpoena or otherwise, except by order of the court on good cause shown. Exceptions to the prohibition authorize the following to review the court record: (1) personnel of the court; (2) the respondent or counsel for the respondent; (3) authorized personnel of the Maryland Department of Health; (4) authorized personnel of a local core service agency or local behavioral health authority; (5) a law enforcement agency; or (6) a person authorized by a court order on good cause shown.

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### **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** HB 1267 (Delegate R. Lewis, *et al.*) - Judiciary.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Baltimore City Community College; University System of Maryland; Morgan State University; St. Mary's College of Maryland; Department of Legislative Services

**Fiscal Note History:** First Reader - February 22, 2024  
rh/jkb Third Reader - March 20, 2024  
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