

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 719**

1 In line 2 of the printed bill, before the period insert “; creating new pro-
2 visions; and amending ORS 419B.812, 419B.848 and 419B.851”.

3 Delete lines 4 through 6 of the printed bill and insert:

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**
7 **and presently capable 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 part-**
10 **ner, mother, father, child or sibling of the respondent, or any person**
11 **living within the same household as the 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**
14 **the State of Oregon or of a political subdivision of the State of Oregon**
15 **whose principal function is the apprehension of criminal offenders.**

16 **“(5) ‘Law enforcement officer’ means a member of the Oregon State**
17 **Police, a sheriff, a municipal police officer or an authorized tribal po-**
18 **lice officer as defined in ORS 181A.680.**

19 **“(6) ‘Petitioner’ means a person who petitions for an order under**
20 **sections 1 to 8 of this 2017 Act.**

21 **“(7) ‘Respondent’ means a person against whom an order is filed**

1 under sections 1 to 8 of this 2017 Act.

2 **“SECTION 2. (1) A law enforcement officer or a family or household**
3 **member of a person may file a petition requesting that the court issue**
4 **an extreme risk protection order enjoining the person from having in**
5 **the person’s custody or control, owning, purchasing, possessing or re-**
6 **ceiving, or attempting to purchase or receive, a deadly weapon.**

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

11 **“(3) The petition for an extreme risk protection order must be**
12 **supported by a written affidavit signed by the petitioner under oath,**
13 **or an oral statement taken under oath by the petitioner or any other**
14 **witness the petitioner may produce.**

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

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

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

21 **“(c) A previous conviction for:**

22 **“(A) A misdemeanor involving violence as defined in ORS 166.470;**

23 **“(B) A stalking offense under ORS 163.732 or 163.750, or a similar**
24 **offense in another jurisdiction;**

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

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

29 **“(E) An offense involving cruelty or abuse of animals;**

30 **“(d) Evidence of recent unlawful use of controlled substances;**

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

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

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

7 “(h) Any additional information the court finds to be reliable, in-
8 cluding a statement by the respondent.

9 “(5)(a) The petitioner has the burden of proof at the ex parte hear-
10 ing.

11 “(b) The petitioner may appear in person or by electronic video
12 transmission.

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

15 “(6)(a) The court shall issue an extreme risk protection order if the
16 court finds by clear and convincing evidence, based on the petition and
17 supporting documentation and after considering a statement by the
18 respondent, if provided, that the respondent presents a risk in the near
19 future, including an imminent risk, of suicide or of causing physical
20 injury to another person. The court may not include in the findings
21 any mental health diagnosis or any connection between the risk pre-
22 sented by the respondent and mental illness.

23 “(b) Upon making the findings described in paragraph (a) of this
24 subsection, the court shall issue an extreme risk protection order
25 prohibiting the respondent from having in the respondent’s custody
26 or control, owning, purchasing, possessing or receiving, or attempting
27 to purchase or receive, a deadly weapon.

28 “(7) An extreme risk protection order issued under this section
29 must include:

30 “(a) A statement of the evidence and the court’s findings supporting

1 issuance of the order;

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

3 “(c) A description of the manner in which the respondent may re-
4 quest a hearing described in subsection (9) of this section;

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

7 “(e) A description of the requirements for surrender of deadly
8 weapons in the respondent’s possession under section 6 of this 2017
9 Act; and

10 “(f) A statement in substantially the following form:

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

29 “ _____
30 “(8)(a) The respondent shall be personally served with both a copy

1 of the extreme risk protection order and a hearing request form de-
2 scribed in subsection (9) of this section.

3 “(b) Whenever an extreme risk protective order is served on a re-
4 spondent, the person serving the order shall immediately deliver to the
5 county sheriff a true copy of proof of service, on which it is stated that
6 personal service of the order was made on the respondent, and a copy
7 of the order. Proof of service may be made by affidavit or by declara-
8 tion under penalty of perjury in the form required by ORCP 1 E.

