

<p>THIRTEENTH JUDICIAL DISTRICT COURTS:</p> <p>KIT CARSON COUNTY, LOGAN COUNTY, PHILLIPS COUNTY, MORGAN COUNTY, SEDGWICK COUNTY, YUMA COUNTY, and WASHINGTON COUNTY, Colorado</p>	
<p>▲ ▲</p> <p>ADMINISTRATIVE ORDER 2019-B, ESTABLISHING PROCEDURES FOR JUDICIAL OFFICER ASSIGNMENTS FOR EXTREME RISK PROTECTION ORDERS.</p>	

THE COURT FINDS, AS FOLLOWS:

Recent legislation approved by the Colorado General Assembly and Governor Polis established a new cause of action enabling certain parties to request protection orders for the purpose of restricting access to firearms by individuals proven to pose a significant risk of personal injury to self or others. See §13-14.5-101 *et. seq.*, C.R.S. (2019). The first date cases of this nature may be filed is January 1, 2020. See §13-14.5-114(4).

Certain questions have arisen concerning the practice and procedure that should apply to these cases. The objective of this Order is to set forth regulations to enable 13th Judicial District staff and others to efficiently process such cases.

Accordingly, I hereby Find and Order:

1. *Legislative intent.* The clear intent of the General Assembly was to enable complaining parties to gain rapid access to the courts in an effort to obtain protection orders restricting access to firearms, while allowing the responding party a prompt hearing as to the merits of such restrictions. Accordingly, the procedures set forth in this Order are to be liberally implemented, with a view toward the proper implementation of the legislative intent in the statute.
2. *Definitions.* As used herein, Temporary Extreme Risk Protection Orders will be referred to as TERPO. Extreme Risk Protection Orders will be referred to as ERPO. When referred to in general, these orders will be referred to as ERPO, without distinguishing temporary from permanent orders.
3. *Assignment of cases--jurisdiction.* The statute allows a Petitioner to file a case in either District or County Court. See §13-14.5-104(8). Notably, one requirement which must be satisfied before an ERPO is authorized is a determination under Title 27, Articles 65, 81, and/or 82. County Courts do not typically have jurisdiction to issue orders under such Articles. Consequently, all 13th Judicial District County Court Judges presiding over ERPO cases are hereby appointed as District Judges for purposes of making findings and issuing orders under

Articles 65, 81, and/or 82, as related to ERPO proceedings. Regardless, the venue for such cases lies where the Respondent resides.

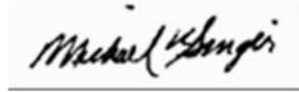
4. *Assignment of TERPO requests.* All Judicial Officers within the 13th Judicial District, including Senior Judges on assignment to the District, are hereby appointed to consider and hear requests for TERPOs and to issue the same, in every County of the District.
5. *Forms.* The State Court Administrator's Office has developed a comprehensive set of forms relative to cases filed under Title 13, Article 14.5. These will be available on-line. Filing parties must use such forms, and all forms must be filled out legibly and completely. Any filings not in compliance with C.R.C.P. 10 shall be rejected.
6. *Directive to Clerks of Court.* Upon receipt of a request for a TERPO, a Clerk of Court or Court Judicial Assistant (CJA) shall contact a judicial officer sitting within the same county in order to have the request reviewed and heard, in satisfaction of §13-14.5-103(4). If a judicial officer assigned to that county is not reasonably available within the 24-hour time period provided by statute, the Clerk or CJA shall attempt to have the request reviewed by a District Judge who is available to do so. If none of the District Judges are available, the Clerk or CJA shall contact other Clerks of Court within the District in order to have the request reviewed and heard by an available County Court Judge.
7. *Constitutional challenges.* In the event a County Judge becomes assigned to hear an ERPO case, and an issue is raised by a party as to the constitutionality of the statute, the County Judge may ask the Chief Judge to re-assign the case. The Chief Judge will thereupon re-assign the case to a District Court Judge.
8. *Scheduling of hearings.* In the event a Judge issues a TERPO after the required initial hearing, the CJA or Division Clerk for that Judge shall immediately schedule the 14-day hearing required by §13-14.5-103(5) before that Division, if convenient for that Division. However, if the Division is unavailable to conduct the 14-day hearing in a timely fashion, the CJA or Division Clerk shall attempt to schedule the hearing through the Division Clerk of the Division initially randomly assigned to the case when it was filed. If that Division is unavailable, a different Division may be requested to conduct the hearing, with the other County or District Judges normally sitting in the County where the case was filed being asked, first. Thereafter, any other judicial officer may be requested to conduct the hearing, and, if no judicial officer is readily available, the Chief Judge shall be contacted in order to re-assign cases or dockets for the purpose of scheduling the 14-day hearing. Other hearings in the case that are not emergent should normally be conducted by the judicial officer presiding over the Division receiving the initial, random assignment.

