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Civil Restraining Orders Pursuant to CRS §§ 13-14-100.2 et seq.: A Practitioner's Guide

by Gordon P. Gallagher

The Civil Litigator articles address issues of importance and interest to litigators and trial lawyers practicing in Colorado courts. The Civil Litigator is published six times a year.

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This article explores the significant changes made to Colorado's civil protection order statute during 2013 and discusses how to litigate such cases from a practitioner's perspective.

The process for obtaining a protection order in Colorado underwent significant changes during the 2013 legislative session. There now are only two ways to obtain a protection order in state court in Colorado (which includes municipal courts of record): (1) a mandatory criminal process codified in Title 18, and (2) the consolidated civil process available under CRS §§ 13-14-100.2 *et seq.* This article discusses the process of obtaining and/or defending against the imposition of a civil protection order and the significant changes that were made to the statutory section in 2013.

Overview of the 2013 Changes

During the 2013 legislative session, Title 13 underwent its most significant changes since the original codification of the section on July 1, 1999. The changes include significant substantive additions and modifications, as well as a complete reformatting and renumbering that simplifies understanding of the civil restraining order process in Colorado.

The substantive changes include:

1) eliminating any other civil mechanism for obtaining a protective order in Colorado;[1]

2) adding sexual assault or abuse as a specific basis for requesting a protective order;[2]

3) defining contact to include new forms of electronic communication that have become ubiquitous since 1999;[3]

4) adding an entire section addressing prohibitions on the possession or purchase of firearms for some individuals subject to a civil protection order;[4]

5) clarifying the long-held practice that the standard of proof for obtaining a permanent civil protection order is by a preponderance of the evidence;[5]

6) modifying and increasing the allowable maximum agreed-upon extension of a temporary protection order from 120 days to one year;[6]

7) extending the maximum time under which a Title 13 restraining order can award temporary custody and control of a minor child from 120 days to one year;[7] and

8) reducing the time before which a restrained party may request a modification or dismissal of the restraining order from four years to two years.[8]

The stylistic and recodification changes include:

1) beginning the entirety of Title 13 with the legislative declaration;[9]

2) breaking down the previously codified CRS § 13-14-102, which lumped together the legislative declaration, the process for obtaining a temporary restraining order, the method of proceeding to make a temporary restraining order permanent, the motions process for modifying or dismissing a protective order, as well as myriad other subjects into the following separate and logical subsections:

a. procedure for temporary restraining order;[10]

b. provisions relating to civil protection orders;[11]

c. procedure for permanent civil protection orders;[12]

d. enforcement of protection order—duties of peace officer;[13]

e. modification and termination of civil protection orders;[14] and

f. CRS § 13-14-109, fees and costs; and

3) recodifying the foreign protection order section.[15]

Beginning the Process: The Temporary Restraining Order

The process for obtaining a restraining order pursuant to Title 13 can start either as an emergency protection order under CRS § 13-14-103 or as a temporary restraining order (TRO) pursuant to CRS § 13-14-104.5. Although nothing prohibits private counsel from seeking a protection order for a client under the emergency subsection, this frequently seems to be the province of law enforcement or governmental agencies. The more common method of procedure for private counsel or agencies such as Colorado Rural Legal Services is an application for a temporary civil protection order pursuant to CRS § 13-14-104.5.

All applications for a temporary protection order under CRS § 13-14-104.5 are to proceed using the standard forms found online at courts.state.co.us or at many local courthouses.[16] Except in cases of domestic abuse, stalking, sexual assault, or unlawful sexual contact, a $97 filing fee is assessed. Additional service and copy fees may also apply. This means that the filing fee is assessed in non-domestic violence cases involving assaults or threatened bodily harm and circumstances of emotional abuse of the elderly or of an at-risk adult.

The list of grounds for the imposition of a TRO is found at CRS § 13-14-104.5(1)(a) and has not changed except for the addition of (1)(a)(IV), which adds the ground of preventing sexual assault or abuse. An explanatory paragraph regarding this new basis for a TRO can be found in the legislative declaration at CRS § 13-14-100.2(3), and relevant definitions were added at CRS § 13-14-101(2.9).