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

15 “(d) Upon receipt of a copy of the order and notice of completion
16 of service by a member of a law enforcement agency, the county
17 sheriff shall immediately enter the order into the Law Enforcement
18 Data System maintained by the Department of State Police and re-
19 quest that the order be entered into the databases of the National
20 Crime Information Center of the United States Department of Justice.
21 If the order was served on the respondent by a person other than a
22 member of a law enforcement agency, the county sheriff shall enter
23 the order into the Law Enforcement Data System, and shall request
24 that the information be entered into the databases of the National
25 Crime Information Center, upon receipt of a true copy of proof of
26 service. The sheriff shall provide the petitioner with a true copy of the
27 proof of service. Entry into the Law Enforcement Data System con-
28 stitutes notice to all law enforcement agencies of the existence of the
29 order. Law enforcement agencies shall establish procedures adequate
30 to ensure that an officer at the scene of an alleged violation of the

1 order may be informed of the existence and terms of the order. The
2 order is fully enforceable in any county in this state.

3 “(9)(a) Within 30 days after an extreme risk protection order is
4 served on the respondent under this section, the respondent may re-
5 quest a court hearing using a form prescribed by the State Court Ad-
6 ministrator.

7 “(b) If the respondent requests a hearing under paragraph (a) of
8 this subsection, the clerk of the court shall notify the petitioner and
9 the respondent of the date and time of the hearing and shall supply
10 the petitioner with a copy of the respondent’s request for a hearing.
11 The petitioner and the respondent shall give to the clerk of the court
12 information sufficient to allow such notification.

13 “(c) The hearing shall occur within 21 days of the date of the
14 respondent’s request for a hearing.

15 “(10) If the respondent fails to request a hearing within 30 days af-
16 ter an extreme risk protection order is served, the protection order is
17 confirmed by operation of law and is effective for a period of one year
18 from the date the original order was issued or until the order is ter-
19 minated, whichever is sooner.

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

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

25 **“SECTION 3. (1) At a hearing on an extreme risk protection order**
26 **requested by the respondent under section 2 (9) of this 2017 Act, the**
27 **court may:**

28 “(a) Examine under oath the petitioner, the respondent and any
29 witness either party may produce, including a mental health profes-
30 sional selected by the respondent, or, in lieu of examination, consider

1 **sworn affidavits of the petitioner, the respondent or a witness of either**
2 **party; and**

3 **“(b) Ensure that a reasonable search has been conducted for crim-**
4 **inal history records related to the respondent.**

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

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

11 **“(3)(a) At the hearing, the court shall determine:**

12 **“(A) Whether to terminate the extreme risk protection order or**
13 **continue the order for a duration of one year; and**

14 **“(B) Whether any deadly weapons surrendered to a law enforcement**
15 **agency pursuant to section 6 of this 2017 Act shall be returned to the**
16 **respondent or retained by the law enforcement agency.**

17 **“(b) The petitioner has the burden of proving, by clear and con-**
18 **vincing evidence, that the respondent presents a risk in the near fu-**
19 **ture, including an imminent risk, of suicide or of causing physical**
20 **injury to another person.**

21 **“(c) If the court finds that the petitioner has met the burden of**
22 **proof, the court shall:**

23 **“(A) Order that the extreme risk protection order continue for the**
24 **duration of one year from the date the original order was issued.**

25 **“(B) Order that any deadly weapons surrendered to a law enforce-**
26 **ment agency pursuant to section 6 of this 2017 Act remain in the cus-**
27 **tody of the law enforcement agency while the order is in effect.**

28 **“(d) The court may not include in findings made under this sub-**
29 **section any mental health diagnosis or any connection between the**
30 **risk presented by the respondent and mental illness.**

1 **“(4) An extreme risk protection order continued under this section**
2 **must include:**

3 **“(a) A statement of the evidence and the court’s findings supporting**
4 **issuance of the order;**

5 **“(b) The date and time the order was issued;**

6 **“(c) The date and time of the expiration of the order;**

7 **“(d) A description of the requirements for surrender of deadly**
8 **weapons in the respondent’s possession under section 6 of this 2017**
9 **Act; and**

