

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 1857 HB	<b>Title:</b> Extreme risk protec. orders
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## Estimated Cash Receipts

NONE

## Estimated Expenditures

Agency Name	2015-17			2017-19			2019-21		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Administrative Office of the Courts	Non-zero but indeterminate cost and/or savings. Please see discussion.								
<b>Total</b>	0.0	\$0	\$0	0.0	\$0	\$0	0.0	\$0	\$0

Local Gov. Courts *	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Loc School dist-SPI									
Local Gov. Other **	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

## Estimated Capital Budget Impact

NONE

<b>Prepared by:</b> Cheri Keller, OFM	<b>Phone:</b> 360-902-0563	<b>Date Published:</b> Final 2/11/2015
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\* See Office of the Administrator for the Courts judicial fiscal note

\*\* See local government fiscal note

ENPID: 39496

# Judicial Impact Fiscal Note

<b>Bill Number:</b> 1857 HB	<b>Title:</b> Extreme risk protec. orders	<b>Agency:</b> 055-Admin Office of the Courts
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

Account	FY 2016	FY 2017	2015-17	2017-19	2019-21
Counties					
Cities					
<b>Total \$</b>					

### Estimated Expenditures from:

**Non-zero but indeterminate cost. Please see discussion.**

*The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.*

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.

Legislative Contact: Edie Adams	Phone: 360-786-7180	Date: 02/06/2015
Agency Preparation: Susan Arb	Phone: 509-453-8135	Date: 02/11/2015
Agency Approval: Ramsey Radwan	Phone: 360-357-2406	Date: 02/11/2015
OFM Review: Cheri Keller	Phone: 360-902-0563	Date: 02/11/2015

Request # 1857 HB-1

## **Part II: Narrative Explanation**

### **II. A - Brief Description Of What The Measure Does That Has Fiscal Impact on the Courts**

#### **Summary:**

This bill would create a new order called an extreme risk protective order . It would prevent the subject from possession or purchase of a firearm. Four new misdemeanors are created, and the felony unlawful possession of a firearm in the second degree is expanded to include situations where a person is subject to this order .

#### **Sections with potential court impact:**

Section 3 would create a new order called an emergency extreme risk protective order . It would require a substantial likelihood that the subject poses a significant danger of personal injury to himself, herself, or another by the subject's possession of a firearm . Petitioning for such an order with false information would be a new misdemeanor . Purchase or possession of a firearm by the subject of the emergency extreme risk protective order would be a new misdemeanor, and would prohibit possession for a one-year period, commencing upon the expiration of the existing order .

Section 6 would create a new order called an extreme risk protective order . It would require a substantial likelihood that the subject poses a significant danger of personal injury to himself, herself, or another by the subject's possession of a firearm . The order would have a limited duration of one year . Petitioning for such an order with false information would be a new misdemeanor . Purchase or possession of a firearm by the subject of the extreme risk protective order would be a new misdemeanor, and would prohibit possession for a five-year period, commencing upon the expiration of the existing order .

Section 8 would allow the subject of an extreme risk protective order to petition once for the termination of the order .

Section 9 would allow a hearing for renewal of the extreme risk protective order for an additional one year .

Section 10 would require the subject of the order to file with the clerk of the court a proof of surrender and receipt form, or a declaration of nonsurrender within 5 judicial days. By December 1, 2015, the Administrative Office of the Courts would be required to develop the forms for the subject of the order to complete and file .

Section 11 would require the clerk of the court to enter the extreme risk protective order into the statewide judicial information system within one judicial day after issuance. The court would be required to forward notice of the extreme risk protective order to the Washington State Patrol when the order is entered and dissolved or terminated within five judicial days after issuance .

Section 13 would amend RCW 9.41.040 to include being subject to any type of extreme risk protective order within the circumstances amounting to unlawful possession of a firearm in the second degree .

Section 14 would amend RCW 9.41.047 to include extreme risk protective orders within the situations where the court must warn the person of the ineligibility to possess a firearm unless his right to do so is restored by a court of record. (Note : The warning is not amended to add that the loss of right due to the extreme risk protective order will expire on its own.) The clerk must forward notice of the extreme risk protective order to the Department of Licensing .

Section 15 would create a new statute authorizing a search warrant for firearms owned or possessed by the subject of an extreme risk protective order where the subject has been served with the order and has not surrendered any firearms .

### **II. B - Cash Receipts Impact**

No revenues are expected as a result of this bill.

### **II. C - Expenditures**

This bill would create a new protection order, and new misdemeanors for violation of the order and for filing petitions with false information. There is insufficient judicial data to estimate how many cases would be filed each year as a result of this bill . For illustrative purposes, we can use data for similar cases to show what the costs might be . Based upon these comparisons, we assume that this bill would result in expenditures greater than \$50,000, but the actual amount would be speculative . Except for the System

Modifications section, the numbers given below are for illustrative purposes only.