The only other substantive addition to the TRO section was the addition of CRS § 13-14-104.5(1)(b), which states:

> To be eligible for a protection order, the petitioner does not need to show that he or she has reported the act that is the subject of the complaint to law enforcement, that charges have been filed, or that the petitioner is participating in the prosecution of a criminal matter.

In large part, this section limits the effectiveness of any argument to the court during the permanent restraining order (PRO) hearing that the court should not grant the PRO for any of the foregoing listed reasons. However, it does not specifically preclude any arguments that may challenge the veracity or the weight of specific evidence based on those listed factors.

From a practical perspective, the petitioner seeking a temporary restraining order (with the ultimate goal of a permanent restraining order) must meet the "imminent danger" threshold of CRS § 13-14-104.5 (7)(a) or (b). Although this ties back to one or more of the stated purposes for a restraining order delineated in CRS § 13-14-104.5 (1)(a)—for example, to prevent assaults or domestic abuse—there must be a showing of imminent danger. Only then "may" the judicial officer issue the TRO.

There is no delineation of the burden of proof regarding the imminent danger showing.

One additional statutory change occurred in this area. The old language read:

> However, the court shall not deny a petitioner the relief requested solely because of a lapse of time between an act of abuse or threat of harm and filing of the petition for a protection order.[17]

The new language removes the word "solely."[18] Although this would seem to remove the length of time between the act and the TRO request as a consideration altogether, it will be left to the courts to determine how this really fits in with the imminence finding that must be made.

From a practitioner's perspective, most of the litigation regarding the TRO is done by petitioner's counsel. Petitioner's counsel should be aware that their filing for the TRO need only be sufficient to meet the court's imminent danger threshold, whatever that might be for the specific court of review. Beyond ensuring that the court grants the TRO, how much additional information to include on the court forms is up to counsel. When requesting the TRO, the verified complaint must be filed with the court and, thus, respondent will ultimately receive a copy. The complaint elicits such information as: the most recent incident, the most serious incident, and other past incidents. The language of the form encourages petitioner to "be specific."

In addition to the verified complaint, petitioner has the option of filing an incident checklist that provides a list of numerous possible wrongs that may have occurred to petitioner and allows petitioner to fill in information such as dates and places. If filed, this document will be provided to respondent when respondent is served with the TRO and will be available for use as cross-examination material during the PRO hearing or potentially in another forum, such as a criminal action or dissolution of marriage proceeding.

Counsel should think tactically before filing these documents. Failure to include episodes or including too little or too much detail can cause difficulties during the PRO hearing or in other forums, such as a criminal domestic violence trial. Consider a circumstance where petitioner's counsel does not list a serious prior event on the complaint and then tries to raise it in the PRO hearing. This could cause a court to doubt that the incident ever occurred. Alterntatively, envision the same situation where a serious prior incident is not mentioned in the protection order case at all, but a domestic violence criminal case later arises and the prosecutor wishes to use the unlisted evidence under a CRE 404(b) (or similar) theory. The failure to list the incident may make that more difficult at a later time.

Alternatively, petitioner's counsel might use the incident checklist and report numerous prior incidents listing firm dates and places for those incidents. Petitioner would then be subject to cross-examination as to specific dates and places, perhaps ending up on the wrong side of an alibi defense or its PRO hearing equivalent. It is important to think tactically about all the information provided to the court and not just assume that a short list of prior events is sufficient. What is provided in the TRO forms might plague a client through significant and important litigation in the protection order or in criminal or domestic relations fields.

The PRO hearing allows for the possibility of trial by ambush. In most courts, there are no witness or exhibit endorsements. The case is often tried on counsel's first appearance. Although nothing in the statute prohibits a judge from imposing the equivalent of a pretrial order to limit the possibility of ambush, such an order is rare in this arena. Thus, when submitting the TRO forms, be aware of what is being revealed and what remains hidden in advance of the most significant hearing in this arena—the PRO hearing.

A new and frequently occurring evidentiary concern in PRO hearings is the use of social and electronic media—for example, Facebook posts, texts, e-mails, tweets, or voicemails. In this modern world, such electronic media are often the best—if not the only—evidence of threats, repeated contacts, harassment, and abuse. Different courts have different standards and expectations with regard to such evidence. As with any court appearance, be aware of the expectations of the judicial officer before whom the matter is being tried. The rapid time frame of the PRO hearing often will not provide adequate time for the issuance of subpoenas to corporate record keepers or similar witnesses.