10 **“(e) A statement in substantially the following form:**

11 **“** _____
12 **To the subject of this protection order: This order is valid until the**
13 **date and time noted above. If you have not done so already, you are**
14 **required to surrender all deadly weapons in your custody. You must**
15 **immediately surrender all deadly weapons in your custody, control or**
16 **possession to (insert name of local law enforcement agency), a gun**
17 **dealer or a third party who may lawfully possess the deadly weapons.**
18 **You must immediately surrender to (insert name of local law**
19 **enforcement agency) any concealed handgun license issued to you.**
20 **You may not have in your custody or control, purchase, possess, re-**
21 **ceive, or attempt to purchase or receive, a deadly weapon while this**
22 **order is in effect. You have the right to request one hearing to ter-**
23 **minate this order during the 12 months that this order is in effect**
24 **starting from the date of this order. You may seek the advice of an**
25 **attorney as to any matter connected with this order.**

26 **“** _____
27 **“(5) When the court continues an extreme risk protection order**
28 **under this section, the court shall inform the respondent that the re-**
29 **spondent is entitled to request termination of the order in the manner**
30 **described in section 4 of this 2017 Act. The court shall provide the re-**

1 spondent with a form with which to request a termination hearing.

2 “(6) The respondent need not be served if an order of the court in-
3 dicates that the respondent appeared in person before the court.

4 “(7) If the court terminates an extreme risk protection order after
5 a hearing under this section:

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

8 “(b) The clerk of the court shall immediately deliver a copy of the
9 termination order to the county sheriff with whom the original order
10 was filed. Upon receipt of the termination order, the county sheriff
11 shall promptly remove the original order from the Law Enforcement
12 Data System and shall request that the order be removed from the
13 databases of the National Crime Information Center of the United
14 States Department of Justice.

15 **“SECTION 4. (1) The petitioner or the respondent of an extreme**
16 **risk protection order issued or continued under section 2 or 3 of this**
17 **2017 Act may each submit a written request once during the 12-month**
18 **effective period of the order, and once during any 12-month effective**
19 **period of an order renewed under section 5 of this 2017 Act, for a**
20 **hearing to terminate the order. A hearing under this section is in ad-**
21 **dition to any hearing requested under section 2 of this 2017 Act.**

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

26 “(3)(a) The person filing the termination request has the burden of
27 proving, by clear and convincing evidence, that the respondent no
28 longer presents a risk in the near future, including an imminent risk,
29 of suicide or of causing physical injury to another person.

30 “(b) The Oregon Evidence Code shall apply in a hearing under this

1 section.

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

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

9 “(b) The court may not include in findings made under this sub-
10 section any mental health diagnosis or any connection between the
11 risk presented by the respondent and mental illness.

12 “(5) When an extreme risk protection order is terminated by order
13 of the court, the clerk of the court shall immediately deliver a copy
14 of the termination order to the county sheriff with whom the original
15 order was filed. Upon receipt of the termination order, the county
16 sheriff shall promptly remove the original order from the Law
17 Enforcement Data System and shall request that the order be removed
18 from the databases of the National Crime Information Center of the
19 United States Department of Justice.

20 “SECTION 5. (1) A law enforcement officer or a family or household
21 member of a respondent, including but not limited to the law
22 enforcement officer or family or household member who petitioned the
23 court for the original extreme risk protection order issued under sec-
24 tion 2 of this 2017 Act, may request a renewal of the order within 90
25 days before the expiration date of the order by filing a written request
26 with the court.

27 “(2) Upon receipt of the request for renewal described in subsection
28 (1) of this section, the court shall schedule a hearing and provide no-
29 tice of the hearing to both parties at least 14 days before the hearing.

