

HB21-1098 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

3           **"SECTION 1. Legislative declaration.** (1) The general  
4 assembly finds and declares that:

5           (a) Article 14.5 of title 13, Colorado Revised Statutes, extreme  
6 risk protection orders, creates a victimless crime and a presumptive law  
7 that punishes a law-abiding citizen before and without damage done to  
8 any person or property, before a jury trial or conviction, and without  
9 regard to the rules of the common law guaranteed by the seventh and  
10 ninth amendments of the United States constitution; and

11           (b) Article 14.5 of title 13, Colorado Revised Statutes, extreme  
12 risk protection orders, violates the second, fifth, sixth, seventh, and ninth  
13 amendments of the United States constitution, article VI of the United  
14 States constitution, the Supremacy Clause, and the spirit and original  
15 intent of the Declaration of Independence.

16           (2) Therefore, it is necessary to provide a remedy to those who  
17 suffer damages as a result of the application of article 14.5 of title 13,  
18 Colorado Revised Statutes, extreme risk protection orders.

19           **SECTION 2.** In Colorado Revised Statutes, **add** 13-21-133 as  
20 follows:

21           **13-21-133. Civil liability for false extreme risk protection**  
22 **order petitions.** (1) A PERSON OR A PERSONAL REPRESENTATIVE OF A  
23 PERSON WHO SUFFERS INJURY OR DAMAGES AS A RESULT OF NOT BEING  
24 ABLE TO USE A FIREARM TO DEFEND HIMSELF, HERSELF, OR HIS OR HER  
25 FAMILY AS A RESULT OF A TEMPORARY EXTREME RISK PROTECTION ORDER  
26 ISSUED PURSUANT TO SECTION 13-14.5-103 OR AN ONGOING EXTREME RISK  
27 PROTECTION ORDER ISSUED PURSUANT TO SECTION 13-14.5-104 MAY  
28 BRING A CIVIL ACTION TO RECOVER DAMAGES AGAINST THE PERSON WHO  
29 FILED THE PETITION FOR AN ORDER PURSUANT TO SECTION 13-14.5-103 OR  
30 13-14.5-104 THAT CONTAINED A MATERIAL FACTUAL MISREPRESENTATION  
31 OR FALSE STATEMENT.

32           (2) A PLAINTIFF WHO PREVAILS IN AN ACTION PURSUANT TO THIS  
33 SECTION IS ENTITLED TO ATTORNEY FEES AND COURT COSTS, IN ADDITION  
34 TO FIVE THOUSAND DOLLARS IN DAMAGES TO REASONABLY COMPENSATE  
35 THE PLAINTIFF WHO HAS SUFFERED INJURY AS A RESULT OF A FALSELY  
36 FILED TEMPORARY OR ONGOING EXTREME RISK PROTECTION ORDER  
37 PETITION TO INCLUDE THE DENIAL OF THE PLAINTIFF'S SECOND  
38 AMENDMENT RIGHTS.

39           (3) NOTHING IN THIS SECTION PROHIBITS A PERSON FROM

1 PURSUING ANY OTHER REMEDY PROVIDED BY STATE LAW, UNITED STATES  
2 CONSTITUTIONAL LAW, OR COMMON LAW.

3 **SECTION 3.** In Colorado Revised Statutes, 13-14.5-113, **amend**  
4 (2) as follows:

5 **13-14.5-113. Liability.** (2) A person who files a malicious or  
6 false petition for a temporary extreme risk protection order or an extreme  
7 risk protection order may be subject to criminal prosecution for those acts  
8 AND CIVIL LIABILITY PURSUANT TO SECTION 13-21-133.

9 **SECTION 4. Act subject to petition - effective date.** This act  
10 takes effect at 12:01 a.m. on the day following the expiration of the  
11 ninety-day period after final adjournment of the general assembly; except  
12 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
13 of the state constitution against this act or an item, section, or part of this  
14 act within such period, then the act, item, section, or part will not take  
15 effect unless approved by the people at the general election to be held in  
16 November 2022 and, in such case, will take effect on the date of the  
17 official declaration of the vote thereon by the governor."

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