Practitioners should be prepared with multiple physical copies of whatever media they anticipate admitting at the hearing. For example, if it is a Facebook post, a screen shot or multiple screen shots might show the Facebook page on which the item is posted and whose page it is to show some sort of causal linkage. If the intended evidence is a voicemail, a compact disc should be prepared for the court and the opposing party, and the proponent should bring some way to play the audio into the record during the hearing. If the evidence is a text message, it should be printed or photographed, or an investigator should be present to testify as to the content. Most clients prefer not having their cell phone admitted into evidence. If the opponent does not come prepared as outlined above, object. Rely on the hearsay rules, lack of authentication, or whatever other relevant objections may be appropriate based on the particular situation.

Due to the requirement that the initial TRO hearing takes precedence over all other matters on a court's docket, as well as the fact that most such hearings are held *ex parte*, there is little for the defense to do in this arena. Frequently, if not almost always, respondent will not even be aware that a request for TRO has been filed. In the rare instance that respondent is aware of the pendency of the TRO, nothing in the statute prohibits the TRO hearing from being adversarial in nature. Additionally, the TRO petition and any testimony heard at the TRO hearing are evidence that can be used for cross-examination in a forthcoming PRO hearing or in a related case, such as a criminal domestic violence case or a domestic relations matter. Throughout the TRO/PRO proceedings, counsel should be cognizant of the record they are building and how this may be later used for or against their client. If a verbal hearing was held at the TRO stage, defense counsel can and should get a transcript for later use if time allows.

The remainder of the TRO section basically tracks the old statute with little in the way of change. The parties should be aware that the provisions of CRS § 13-14-105.5 regarding firearms are not implicated by a TRO, because the notice and participation requirements are not met.[19] More on this subject is discussed below.

The Heart of the Matter: The PRO Hearing

The procedure for attempting to turn a TRO into a PRO is now codified at CRS § 13-14-106. For the majority of counsel, the PRO hearing will be the most significant litigation in the entire restraining order hearing.

As with the remainder of Title 13, the PRO section was recodified and organized in a far more linear and common-sense manner. Embedded within this now user-friendly and stylistically revised subsection are several substantive changes.

The first of these is the express delineation that the burden of proof is a preponderance of the evidence and that the judicial officer must make a "finding." Although this may have previously been widely recognized, it was not practiced by all courts, thus lending to some confusion and perhaps inconsistencies. Also, the prior language did not require a finding by the judicial officer; it required only that the judge or magistrate be "of the opinion" that the evidence was sufficient.[20]

Second is the addition of new language to the elements section of the statute. The new statute requires proof: (1) "that the respondent committed acts constituting grounds for issuance of a civil protection order"; and (2) "that unless restrained will continue to commit such acts *or acts designed to intimidate or retaliate against the protected person*."[21] The first element remains unchanged from the previous version of the statute. The italicized new language in the second element appears to be an alternative that can be proven to obtain a PRO in lieu of the necessity to show that, without restraint, the petitioner will continue to commit such acts. This new language may very well open up new areas of litigation.

A third change to § (1)(a) is the addition of language stating "[a] finding of imminent danger to the protected person is not a necessary prerequisite to the issuance of a permanent civil protection order."[22] If one harkens back to the TRO burden, imminent danger is a specific element without which the court cannot order the TRO.[23] The statutory addition makes it clear that although it may be an elemental requirement for the TRO, it is not a requirement for the PRO. The new language does not say that imminence cannot be raised or considered by the court in determining whether to issue the PRO, only that it is not a "necessary prerequisite."

The fourth and final substantive addition is codified in § (1)(b) and allows the court to continue the TRO for up to one year after making certain good cause findings and with the agreement of both parties.[24] This extension is far longer than the 120 days allowed by the prior statute. For petitioners who really just want a cooling-off period, the one-year time frame might make sense, particularly in those weaker cases where a petitioner may lose and end up with an immediate expiration of the TRO and, thus, nothing. For respondents afraid of winding up with a PRO they might never get relief from, an agreement to some period up to a year might be more palatable, especially in circumstances invoking the firearm implications of CRS § 13-14-105.5 as discussed below. A respondent who is also subject to a Title 18 restraining order may be best served by an agreement to extend the TRO, with the hope of both expiring or being dismissed at a later date, rather than ending up with a PRO. There is nothing that prohibits counsel from negotiating the extension of the TRO, either with a *pro se* opponent or with opposing counsel. As in all other areas of the law, counsel should consider their realistic chances at hearing, what their client has to lose, and whether it makes sense to try and negotiate a resolution.