30 “(3) At a hearing to determine whether to renew an extreme risk

1 **protection order under this section, the court may:**

2 **“(a) Examine under oath the petitioner, the respondent and any**
3 **witness either party may produce or, in lieu of examination, consider**
4 **sworn affidavits of the petitioner, the respondent or a witness of either**
5 **party; and**

6 **“(b) Ensure that a reasonable search has been conducted for crim-**
7 **inal history records related to the respondent.**

8 **“(4) The person requesting the renewal of the extreme risk pro-**
9 **tection order has the burden of proving, by clear and convincing evi-**
10 **dence, that the respondent continues to present a risk in the near**
11 **future, including an imminent risk, of suicide or of causing physical**
12 **injury to another person.**

13 **“(5)(a) The Oregon Evidence Code shall apply in a hearing under**
14 **this section.**

15 **“(b) The court may continue a hearing under this section upon a**
16 **showing of good cause. If the court continues a hearing under this**
17 **paragraph, the original extreme risk protection order shall remain in**
18 **effect until the next hearing date.**

19 **“(c) The petitioner may appear in person or by electronic video**
20 **transmission.**

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

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

27 **“(7) An extreme risk protection order renewed under this section**
28 **must include:**

29 **“(a) A statement of the evidence and the court’s findings supporting**
30 **issuance of the order;**

1 **“(b) The date and time the order was issued;**

2 **“(c) The date and time of the expiration of the order;**

3 **“(d) A description of the requirements for surrender of deadly**
4 **weapons in the respondent’s possession under section 6 of this 2017**
5 **Act; and**

6 **“(e) A statement in substantially the following form:**

7 **“** _____
8 **To the subject of this protection order: This renewed order is valid**
9 **until the date and time noted above. If you have not done so already,**
10 **you are required to surrender all deadly weapons in your custody. You**
11 **must immediately surrender all deadly weapons in your custody, con-**
12 **trol or possession to (insert name of local law enforcement agency), a**
13 **gun dealer or a third party who may lawfully possess the deadly**
14 **weapons. You must immediately surrender to (insert name of local law**
15 **enforcement agency) any concealed handgun license issued to you.**
16 **You may not have in your custody or control, purchase, possess, re-**
17 **ceive, or attempt to purchase or receive, a deadly weapon while this**
18 **order is in effect. You have the right to request one hearing to ter-**
19 **minate this renewed order every 12 months that this order is in effect,**
20 **starting from the date of this order. You may seek the advice of an**
21 **attorney as to any matter connected with this order.**

22 **“** _____
23 **“(8) When the court renews an extreme risk protection order, the**
24 **court shall inform the respondent that the respondent is entitled to**
25 **request termination of the renewed order in the manner described in**
26 **section 4 of this 2017 Act. The court shall provide the respondent with**
27 **a form with which to request a termination hearing.**

28 **“(9)(a) Service of a renewed extreme risk protective order shall be**
29 **made by personal delivery of a copy of the order to the respondent.**
30 **The respondent need not be served if an order of the court indicates**

1 that the respondent appeared in person before the court.

2 “(b) Whenever a renewed extreme risk protective order is served
3 on a respondent, the person serving the order shall immediately de-
4 liver to the county sheriff a true copy of proof of service, on which it
5 is stated that personal service of the order was made on the respond-
6 ent, and a copy of the order. Proof of service may be made by affidavit
7 or by declaration under penalty of perjury in the form required by
8 ORCP 1 E.

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

12 “(d) Upon receipt of a copy of the order and notice of completion
13 of any required service by a member of a law enforcement agency, the
14 county sheriff shall immediately enter the order into the Law
15 Enforcement Data System maintained by the Department of State
16 Police and request that the order be entered into the databases of the
17 National Crime Information Center of the United States Department
18 of Justice. If the order was served on the respondent by a person other
19 than a member of a law enforcement agency, the county sheriff shall
20 enter the order into the Law Enforcement Data System and request
21 that the order be entered into the databases of the National Crime
22 Information Center upon receipt of a true copy of proof of service. The
23 sheriff shall provide the petitioner with a true copy of any required
24 proof of service. Entry into the Law Enforcement Data System con-
25 stitutes notice to all law enforcement agencies of the existence of the
26 order. Law enforcement agencies shall establish procedures adequate
27 to ensure that an officer at the scene of an alleged violation of the
28 order may be informed of the existence and terms of the order. The
29 order is fully enforceable in any county in this state.

