



2021 South Dakota Legislature

House Bill 1075

HOUSE JUDICIARY ENGROSSED

Introduced by: **Representative** Aylward

1 **An Act to limit directives and incentives for extreme risk protection orders and to**
 2 **provide a penalty.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That a NEW SECTION be added:

5 **27A-1-20. Extreme risk protection order prohibited--Penalty.**

6 Any federal statute, federal regulation, or executive order of the President of the
 7 United States, and any order of a federal or state court is null, void, and unenforceable in
 8 this state if the purpose or intent is to impose or enforce, against a resident of this state,
 9 an extreme risk protection order, including such an ex parte order, under which the
 10 resident, in order to reduce the risk of physical harm to himself, herself, or another, is:

11 (1) Required to surrender any firearms or ammunition in his or her possession; or

12 (2) Prohibited from owning or possessing a firearm or ammunition.

13 No state agency, political subdivision, or any elected or appointed official or
 14 employee of this state or of a political subdivision may directly or indirectly impose upon
 15 or enforce an extreme risk protection order, as described in this section, including such
 16 an ex parte order, against a resident of this state.

17 No state agency, political subdivision, or any elected or appointed official or
 18 employee of this state or of a political subdivision may accept any federal funds that are
 19 directly or indirectly conditioned on the creation, imposition, or enforcement of an extreme
 20 risk protection order, as described in this section, including such an ex parte order.

21 Any violation of this section is deemed to be an infringement upon rights protected
 22 by the Constitution of the United States and the Constitution of South Dakota. Any
 23 violation of this section constitutes a Class 6 felony.

24 Nothing in this section affects the issuance of a protection order under chapter 22-
 25 19A, in cases of stalking, physical injury as a result of an assault, or crimes of violence,
 26 or under chapter 25-10, in cases of domestic abuse.