9. *Request for C.B.I. report.* The statute allows a court to consider a criminal history records check of the Respondent prior to making a determination at the ERPO hearing. See §13-14.5-105(4)(b). In order to ensure consistency of treatment as to Respondents, and provide helpful information to judges deciding these issues, each time an ERPO hearing is scheduled, the Clerk of Court shall order a C.B.I. records history check of the Respondent, without the need for a judge to order the same. This directive would also apply to any request to extend or terminate the ERPO. See §13-14.5-107 (applying similar procedures to extension or termination hearings).
10. *Phone appearances.* While phone appearances are authorized by the statute, they are discouraged because of the difficulty of verifying the identity of the Petitioner prior to such hearing. See §13-14.5-103(4) (requiring courts to verify identity of Petitioner prior to telephone hearing). Thus, unless disability or safety issues prevent a Petitioner from being present at a hearing, Clerks of Court are directed to encourage parties to appear in person. In the alternative, appearance by means of video devices are also preferable to telephone appearances. If a Petitioner desires to appear by phone, prior to the hearing, the Clerk shall obtain and copy some form of valid identification, which may be filed under seal, and the Judge may utilize the information from the sealed document to verify the Petitioner's identity at hearing. The appearance of non-party witnesses is otherwise subject to C.R.C.P. 43(i), and is within the discretion of the Judge presiding over the hearing.
11. *Appointment of counsel.* In the event an ERPO hearing is scheduled, the statute mandates that the Respondent immediately be appointed counsel. See §13-14.5-104(1). The Clerks of Court in each County shall develop and maintain a list of counsel willing to serve in that capacity, not later than January 1, 2020. Pursuant to applicable Chief Justice Directives, appointed counsel will be paid at rates similar to the rates for other court-appointed counsel, such as Respondent Parents Counsel or Alternate Defense Counsel. In that vein, a presumptive limit will be placed on the compensation of ERPO counsel. Under circumstances in which counsel claims entitlement to additional fees beyond such limits, he/she must file a written request and proposed order with the judicial officer assigned to the case, supported by billing documents demonstrating the amount of time spent on the case to date, and any out-of-pocket expenses for which counsel is entitled to reimbursement.
12. *Crisis intervention resources.* The Clerks of each Court will develop a list of crisis intervention resources in their respective communities prior to January 1, 2020, in order to satisfy the requirements of §13-14.5-114(2).
13. *On Call Judge.* In the event petitions for ERPO are filed through the On Call Judge, the Clerk of Court in the County in which venue lies shall process the case in the same fashion as if it were filed normally. However, the 24-hour

hearing will be held on the first non-holiday court day following receipt of the petition by the On Call Judge. See §13-14.5-103(4).

IT IS SO ORDERED.

SIGNED THIS DATE AND EFFECTIVE: December 18, 2019.

A rectangular box containing a handwritten signature in black ink that reads "Michael K. Singer".

Michael K. Singer
Chief Judge
13th Judicial District