30 “(10) If the court declines to renew an extreme risk protection or-

1 der, the court shall state with particularity the reasons for the denial
2 on the record.

3 “(11) A renewed extreme risk protection order may be further re-
4 newed as described in this section.

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

8 **“(a) Within 24 hours surrender all deadly weapons in the**
9 **respondent’s custody, control or possession to a law enforcement**
10 **agency, a gun dealer or a third party who may lawfully possess the**
11 **deadly weapons; and**

12 **“(b) Within 24 hours surrender to a law enforcement agency any**
13 **concealed handgun license issued to the respondent under ORS 166.291**
14 **and 166.292.**

15 **“(2) Upon continuance of an extreme risk protection order after a**
16 **hearing under section 3 of this 2017 Act, or renewal of an extreme risk**
17 **protection order under section 5 of this 2017 Act, the court shall fur-**
18 **ther order that the respondent:**

19 **“(a) Immediately surrender all deadly weapons in the respondent’s**
20 **custody, control or possession to a law enforcement agency, a gun**
21 **dealer or a third party who may lawfully possess the deadly weapons;**
22 **and**

23 **“(b) Immediately surrender to a law enforcement agency any con-**
24 **cealed handgun license issued to the respondent under ORS 166.291 and**
25 **166.292.**

26 **“(3)(a) A law enforcement officer serving an extreme risk protection**
27 **order issued under section 2 of this 2017 Act shall request that the**
28 **respondent immediately surrender to the officer all deadly weapons in**
29 **the respondent’s custody, control or possession and any concealed**
30 **handgun license issued to the respondent under ORS 166.291 and**

1 **166.292. The law enforcement officer shall take possession of all deadly**
2 **weapons appearing to be in the custody, control or possession of the**
3 **respondent that are surrendered by the respondent. If the respondent**
4 **indicates an intention to surrender the deadly weapons to a gun dealer**
5 **or a third party, the law enforcement officer shall request that the**
6 **respondent identify the gun dealer or third party.**

7 **“(b) A law enforcement officer serving an extreme risk protection**
8 **order continued after a hearing under section 3 of this 2017 Act, or**
9 **renewed under section 5 of this 2017 Act, shall request that the re-**
10 **spondent immediately surrender to the officer all deadly weapons in**
11 **the respondent’s custody, control or possession and any concealed**
12 **handgun license issued to the respondent under ORS 166.291 and**
13 **166.292. The officer may conduct any search permitted by law for**
14 **deadly weapons in the custody, control or possession of the respondent**
15 **and shall take possession of all deadly weapons appearing to be in the**
16 **custody, control or possession of the respondent that are surrendered,**
17 **in plain sight or discovered pursuant to a lawful search.**

18 **“(4) At the time of the surrender of any deadly weapons or con-**
19 **cealed handgun licenses under subsection (3) of this section, the law**
20 **enforcement officer taking possession shall issue a receipt identifying**
21 **all surrendered items and provide a copy of the receipt to the re-**
22 **spondent. Within 72 hours after service of the order, the law enforce-**
23 **ment officer serving the order shall file the original receipt with the**
24 **court and shall ensure that the law enforcement agency employing the**
25 **law enforcement officer retains a copy of the receipt.**

26 **“(5) If a third party claims lawful ownership or right of possession**
27 **of a deadly weapon surrendered pursuant to this section, the law**
28 **enforcement agency may return the deadly weapon to the third party**
29 **if the third party provides proof of lawful ownership or right of pos-**
30 **session of the deadly weapon, in a sworn affidavit, affirms that:**

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

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

4 “(c) The third party will prevent the respondent from accessing or
5 possessing the deadly weapon in the future.