For practitioners, the PRO hearing really remains the primary battleground of restraining order litigation. One of the first and perhaps most important determinations for counsel is when to have the hearing. Although this might seem to be a simple decision driven by the date for the PRO hearing provided by the court, the decision is in reality far more complex and tactical. CRS § 13-14-106(1)(b)

allows the court to grant each party one continuance of up to fourteen days. There are many variables as to how this can develop. Be aware that some courts, due to the nature of their dockets, never hold the PRO hearing on the return date but merely consider that date as a setting conference.

When a petitioner has counsel from the start, generally that petitioner is ready to go to hearing on the date set by the court when the TRO is granted. In fact, in that scenario, it would be imprudent not to be ready. Assuming the TRO is served and the respondent has notice, the PRO hearing date is a firm date. If respondent does not show, the court generally makes the protection order permanent and there is no need for the hearing.

One question, unanswered by the statute, is whether respondent must appear in person or whether an attorney can appear for a respondent. This is particularly relevant in the circumstance of an incarcerated respondent whom the jail will not transport for a civil proceeding. The statute addresses what must occur if the respondent does not show and the court chooses to modify the terms of the TRO when converting it into a PRO, but not the respondent's physical presence.[25] For respondent's counsel wishing to proceed without a client present due to incarceration, there may be a due process argument to interpose.

If respondent does appear, often he or she will be unrepresented and may agree to have the hearing immediately. Petitioner's counsel would generally hold an advantage in such circumstances against a *pro se* litigant and should be ready to immediately proceed to a hearing. If respondent shows up *pro se* and requests fourteen days to obtain counsel, the matter will be tried at a later date.

Defense counsel are frequently hired by respondent at the last minute. The call is usually to the effect of, "I've been served with this restraining order. It says I have court tomorrow afternoon. Can you represent me?" In such circumstances, defense counsel should meet with the client immediately and review the verified complaint. Whether petitioner has counsel can often be determined from the verified complaint. In circumstances where defense counsel is hired at the last minute and petitioner has been represented from the beginning, most defense counsel will be in the position of appearing and requesting the fourteen-day continuance to get prepared for the hearing.

Frequently, petitioner is *pro se* or at least no counsel is listed on the verified complaint. In these situations, even when there is little preparation time, defense counsel may want to consider getting ready for the hearing on rapid basis. As was the situation for petitioner's counsel above, sometimes defense counsel appear and find petitioner proceeding *pro se* and it is tactically better to immediately try the matter rather than face an opposing attorney. Of course, just like the savvy defendant, petitioner may realize his or her jeopardy and ask for a fourteen-day continuance to get counsel and level the playing field.

Once the hearing begins, the PRO is a bench trial. Although the statute does not specify, it appears that both the Colorado Rules of Evidence and the Colorado Rules of Civil Procedure would be the applicable rules for the proceeding. To prevail, petitioner must prove as follows by a preponderance of the evidence:

> 1) the respondent has committed acts constituting grounds for issuance of a civil protection order;[26] and
>
> 2) unless restrained, (a) respondent will continue to commit such acts[27] or (b)respondent will commit acts designed to intimidate or retaliate against the protected person.[28]

If the court finds the above items by a preponderance, the TRO "shall" be made permanent. This is interesting when juxtaposed with the TRO provisions stating that a court "may" issue TRO if the court makes the imminent danger finding, intimating that the court is not obliged to order the TRO.[29]

When the practitioner looks at the laundry list of things that must be proven at the PRO hearing, the first logical question is whether prong one has already been proven. Logic and argument would dictate that, at least to some extent, the court must already be convinced that respondent committed acts constituting grounds for the issuance of a civil protection order. If the court was not so convinced, the TRO should never have been granted in the first place.

