

## GOAL's Summary of HD4607 Red Flag Language

This is a cursory review of the “Red Flag Law” expansion as drafted in HD.4607. It is by no means the complete language, but rather boiled down to basic bullet points of the most obvious points.

It is not designed to reflect any changes in the current laws, rather just a review of what they would look like if HD.4607 were to pass.

### Greatly expands who can file a “petition” against you:

- family or household member,
- law enforcement agency or officer,
- licensed physician,
- registered nurse,
- licensed practical nurse,
- certified nurse practitioner,
- certified clinical nurse specialist,
- certified psychiatric clinical nurse specialist,
- licensed psychiatrist,
- licensed psychologist,
- licensed mental health counselor,
- licensed marriage and family therapist,
- licensed independent clinical social worker,
- licensed certified social worker,
- a principal or assistant principal of an elementary school or secondary school,
- administrator of a college or university where the respondent is enrolled,
- employer

### Conditions under which a petition can be filed against you:

- A petitioner who believes that you pose a risk of causing bodily injury to self or others.

### Filing Process:

- Petition must state any relevant facts supporting the petition,
- Identifies the reasons why the petitioner believes you are a risk,
- Lists the firearms and ammunition they believe you possess,
- Is there a current abuse or harassment order against you,
- Whether there is a pending lawsuit, complaint, petition or other legal action between the parties to the petition,
- No fees for filing a petition against you,
- The person's information who filed the petition against you is confidential.
- The court shall provide to the petitioner and respondent informational resources about: (i) crisis intervention; (ii) mental health; (iii) substance use disorders; (iv) counseling services; and (v) the process to apply for a temporary commitment.

## Court Process

- The court must hold a hearing within 10 days,
- The court shall issue a summons to the accused 7 days prior to the hearing,
- If the court finds that you are a risk to yourself or others due to owning a gun they will order the petition even if you could not make the hearing,
- When the court issues an extreme risk protection order, the accused must surrender all firearm, ammunition, and any licenses,
- Both the accused and the petitioner can, suspend or terminate its order at any subsequent time upon motion by either party by a motion through the court,
- 30 calendar days prior to the expiration of an order, the court shall notify the petitioner,
- The court also issue additional warrants to seize firearms if the court believes you still are in possession of firearms or ammunition,
- Law enforcement will conduct a search and provide a receipt for any items seized,
- Once an order is issued all licenses will be immediately suspended,
- If the licensing authority cannot find you within 180 days of the expiration or termination of the order, they can dispose of your property,
- Licensing authority must issue a receipt of all property and licensed seized within 48 hours,
- Even if an order has expired or was terminated, the Local Authority can still deny to return your property if they deem you “unsuitable”,
- If you can’t or don’t want your property returned, you have the right to sell or transfer it within the legal parameters,

## Emergency Orders

- The court can issue an order without notifying the accused, but the accused must surrender all firearms, ammunition and licenses,
- An “emergency order” is only valid for ten days,
- The court can issue a search warrant, and law enforcement must seize the property,
- An emergency order can still be issued if the court is closed through a justice that can be reached,

## Documentation and Records

- The same day that an extreme risk protection order is issued the court will send a copy to:
  - the licensing authority,
  - the commissioner of probation,
  - the department of criminal justice information services,
  - Attorney General of the United States to be included in the National Instant Criminal Background Check System,
  - Other federal or state computer-based systems used by law enforcement or others to identify prohibited purchasers of firearms.
- The same will happen after termination or expiration of an order.

## False Evidence

- If someone files a petition and provides false information against you, or to simply harass you, they shall be punished by a fine of not less than \$2,500 and not more than \$5,000 or by imprisonment for not more than 2 1/2 years in the house of correction or by both such fine and imprisonment.

### Red Flag Law Information

- The chief justice of the trial court will create instructions, brochures, petitions, forms and other materials on how the process works and can be implemented.

### Exemptions

- A firearm license will not protect from suspending a license or search and seizure should order be place against you.
- Any person listed as a legal petitioner cannot be charged for not filing a petition.
- The high courts of Massachusetts can review cases and change procedures to make things more simple, speedy and effective.

### Public Reporting

- The court is required to issue an annual report concerning “Red Flag” orders to include things like:
  - the number of petitions filed,
  - the number petitions that lead to a respondent's surrender,
  - the number of petitions that are heard but not granted,
  - the number of warrants issued,
  - the number of warrants that lead to the seizure of firearms or ammunition,
  - a breakdown of the types of items surrendered (e.g., firearms license or permit, firearm, or ammunition),
  - the number of petitions filed that are deemed to be fraudulent,
  - the number of instances in which a petition was found to be fraudulent and the penalties received in each instance,
  - the race and ethnicity of the petitioner and respondent,
  - the gender and gender identity of the petitioner and respondent,
  - the data on the duration of extreme risk protection orders,
  - the number of instances in which an order has been terminated or otherwise modified prior to its original expiration date.

### Immediate Seizure

- If an order is issued and the court believes you are an immediate danger of abuse they can order immediate seizure of property.
- They court can prevent any transfer of property to anyone but a licensed retailer.