

By Senator Ingoglia

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1 A bill to be entitled
2 An act relating to representation by counsel in
3 hearings on petitions for risk protection orders;
4 amending s. 790.401, F.S.; specifying that a
5 respondent has the right to be represented by counsel;
6 requiring that the court's notice of hearing inform
7 the respondent of his or her right to be represented
8 by counsel; requiring the appointment of counsel if
9 the respondent is indigent and desires representation;
10 providing an effective date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Paragraph (a) of subsection (3) of section
15 790.401, Florida Statutes, is amended to read:

16 790.401 Risk protection orders.—

17 (3) RISK PROTECTION ORDER HEARINGS AND ISSUANCE.—

18 (a) Upon receipt of a petition, the court must order a
19 hearing to be held no later than 14 days after the date of the
20 order and must issue a notice of hearing to the respondent for
21 the same.

22 1. The clerk of the court shall cause a copy of the notice
23 of hearing and petition to be forwarded on or before the next
24 business day to the appropriate law enforcement agency for
25 service upon the respondent as provided in subsection (5).

26 2. The court may, as provided in subsection (4), issue a
27 temporary ex parte risk protection order pending the hearing
28 ordered under this subsection. Such temporary ex parte order
29 must be served concurrently with the notice of hearing and

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30 petition as provided in subsection (5).

31 3. The court may conduct a hearing by telephone pursuant to
32 a local court rule to reasonably accommodate a disability or
33 exceptional circumstances. The court must receive assurances of
34 the petitioner's identity before conducting a telephonic
35 hearing.

36 4. A respondent has the right to be represented by counsel.
37 The court's notice of hearing must inform the respondent of his
38 or her right to be represented by counsel. If the respondent is
39 indigent and desires representation, counsel must be appointed
40 as provided in s. 27.40.

41 Section 2. This act shall take effect July 1, 2024.