#### New Protection Order Cases:

This bill would create a new extreme risk protective order. These would be filed as new cases in the superior courts (as there is no authority in the bill to allow the district and municipal courts to hear these cases). There is insufficient judicial data to estimate how many cases would be filed each year as a result of this bill. We do have examples of other protection orders which could be helpful.

Domestic Violence Protection Orders: over the last five years, there has been an average of 17,435 petitions for domestic violence protection orders filed in the superior, district, and municipal courts. If we assume that there will be 5% as many extreme risk protective orders, we would see 872 new cases filed in the state's superior courts each year. This would result in increased expenditures of:

- County costs: \$278,101
- State costs: \$63,593
- Total costs: \$341,694

Stalking Protection Orders: over the last two years (this order was recently created), there has been an average of 386 petitions for stalking protection orders filed in the superior, district, and municipal courts. If we assume that there will be approximately the same number of extreme risk protective orders, we would see 386 new cases filed in the state's superior courts each year. This would result in increased expenditures of:

- County costs: \$123,104
- State costs: \$28,150
- Total costs: \$151,254

As we have no data to allow accurate estimations of the number of cases which would be filed under this bill, we expect that the expenditures for the superior courts would be greater than \$50,000, but beyond that would be speculative.

#### New Crimes and More Cases Filed:

Sections 3 and 6 of this bill create new crimes for including false information in the petition for the new protection order. There is no judicial data to estimate how many cases would be filed each year as a result of this bill. Based on filings for other similar types of crimes, we expect the number of cases filed in the superior, district, and municipal courts would be small, and the cost to those courts would be minimal.

Section 13 of this bill would amend the felony of unlawful possession of a firearm in the second degree to include those who possess a firearm when subject to this new protection order. There is no judicial data to estimate how many cases would be filed each year as a result of this bill. If 50 more criminal cases are filed as a result, the superior courts would see increased expenditures of:

- County costs: \$25,917
- State costs: \$5,926
- Total costs: \$31,843

#### System Modifications:

This bill would require modifications to the Judicial Information System (JIS) to add new codes for the new protection order and the new crimes. These modifications are estimated to take 239 hours of AOC staff time which equates to a one-time cost of \$12,667. It is important to note that the passage of several bills requiring JIS modifications would have a cumulative impact and could exceed current resources.

### Part III: Expenditure Detail

**Part IV: Capital Budget Impact**

# LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

<b>Bill Number:</b> 1857 HB	<b>Title:</b> Extreme risk protec. orders
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## Part I: Jurisdiction—Location, type or status of political subdivision defines range of fiscal impacts.

### Legislation Impacts:

☒ Cities: Significant increase in local law enforcement, prosecution, and jail costs for new crimes

☒ Counties: Same as above

☐ Special Districts:

☐ Specific jurisdictions only:

☒ Variance occurs due to: Evidence room storage capacity

## Part II: Estimates

☐ No fiscal impacts.

☐ Expenditures represent one-time costs:

☐ Legislation provides local option:

☒ Key variables cannot be estimated with certainty at this time: Number of petitions for emergency extreme risk protective orders; costs to develop and implement new policies and procedures; incidents of unlawful possession of firearms

### Estimated revenue impacts to:

None

### Estimated expenditure impacts to:

Indeterminate Impact
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## Part III: Preparation and Approval

Fiscal Note Analyst: Amber Siefer	Phone: 360-725-2733	Date: 02/10/2015
Leg. Committee Contact: Edie Adams	Phone: 360-786-7180	Date: 02/06/2015
Agency Approval: Steve Salmi	Phone: (360) 725 5034	Date: 02/10/2015
OFM Review: Cheri Keller	Phone: 360-902-0563	Date: 02/10/2015

## Part IV: Analysis

### A. SUMMARY OF BILL

*Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.*

This bill allows families, household members, and law enforcement officers to file petitions for an emergency extreme risk protective order for persons who pose a significant danger to themselves or others. These petitions prevent individuals from owning, accessing, or purchasing firearms for one year (and may be renewed for an additional year), and must be granted or denied the same day the petition is filed. If a law enforcement officer files the petition, they must make a good faith effort to inform affected families or household members. Local law enforcement officers must also seize any firearm property once a petition or search warrant is issued. All law enforcement agencies must develop policies and procedures regarding the acceptance, storage, and return of weapons required to be surrendered by this bill.

Knowingly falsifying information for a petition is a misdemeanor. Obtaining a firearm after being restricted from doing so by a petition is a misdemeanor. It is a class B felony and class C felony to unlawfully possess a firearm under varying circumstances.