6 “SECTION 7. (1) If an extreme risk protection order is terminated
7 or expires without renewal, a law enforcement agency holding any
8 deadly weapon or concealed handgun license that has been surrendered
9 pursuant to the order shall return the surrendered items as requested
10 by the respondent of the order only after:

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

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

16 “(2) The owner of a deadly weapon, if the deadly weapon is a
17 firearm, in the custody of a law enforcement agency pursuant to sec-
18 tion 6 of this 2017 Act who does not wish to have the firearm returned
19 is entitled to sell or transfer title of any firearm to a licensed gun
20 dealer as defined in ORS 166.412, provided that the firearm is lawful
21 to own or possess and the person has a legal right to transfer title of
22 the firearm.

23 “(3) A deadly weapon surrendered by a person pursuant to section
24 6 of this 2017 Act that remains unclaimed by the owner shall be dis-
25 posed of in accordance with the law enforcement agency’s policies and
26 procedures for the disposal of deadly weapons in the agency’s custody.

27 “SECTION 8. (1) A person commits a Class A misdemeanor if:

28 “(a) The person knowingly possesses a deadly weapon; and

29 “(b) The person is prohibited from possessing deadly weapons pur-
30 suant to an extreme risk protection order:

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

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

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

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

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

16 “SECTION 9. ORS 419B.851 is amended to read:

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

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

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

26 “(B) [by] Mailing [it] a copy to the attorney’s or party’s last known ad-
27 dress; [or,]

28 “(C) If the party is represented by an attorney, [by] facsimile communi-
29 cation device as provided in subsection (6) of this section;

30 “(D) Electronic mail as provided in subsection (7)(a) of this section;

1 **or**

2 **“(E) Electronic service through the court’s electronic filing system**
3 **under subsection (7)(b) of this section.**

4 **“(b) As used in [this] paragraph (a) of this subsection, ‘delivery of a**
5 **copy’ means:**

6 **“(A) Handing it to the person to be served;**

7 **“(B) Leaving it at the person’s office with the person’s clerk or a person**
8 **apparently in charge of the office or, if there is no one in charge, leaving it**
9 **in a conspicuous place in the office; or**

10 **“(C) If the office is closed or the person to be served has no office, leaving**
11 **it at the person’s dwelling house or usual place of abode with a person who**
12 **is over 14 years of age and who resides at the dwelling house or usual place**
13 **of abode.**

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

19 **“(3) When a petition is filed under subsection (1) of this section alleging**
20 **that a child who is a foreign national is within the jurisdiction of the court,**
21 **or when a motion is filed requesting implementation of a plan other than**
22 **return of a ward to the ward’s parent, a copy of the petition or motion shall**
23 **be served on the consulate for the child or ward’s country.**

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

27 **“(b) Except as otherwise provided in ORS 419B.812 to 419B.839 and**
28 **419B.845, proof of service of all papers required or permitted to be served**
29 **may be by:**

30 **“(A) Written acknowledgment of service[,];**

1 **“(B) [by] An affidavit of the person making service; [or by]**

2 **“(C) A certificate of an attorney[.];**

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

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

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

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

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

29 **“(5) The filing of any papers with the court must be made by filing them**
30 **with the clerk of the court or the person exercising the duties of that office.**

1 The clerk or the person exercising the duties of that office shall indorse the
2 time of day, day of the month, month and year upon the paper. The clerk or
3 person exercising the duties of that office is not required to receive any pa-
4 per for filing unless:

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

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

7 “(A) The name of the court;

8 “(B) The title of the cause and the paper;

9 “(C) The names of the parties; and

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

12 “(6) Whenever under ORS 419B.800 to 419B.929 service is required or
13 permitted to be made upon a party and that party is represented by an at-
14 torney, the service may be made upon the attorney by means of a facsimile
15 if the attorney maintains such a device at the attorney’s office and the device
16 is operating at the time service is made.