This does not mean that prong one should be ignored during the PRO hearing or presumed proven by either side. Given that the TRO hearing is usually held *ex parte* and that there is no stated burden of proof for that hearing, good argument exists that prong one needs to be proven anew at the PRO hearing. Although it is not specifically stated in CRS § 13-14-106, it seems logical that the acts proven must fit in with one of the stated purposes for a protection order as laid out in CRS § 13-14-104.5(1)(a)—for example, to prevent assaults or domestic abuse.

In prong two, the requirement that unless restrained, respondent will continue to commit such acts, is often a significant area of litigation. In some cases that may involve the petitioner being followed, threatened, or repeatedly contacted, this prong is obviously proven. In others, even egregious

cases, the proof is not as clear.

Often, requests for restraining orders arise after one act. That one act may very well meet the "imminent danger" standard of CRS § 13-14-104.5(7)(a) or (b). However, imminent danger at the time of the TRO does not necessarily translate to proof that a respondent will or will not continue to commit whatever the underlying act was unless restrained. In addition, CRS § 13-14-106(1)(a) states that the imminent danger finding is not a prong in the PRO calculation.

By the time the PRO hearing occurs, it is entirely possible that several weeks, if not months, will have passed during which the TRO has been in effect. Both parties may have availed themselves of a fourteen-day continuance and the court may have allowed a continuation of the TRO for up to one year.[30] In some cases, a Title 18 restraining order may have existed before the TRO was issued if there is a pending criminal case. In cases of a single or limited instances of violence, sexual assault, threats, or harassment, this time period may be significant.

As a hypothetical, consider a one-time drunken episode of domestic violence that results in both a TRO and a criminal restraining order. By the time of the PRO hearing, six months may have passed with no new episodes of any sort. The lack of additional episodes is something a court may consider when determining whether prong two has been proven. The counter argument is always that there were no new episodes because the restraining order prevented them and, thus, it should continue to be left in place.

As for the new alternative in the second prong, in many cases, such as repeated direct acts of domestic violence or repeated direct threats, this new alternative would clearly be proven. However, this new alternative could be an area of dispute when considered in combination with the definitional language. Domestic abuse is defined to include certain acts that might be committed against a minor child of the parties or an animal owned by the parties.[31] It is important to note that very similar language was present in the old statute, but without the new alternative of prong two.[32]

Consider how this might occur in real life: A couple separates and then the potential respondent commits an act of child abuse or sexual assault on the couple's mutual child, or an act of animal abuse against their prior pet. The child might very well be entitled to a PRO against the parent due to the abuse, but is the non-abusing parent entitled to a PRO if he or she has never been a direct victim? The new alternative provides the standard of proof for those more attenuated situations. To put it directly, the dispute is now over whether the respondent is a child abuser or whether he or she is a child abuser who committed the act with the design to intimidate or retaliate against the person seeking the PRO. If the new alternative of prong two can be proven, this would allow for imposition of the PRO.

Take the circumstance of a domestic violence case where there has been an act of physical domestic violence fulfilling prong one. The abuser might be crafty enough not to commit a similar act, but instead may switch tactics and start retaliating by harassing the victim's friends or family members. The new alternative would allow for the issuance of a PRO in that circumstance.

Of course, nothing would prevent petitioner from proving both alternatives of the second prong. It would seem wise to pursue both alternatives of this prong if the evidence supports both.

The last major change within the PRO statute is the increase in the TRO time extension now available to the parties and the court from 120 days to one year.[33] While this statutory change will certainly cut down on some needless litigation and perhaps allow for the termination of some unnecessary protection orders after a cooling-off period, this change also raises some tactical decisions for the practitioner. From the respondent point of view, envision a circumstance where respondent is charged with a first act of domestic violence and may be heading for a plea with a deferred judgment as the preferred outcome. In this instance, the respondent may have a criminal restraining order imposed for twelve to eighteen months during a probation period. That respondent might be better off agreeing to continue the TRO for twelve months and see how things develop over time, rather than committing to a PRO hearing in the short term. If that respondent does well on probation, successfully completes domestic violence treatment, and refrains from violating the TRO for a year, that may help defeat prong three above if a PRO hearing is later held. On some occasions, given months of a calmer relationship, the petitioner may no longer seek a PRO. This could be highly important in light of the firearm issues that are discussed below.

