

# Extreme Risk Protection Orders (ERPOs): Frequently Asked Questions

## What are Extreme Risk Protection Orders?

Extreme risk protection orders (ERPOs), also known as red flag laws, are civil orders that temporarily restrict an individual who is considered a threat to themselves or others from possessing or obtaining firearms, and require them to surrender any firearms that they possess at the time of the order.

### Why are ERPOs needed?

- State laws often do not provide a way to legally restrict firearm access before a tragedy occurs. ERPO laws create a legal, non-criminal mechanism to temporarily restrict firearm access for individuals who are at high risk of harming themselves or others.

### Who may petition for an order?

- Each of the 21 states that have enacted ERPO laws, as well as Washington, DC, allow law enforcement to petition for an order. 15 of these states additionally allow family or household members to file ERPO petitions. Some states' laws list healthcare workers, mental health professionals, and/or school administrators to file as petitioners as well.

### What must be proven at the court hearing?

- State ERPO laws vary with regard to criteria for issuing an ERPO, but generally, it must be proven that the individual poses a significant risk of suicide or harm to others because of their possession or ability to acquire firearms.

### What types of orders are available?

- In typical cases, ERPOs are issued by a judge after a court hearing. These are referred to as final orders. ERPOs can also be issued ex parte (before a court hearing) when there is a high risk of harm related to possession or ability to obtain firearms in the time before a scheduled hearing; in some states, ERPOs can be issued emergency ex parte by a law enforcement official, which grants an ex parte ERPO as soon as possible in more urgent cases. Both ex parte and emergency ex parte ERPOs are short-term and are followed by a scheduled court hearing, typically within two weeks or less.

### How long does an ERPO last?

- Final ERPOs last for one year in most states. Short-term orders (ex parte and emergency ex parte) last until the court hearing.

### Does the individual I believe is at risk of committing harm need to own a firearm for me to file an ERPO?

- No. ERPOs can be an appropriate intervention even if the individual at risk does not possess a firearm, as they also can prevent future firearm purchases while the order is in effect.



## What happens after the order ends?

- After the order ends, the individual will be given the opportunity to reclaim any firearms that they surrendered. The process of reclaiming firearms varies by state.

## How effective are ERPOs?

- Early research suggests that ERPOs may lower the risk of suicide. ERPOs are overwhelmingly being used as intended: in response to cases of imminent risk of harm to the individual or others. Particularly, ERPOs are often being used in response to mass shooting threats.

## How are rights protected?

- ERPO laws include due process protections. The respondent (the individual who is served the ERPO) has the right to consult with an attorney, the right to a court hearing, and the right to appeal the order.

## What should I do if an ERPO petition is filed against me?

- If an ERPO petition is filed against you, you will have the opportunity to attend the court hearing or request a hearing if one has not already been scheduled. You have the right to present evidence at the hearing that you do not pose a risk of harming yourself or others.

## Are ERPOs meant to be a substitute for mental health interventions?

- No. ERPOs are intended to prevent violence and injuries when an individual is likely to harm themselves or others as a result of their access to firearms. They are not meant to replace treatment for suicidal or homicidal ideation. In addition to firearm removal, an individual at risk of violence should be provided with mental health resources and care.

## Where can I find more information on Extreme Risk Protection Order laws by state?

- For more information about ERPOs by state, [this page](#) provides a breakdown of each state law, who can file in each state, and more.

## References

Johns Hopkins Bloomberg School of Public Health. (n.d.). Extreme Risk Protection Order: A Tool to Save Lives. Bloomberg American Health Initiative.

<https://americanhealth.jhu.edu/implementERPO>

Kivisto, A. J., & Phalen, P. L. (2018). Effects of Risk-Based Firearm Seizure Laws in Connecticut and Indiana on Suicide Rates, 1981-2015. *Psychiatric Services*, 69(8), 855-862. <https://doi.org/10.1176/appi.ps.201700250>

Swanson, J. W., Norko, M. A., Lin, H.-J., Alanis-Hirsch, K., Frisman, L. K., Baranoski, M. V., Easter, M. M., Robertson, A. G., Swartz, M. S., & Bonnie, R. J. (2017). Implementation and effectiveness of Connecticut's risk-based gun removal law: Does it prevent suicides? *Law and Contemporary Problems*, 80(2), 179+. Gale Academic OneFile.

Wintemute, G. J. ; P., Veronica A. ; Schleimer, Julia P. ; Pallin, Rocco ; Sohl, Sydney ; Kravitz-Wirtz, Nicole ; Tomsich, Elizabeth A. (n.d.). Extreme Risk Protection Orders Intended to Prevent Mass Shootings: A Case Series. *Annals of Internal Medicine*, 171(9). U-M Articles Search. <https://doi.org/10.7326/M19-2162>

Zeoli, A. M., Frattaroli, S., Barnard, L., Bowen, A., Christy, A., Easter, M., Kapoor, R., Knoepke, C., Ma, W., Molocznic, A., Norko, M., Omaki, E., Paruk, J. K., Pear, V. A., Rowhani-Rahbar, A., Schleimer, J. P., Swanson, J. W., & Wintemute, G. J. (2022). Extreme risk protection orders in response to threats of multiple victim/mass shooting in six U.S. states: A descriptive study. *Preventive Medicine*, 165, 107304. <https://doi.org/10.1016/j.ypmed.2022.107304>

Zeoli, A. M., Paruk, J., Branas, C. C., Carter, P. M., Cunningham, R., Heinze, J., & Webster, D. W. (2021). Use of extreme risk protection orders to reduce gun violence in Oregon. *Criminology & Public Policy*, 20(2), 243-261. <https://doi.org/10.1111/1745-9133.12544>