17 **“(7) Whenever under ORS 419B.800 to 419B.929 service is required**
18 **or permitted to be made upon a party, unless the party or the party’s**
19 **attorney is exempted from service by electronic mail or electronic**
20 **service by an order of the court, the service may be made by one of**
21 **the following means:**

22 **“(a) Electronic mail. Service by electronic mail is complete under**
23 **this subsection on confirmation of receipt of the electronic mail or, if**
24 **the party has consented to service by electronic mail, on transmission**
25 **of the electronic mail. A party or a party’s attorney must provide the**
26 **name and electronic mail address of that party or that attorney on any**
27 **document served by electronic mail. A party or attorney who has**
28 **made service by electronic mail must notify other parties in writing**
29 **of any changes to that party’s or that attorney’s electronic mail ad-**
30 **dress.**

1 **“(b) Electronic service using the electronic filing system provided**
2 **by the Judicial Department in the manner prescribed in rules adopted**
3 **by the Chief Justice of the Supreme Court.**

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

5 “419B.812. (1) As used in this section and ORS 419B.815, 419B.819 and
6 419B.824, a ‘true copy’ of a summons or petition means an exact and complete
7 copy of the original summons or petition with a certificate upon the copy
8 signed by an attorney of record or a party that indicates that the copy is
9 exact and complete.

10 “(2) A summons under ORS 419B.815 or 419B.819 must be titled ‘In the
11 matter of _____, a child’ and must contain the name of the person to be
12 served and the address at which the summons and petition may be served.

13 “(3) The summons must be issued no later than 30 days after the filing
14 of a petition alleging jurisdiction under ORS 419B.100, a petition to establish
15 a permanent guardianship under ORS 419B.365 or a petition seeking termi-
16 nation of parental rights under ORS 419B.500, 419B.502, 419B.504, 419B.506
17 or 419B.508.

18 “(4) The petitioner, the petitioner’s attorney, the juvenile department, the
19 district attorney, the Attorney General or the Department of Human Services
20 may issue a summons.

21 “(5) The summons must be signed by the:

22 “(a) Petitioner;

23 “(b) Petitioner’s attorney;

24 “(c) Juvenile department;

25 “(d) District attorney;

26 “(e) Attorney General; or

27 “(f) Department of Human Services.

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

29 “(7) The summons and petition may be served by any competent person
30 18 years of age or older who is a resident of the state where service is made

1 or of this state.

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

4 “(9) The court shall fix the date and time for the hearing on a petition
5 at a reasonable time after service or, if service is by publication, final pub-
6 lication of the summons. The time may not be less than 24 hours after service
7 or, if service is by publication, final publication in a proceeding to establish
8 jurisdiction under ORS 419B.100 and may not be less than 10 days after ser-
9 vice or, if service is by publication, final publication in a proceeding to es-
10 tablish permanent guardianship or terminate parental rights.

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

12 “419B.848. (1) All process authorized to be issued by any court or officer
13 of the court runs in the name of the State of Oregon and must be signed by
14 the officer issuing the process, and if the process is issued by a clerk of the
15 court, the seal of office of the clerk must be affixed to the process.
16 Summonses and subpoenas are not process.

17 “(2) A civil process may be served or executed on Sunday or any legal
18 holiday. No limitation or prohibition stated in ORS 1.060 applies to the ser-
19 vice or execution of a civil process on a Sunday or legal holiday.

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

23 “(b) The facsimile or telegraphic copy, as defined in ORS 165.840, of the
24 order or paper transmitted may be served or executed by the officer or person
25 to whom it is sent for that purpose and returned by the officer or person if
26 any return is required in the same manner and with the same force and effect
27 in all respects as if the copy were the original. The officer or person serving
28 or executing the order or paper has the same authority and is subject to the
29 same liabilities as if the copy were the original. The original, if an order,
30 must be filed in the court from which it was issued and a certified copy of

1 the order must be preserved in the office from which it was sent. The oper-
2 ator may use either the original or certified copy to transmit the order or
3 paper.

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

6 **“SECTION 12. The amendments to ORS 419B.812, 419B.848 and**
7 **419B.851 by sections 9 to 11 of this 2017 Act apply to service of process**
8 **made in court proceedings on or after the effective date of this 2017**
9 **Act.”.**

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