

# Common Myths About Firearm Policies



**Myth:** Extreme Risk Protection Orders (ERPOs) do not work.



**Truth:** Due to the newness of ERPO laws (most being enacted after 2016), more research is needed to understand the effect that these laws have on reducing firearm injury and death, and the best implementation strategies needed to be the most effective. Early research indicates that ERPOs may decrease risk of suicide (1-5).

While mass shootings are rare events, their prevention is a priority, and ERPO laws are largely considered to be a viable prevention strategy. (6-8) Studies have shown that ERPOs are being used in response to mass shooting threats (8,9), and that ERPO petitions and orders are overwhelmingly being used as intended, that is, specifically for cases of imminent risk of harm to self or others in which the evidence meets statutory standards (10-12).



**Myth:** Extreme Risk Protective Orders (ERPOs) are a way for the government to take away law-abiding citizens' guns.



**Truth:** Extreme risk protection orders (ERPOs), also known as red flag laws, are a tool to prevent firearm violence, including mass shootings, suicides, and fatal and nonfatal firearm assaults. An ERPO is a civil court order that temporarily prohibits firearms purchase and possession by someone at imminent risk of harming themselves or others. ERPOs are designed to be petitioned for and issued when an individual is at high risk of using violence against self or others, as evidenced, for example, by behaviors, statements, or writings. For a judge to grant an ERPO, evidentiary standards laid out in the ERPO statute must be met. Therefore, ERPOs can be a lifesaving tool.



**Myth:** ERPOs allow anybody with a vendetta to bring an allegation against another person, and put them at risk of losing their right to own a firearm.



**Truth:** States, including Michigan's ERPO law, provide protections to make it illegal and provide penalties for filing a false petition. Moreover, ERPOs are orders granted in civil court. The court shall issue an extreme risk protection order if the court determines by the preponderance of the evidence that the respondent poses a significant risk of personal injury to the respondent or others by possessing a firearm. Studies examining ERPO implementation in multiple states have found that ERPO petitions and orders are overwhelmingly being used as intended, that is, specifically for cases of imminent risk of harm to self or others in which the evidence meets statutory standards (10-12).





**Myth:** Under ERPO laws, no due process, notification, or opportunity to respond is afforded to individuals before their firearms are seized.



**Truth:** Michigan's ERPO law allows for a petitioner to request an order be issued without written or oral notice to the respondent if the court determines that evidence of specific facts has been submitted under oath or affirmation that clearly establishes that immediate and irreparable injury will result from the delay required to effectuate notice or that the notice will itself precipitate adverse action before an extreme risk protection order can be issued. However, this emergency ERPO is only in place for a short time before a full hearing on the ERPO can be held; under Michigan's ERPO law it would be in place for 14 days before a full hearing or for 5 days before a full hearing if the individual uses a firearm as part of their employment. Additionally, extreme risk protection laws are based on states' domestic violence protection order processes, which have consistently withstood constitutional and due process challenges. Extreme risk laws do include due process protections.

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**Myth:** These laws do nothing to help the individual in question. If the person is truly "in crisis," and a danger to themselves or others, they need access to mental health services instead of just having their guns taken from them.



**Truth:** These laws are just one tool available to reduce suicide and violence risks. They are not meant to "cure" suicidal or homicidal ideation, but provide families and communities a tool and mechanism to remove firearms (which have the highest lethality rate of all other methods of harm [13]) temporarily while a person is in crisis or a danger to themselves or others. It is best practice that these individuals be given resources and care in addition to the ERPO firearm removal order.

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**Myth:** If you remove access to a firearm from an individual at risk for suicide, they will just find another method that is just as lethal.



**Truth:** Removing access to lethal means while someone is in crisis or suicidal, is a proven mechanism for decreasing suicide (14-15). If someone attempts suicide with a firearm, they are very unlikely to survive. 91% of suicide attempts using a firearm are fatal, while only 4% of suicide attempts with other means are fatal (13). 9 out of 10 individuals with a prior suicide attempt will NOT go on to die by suicide (16), so we need to put time and distance between someone who is at elevated risk for suicide and a loaded firearm, so that individuals have a chance to get the help they need.




 **Myth:** We already have 72 hour holds for people in crisis, ERPOs are not needed.

 **Truth:** A 72-hour mental health hold is primarily concerned with ensuring that a person with a suspected or diagnosed mental health disorder receives appropriate treatment, (17) but does not mandate the temporary removal of firearms. Therefore, high-risk individuals may have access to firearms after release from the hold, while still in their moment of crisis. Additionally, the majority of gun violence is not driven by mental illness.


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 **Myth:** Most gun violence is caused by mental illness

 **Truth:** Conclusions relating to mental illness and firearm violence are difficult to ascertain, since only about half of individuals with mental illness have a formal diagnosis. People with certain mental illnesses (such as schizophrenia, depression, borderline personality disorder, bipolar disorder, among others) are at higher risk of suicide, as well as those with co-occurring mental health and substance use disorders, but completed suicides are still rare in these populations (18-22). Homicide risk is also higher among people with certain mental illnesses (e.g. schizophrenia) as well as those with co-occurring substance use disorders, but they make up a minority of homicide and mass shooting perpetrators in the nation (23-24). Rather, people with mental health conditions are at higher risk of being victims of interpersonal violence (25). Additionally, firearm prohibition evaluation studies have shown that if you successfully prohibited those people disqualified from having a gun due to mental illness, you would prevent only roughly 4% of gun violence (26). Overall, the evidence base connecting individuals with a mental illness condition, a substance use disorder, or both, to committing suicide or perpetrating interpersonal violence is weak.

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 **Myth:** ERPO firearm removal orders put police officers in great danger.

 **Truth:** Evaluations of ERPO removal orders from multiple states have found very few cases where police officers encountered violence while removing the firearm (27-28). As with any new policy, training of officers in best practices to de-escalate situations is recommended before implementation, and public health/social workers are recommended to accompany officers to provide necessary resources to the individual.



**Myth:** Every state with a universal purchaser licensing law has an exception for people in imminent danger.



**Truth:** The majority of states with universal licensing laws (including [California](#), [Connecticut](#), [Illinois](#), [Massachusetts](#), [Maryland](#), [Nebraska](#), [New York](#), Rhode Island) do not have any exceptions for transfer if a person is in imminent danger. [DC](#), [Oregon](#), and [Washington](#) include language around temporary transfer if someone is in danger of imminent death or serious physical injury, and the provision only lasts as long as is immediately necessary. In particular, Washington law specifies that the transfer cannot be to a person with a firearm possession prohibition.

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