### B. SUMMARY OF EXPENDITURE IMPACTS

*Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.*

The new felony and misdemeanor crimes created by this bill would result in indeterminate financial impact (more than \$500,000) for local law enforcement officers, prosecution and jail costs. Further, the bill requires search and seizure of property which has an indeterminate, and likely minimal impact on storage capacity in evidence rooms. The following information provides cost estimates related to these activities.

#### MISDEMEANOR COSTS

It is not possible to estimate misdemeanors that would occur as a result of falsifying information for a petition because data on reporting of false statements covers too large a number of unrelated situations, and it is not possible to disaggregate this data specifically for domestic violence protection orders. What follows is a scenario for an estimated cost range for misdemeanors that may result from persons violating extreme risk protective orders which uses data on the number of domestic-violence related violations of no contact /protection orders in the state in 2013.

The total estimated range of costs for new misdemeanor violations of extreme risk protective orders is between \$276,018 (\$132,612 + \$143,406 + \$0) to \$283,938 (\$132,612 + \$143,406 + \$7,920), based on the following 10 percent scenario.

According to the Washington Association of Sheriffs and Police Chiefs (WASPC) report "Crime in Washington 2013," 7,713 offenses of violation of no contact/protection orders were domestic-violence related. According to the 2013 local government fiscal note on HB 1383, it can take up to four hours for an officer to make an arrest of an individual charged with a domestic violence crime, at an average cost of \$43 per hour (LGFN prosecution data model). The work of charging and appearing at the sentencing for an offender typically adds three hours of time for a prosecutor, at an average hourly wage of \$62. For illustrative purposes, assuming a 10 percent increase in the number of protective order violations were to occur as a result of this bill, or 771 (7,713 x .10), the related law enforcement costs would be \$132,612 (4 hours x 771 violations x \$43). The related prosecution costs would be \$143,406 (3 hours x 771 violations x \$62). The average cost of a jail bed is \$88 per day, according to the Caseload Forecast Council. Sentences less than one year in length are generally served in county jails. Misdemeanor charges carry jail sentences of 0 to 90 days. The related jail costs would be \$0 to \$7,920 (90 x \$88).

#### FELONY COSTS

It is not possible to predict how many more incidents of unlawful possession of a firearm may occur under the provisions of this bill. Unlawful possession of a firearm is a class C felony, ranked at a seriousness level III on the felony sentencing grid, and punishable by a range of one to three months in jail and 51-68 months in prison, according to the 2013 local government fiscal note for HB 1840.

#### NEW POLICIES AND PROCEDURES

The process of developing a policy, vetting it with legal counsel, and training officers on the procedures adds between 20 and 40 hours in staff time for law enforcement agencies (2013 fiscal note for HB 1840). There were 276 law enforcement agencies in the state in 2013, the most recent year for which data is available. The average cost for an officer is approximately \$43 per hour, not including benefits. Therefore, this provision would add costs of between \$237,360 (\$43 x 20 hours x 276 agencies) and \$474,720 (\$43 x 40 hours x 276 agencies) statewide for law enforcement agencies.

#### EVIDENCE ROOMS

There is wide variability across the state in terms of property management procedures, retention schedules, and actual storage capacity (2015 local government fiscal note on HB 1069). For example, Garfield County Sheriff's Office evidence room is a small 12' x 14' office, while Pierce County Sheriff's Department contracts and manages evidence for the cities of Tacoma, University Place, Edgewood, and Dupont. It is common practice for smaller agencies to contract with larger agencies for storage of evidence.

#### ASSUMPTIONS

--Costs associated with current domestic violence protection orders are similar to those that would be incurred for extreme risk protective orders.

--No defense attorneys will be appointed by the court for extreme risk protective orders.

Court impacts, including judicial costs, clerk costs, and court fees, are described in fiscal notes prepared by the Administrative Office of the Court (AOC). Local government fiscal notes include county expenditures for law enforcement investigations and arrests, indigent defenders, county prosecutors and jail costs. Please see the AOC fiscal note for a discussion of impacts to county courts.

### **C. SUMMARY OF REVENUE IMPACTS**

*Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources. Delineate between city, county and special district impacts.*

This bill does not impact local government revenue or revenue authority.

#### SOURCES:

Local Government Fiscal Note HB 1069 (2015)

Local Government Fiscal Note HB 1383 (2013)

Local Government Fiscal Note HB 1840 (2013)

Washington Association of Sheriffs and Police Chiefs report "Crime in Washington 2013"

Administrative Office of the Courts staff

Caseload Forecast Council

Local Government Fiscal Note Program prosecution data model