From the petitioner's perspective, perhaps an immediate PRO hearing is better to avoid the cooling off/reform situation set forth above—or perhaps not. Some respondents are likely to worsen their situation if given time. They may be unable to live by the terms of the TRO, and might continue to contact the petitioner and thus create more evidence for the court to consider at the PRO hearing. Because the statute requires the agreement of both parties, as well as the court, to get the continuance of the TRO, counsel should carefully consider whether agreeing makes sense before committing to such a continuance.[34]

Domestic Relations Ramifications

Practitioners should be aware of the significant change in this area due to the extension of the maximum time under which a Title 13 restraining order can award temporary custody and control of a minor child from 120 days to one year.[35] Municipal courts and county courts are not supposed to be the arenas in which domestic relations or custody battles are fought in Colorado. That is the province of the district courts and district court magistrates. However, the extension from 120 days to one year might mean that those confrontations, at least on a temporary basis, move to forums in which they are not ordinarily determined. The parties may have tactical reasons for wanting to start such litigation in other courts and may wish to carefully consider the ramifications of this statutory change.

The Firearm Prohibition of CRS § 13-14-105.5

CRS § 13-14-105.5 adds a significant and heretofore nonexistent ramification to some protection order litigation. It is important to first determine which protective orders are implicated by this legislative change. The statute states that this section applies to those protection orders that qualify under 18 USC § 922(d)(8) or (g)(8).36 The listed subsections of 18 USC specifically address an "intimate partner."[37] For purposes of 18 USC Chapter 44—Firearms:

> The term "intimate partner" means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabited with the person.[38]

Although the entirety of CRS § 13-14-105.5 on its face may seem to apply only in what might be considered domestic violence cases, this may not be correct. It seems possible that this section could apply in non-domestic-violence situations, as well. This statute may prohibit anyone who is restrained from contact with any child of their own conceived out of a prior intimate relationship from firearm possession. In this non-domestic-violence circumstance, which occasionally arises in Colorado courts, an individual could lose his or her right to possess firearms due to the protection order.

In addition to the imposition of the protection order, two findings must be made for the firearm prohibition under CRS § 13-14-105.5 to apply. The first of these is a specific finding by the court that the "person [respondent] represents a credible threat to the physical safety of such intimate partner or child."[39] The second additional requirement is that the restraining order "explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonable be expected to cause bodily injury."[40]

In short, where the elements are proven, CRS § 13-14-105.5 takes away a person's right to possess, own, or purchase a firearm or ammunition for the duration of the protection order.[41] Furthermore, the statute describes what must occur with an individual's existing firearms and what must occur before a subject can be released from custody regarding all firearms.[42]

Who is implicated by this section? For many individuals, in particular those already convicted of felonies and acts of physical domestic violence, firearm rights are already moot because they have previously been lost.[43] For those never charged or convicted of a crime, or individuals charged with a first felony or act of domestic violence who have a realistic chance of avoiding conviction, or for persons convicted of a non-physical act of domestic violence that may not cause a loss of firearm rights, this new statutory change could have major consequences.

A civil protection order under Title 13 can be imposed for life, subject to the restrained person's right to seek modification every two years under CRS § 13-14-108. Thus, the addition of CRS § 13-14-105.5 could result in a lifetime ban on firearm possession for some individuals. For many, this is a truly significant issue of which practitioners should be aware and discuss with their clients before litigating the protection order.

The final substantive changes are embedded in the recodified section delineating the standard for modification or termination of the protection order.[44] First, the time before which a PRO modification/change request can be made, or remade after a prior denial, is shortened from four years to two years.[45] The final change is a new factor the court must consider before deciding whether to terminate a protection order. That factor reads:

> whether the continued safety of the protected person depends upon the protection order remaining in place because the order has been successful in preventing harm to the protected person.[46]

Counsel should be aware of all the factors, burdens, and time frames set forth in CRS § 13-14-108 before moving to terminate a protection order. In particular, they should be aware of the record check/fingerprint requirement, which must occur within ninety days before filing a motion to

terminate.[47] On some occasions, such a background check can take a considerable amount of time to get back from the state and/or federal agency conducting the check. Consider the implications of filing the motion to terminate without the background check in hand. For example, consider what happens if the background check is sent in and then the motion is filed shortly after with the assumption that the check will be timely completed before the motion to terminate the protection order. If the background check is not timely received, this could be a ground for denying the motion to terminate, a motion that cannot be re-filed for two years.[48]

Conclusion

Protection order litigation is an interesting and expanding area of the law. It should be approached with care, preparation, and thoughtfulness due to the significant and perhaps lifelong ramifications on both petitioners and respondents.

