

## Chief Judge Directive 19-02

### Concerning the Appointment of County Court Judges in the 11<sup>th</sup> Judicial District as Acting District Court Judges to Preside Over Extreme Risk Protection Order Proceedings Filed Pursuant to C.R.S. 13-14.5-

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On April 12, 2019, Governor Jared Polis signed into law the provisions of House Bill 19-1177 (the “Deputy Zackari Parrish III Violence Prevention Act”), which adds article 14.5 to title 13, C.R.S. and sets forth procedures for obtaining an extreme risk restraining order based on allegations that the respondent poses a significant risk of causing personal injury to self or others in the near future by having in his or her custody or control a firearm, or by purchasing, possessing, or receiving a firearm. C.R.S. §§13-14.5-103(1), -104(3). Colorado courts shall begin accepting petitions requesting the issuance of an extreme risk protection order on January 1, 2020. C.R.S. §13-14.5-114(4).

The purpose of Chief Judge Directive 19-02 is to ensure that the 11<sup>th</sup> Judicial District provides quick access to the courts for persons seeking the issuance of a temporary extreme risk protection order or an extreme risk protection order, and to safeguard the due process rights of all parties involved in the proceedings.

A petition for a temporary extreme risk protection order must be heard on the day the petition is filed or the day following the day the petition was filed. C.R.S. §13-14.5-103(4). Upon entry of a temporary extreme protection order, the court must schedule a hearing within fourteen days from the date the temporary order was issued to determine whether grounds exist to issue a three-hundred-sixty-four-day extreme risk protection order. C.R.S. §13-14.5-103(5)(a). If a petition pursuant to C.R.S. §27-65-106 (a mental health proceeding) is also filed against the respondent, “a court of competent jurisdiction can hear that petition at the same time as the hearing for a temporary extreme risk protection order or the hearing for a continuing extreme risk protection order.” C.R.S. §13-14.5-103(1). Thus, there are times when it may be necessary for the court to hear the petition for a temporary extreme risk protection order and the mental health petition during the same expedited hearing.

Although a petition for an extreme risk protection order, filed pursuant to C.R.S. §13-14.5-104 (as opposed to a petition for a temporary extreme risk protection order filed under C.R.S. §13-14.5-103), does not specify the time period in which the hearing must be held, the nature of the relief requested invokes the needs for the court to hold the hearing as expeditiously as possible, giving due consideration to the representations contained in the petition, the procedural requisites of the statute, and other legal requirements. As such, the court believes it is imperative that all county and district court judges of the 11<sup>th</sup> Judicial District be readily available to preside over hearings on petitions for temporary and regular extreme risk protection orders. Moreover, pursuant to the Act, “the district and county courts of the state of Colorado shall have jurisdiction over proceedings pursuant to this article 14.5,” C.R.S. §13-14.5-104(8), which confirms a recognition by the Colorado general assembly of the need for both county and district court judges to have jurisdiction to preside over temporary extreme risk protection order and extreme risk protection order hearings.

Before issuing an extreme risk protection order under C.R.S. §13-14.5-105, the court must consider whether the respondent meets the standard for a court-ordered evaluation for persons with mental health disorders pursuant to C.R.S. §27-65-106, and if the court so finds, the court must order a mental health treatment and evaluation pursuant to C.R.S. §27-65-106(6). C.R.S. §13-14.5-105(8)(a). The court must also, prior to issuing an extreme risk protection order, consider whether the respondent meets the criteria for an emergency mental health commitment, under sections 27-81-111 or 27-82-107, C.R.S., and if the court so finds, the court must also order an emergency commitment. C.R.S. §13-14.5-105(8)(b).

Based on the foregoing, it is hereby ordered by the Chief Judge of the Eleventh Judicial District, pursuant to Chief Justice Directive 95-01(4)(a)( ii), Assignment of Judges, and Chief Judge Directive 16-04, that all county court judges in the judicial district are assigned to act as district court judges to preside over all temporary extreme risk protection order and extreme risk protection order cases from inception to conclusion of all matters relating to that particular case, and as authorized in article 14.5 of title 13, C.R.S., the county court judge acting as a district court judge under this order shall have authority to issue orders under sections 27-65-106, 27-81-111, and 27-82-107, C.R.S., whether the order issued as part of the extreme risk protection order case or a separate mental health case that is being heard at the same time as the extreme risk protection order case. The county court judges are also authorized to act as a district court judge over all matters under article 14.5 of title 13, as necessary when covering a proceeding for another judge in the 11<sup>th</sup> Judicial District. County court judges are authorized to act as district court judges in all of the counties in the District. The county court judge shall sign any orders issued while acting under the authority provided by Administrative Order 2019-04 as an “acting district court judge.”

If any County Attorney files a separate mental health action against the respondent after the county court judge has issued an extreme risk protection order or a continuing extreme risk protection order, the extreme protection order case shall be transferred to the district court division that is assigned the mental health case.

Done in Salida, Colorado, December 10, 2019

*/s/ Patrick W. Murphy*

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Patrick W. Murphy, Chief Judge, 11<sup>th</sup> Judicial District