Notes

1. CRS § 13-14-100.2(1).

2. CRS §§ 13-14-103(1)(b)(I) and -104.5(1)(a)(IV).

3. CRS § 13-14-101(1.7).

4. CRS § 13-14-105.5.

5. CRS § 13-14-106(1)(a).

6. CRS § 13-14-102(9)(b) (2012) (repealed by Laws 2013, Ch. 218, § 7, eff. July 1, 2013) (setting forth the old 120-day standard); CRS § 13-14-106(1)(b) (setting forth the new one-year standard).

7. CRS § 13-14-102(15)(e)(I) (2012) (repealed by Laws 2013, Ch. 218, § 7, eff. July 1, 2013) (setting forth the old 120-day maximum); CRS § 13-14-105(e)(I) (setting forth the new one-year maximum).

8. CRS § 13-14-102(17.5)(a) (2012) (repealed by Laws 2013, Ch. 218, § 7, eff. July 1, 2013) (setting forth the old four-year time period); CRS § 13-14-108(3)(a)(I) (setting forth the new two-year time period).

9. CRS § 13-14-100.2.

10. CRS § 13-14-104.5.

11. CRS § 13-14-105.

12. CRS § 13-14-106.

13. CRS § 13-14-107.

14. CRS § 13-14-108.

15. CRS §§ 13-14-104 to -110.

16. *See* CRS § 13-14-104.5(1)(b)(2).

17. CRS § 13-14-102(4)(a) (2012) (repealed by Laws 2013, Ch. 218, § 7, eff. July 1, 2013).

18. CRS § 13-14-104.5(7)(a).

19. *See* 18 USC § 922(d)(8)(A).

20. CRS § 13-14-102(9)(a) (2012) (repealed by Laws 2013, Ch. 218, § 7, eff. July 1, 2013).

21. CRS § 13-14-106(1)(a).

22. *Id.*

23. CRS § 13-14-104.5(7)(a) and (b).

24. CRS § 13-14-102(9)(b) (2012) (repealed by Laws 2013, Ch. 218, § 7, eff. July 1, 2013) (setting forth the old 120-day standard); CRS § 13-14-106(1)(b) (setting forth the new one-year standard).

25. *See* CRS § 13-14-106(1)(a).

26. CRS § 13-14-106(1)(a).

27. *Id*.

28. *Id*.

29. *See* CRS § 13-14-104.5(7)(a) and (b).

30. *See* CRS § 13-14-106(b).

31. CRS § 13-14-101(2)(a) and (b).

32. *See* CRS 13-14-101(2)(a) and (b) (2012) (repealed by Laws 2013, Ch. 218, § 7, eff. July 1, 2013).

33. CRS § 13-14-102(9)(b) (2012) (repealed by Laws 2013, Ch. 218, § 7, eff. July 1, 2013) (setting forth the old 120-day standard); CRS § 13-14-106(1)(b) (setting forth the new one-year standard).

34. *See* CRS § 13-14-106(1)(b).

35. CRS § 13-14-102(15)(e)(I) (2012) (repealed by Laws 2013, Ch. 218, § 7, eff. July 1, 2013) (setting forth the old 120-day maximum); CRS § 13-14-105(e)(I) (setting forth the new one-year maximum).

36. CRS § 13-14-105.5(1).

37. 18 USC § 922(d)(8) and (g)(8).

38. 18 USC § 921(a)(32).

39. 18 USC § 922(d)(8)(B)(i).

40. 18 USC § 922(d)(8)(B)(ii).

41. CRS § 13-14-105.5(1)(a)(I) and (II).

42. CRS § 13-14-105.5(2).

43. *See* 18 USC § 922(d) and (g).

44. CRS § 13-14-108.

45. CRS § 13-14-108(2)(b).

46. CRS § 13-14-108(6)(j).

47. CRS § 13-14-108(3)(b).

48. *See* CRS § 13-14-108(2)(b).

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