



C O L O R A D O

Risk-Based Firearm Policy Recommendations for Colorado

Prepared by:
The Educational Fund to Stop Gun Violence



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**Educational Fund to Stop Gun Violence
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Additional Resources:

Consortium for Risk-Based Firearm Policy State Report:
Guns, Public Health, and Mental Illness: An Evidence-Based Approach for State Policy
<http://www.efsgv.org/wp-content/uploads/2014/10/Final-State-Report.pdf>

Educational Fund to Stop Gun Violence: <http://www.efsgv.org/>

Colorado Ceasefire: <http://www.coloradoceasefire.org/>

Mental Health Colorado: <http://www.mentalhealthcolorado.org/>

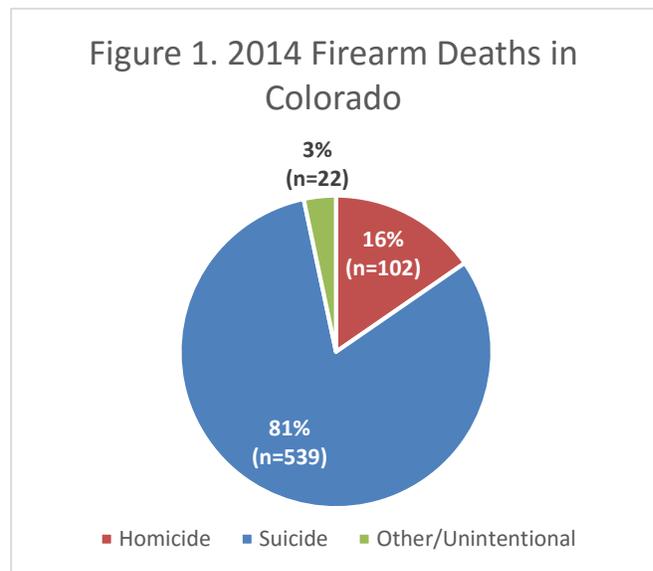
INTRODUCTION

Firearm violence takes a tragic toll on society. Recent data shows there are more than 81,000 nonfatal firearm injuries¹ and 33,000 deaths²—nearly two-thirds of which are suicides³—per year in the United States. Effective solutions to reduce gun violence demand a comprehensive, evidence-based strategy. The Consortium for Risk-Based Firearm Policy (Consortium), a group of the nation’s leading experts in public health, mental health, and gun violence prevention, came together in March 2013 to address this complex issue. These esteemed researchers, practitioners, and advocates developed evidence-based gun violence prevention policy recommendations to reduce access to firearms by people who are at an increased risk of dangerous behavior.

This analysis from the Educational Fund to Stop Gun Violence (Ed Fund) examines how Colorado law compares to the Consortium’s recommendations and outlines steps Colorado should take immediately to prohibit individuals at increased risk of dangerous behavior from accessing firearms. The evidence supporting these recommendations is presented in the full Consortium Report: *Guns, Public Health, and Mental Illness: An Evidence-Based Approach for State Policy*.⁴

I. THE PROBLEM: FIREARM DEATHS IN COLORADO

In 2014, more people died from firearm-related injuries in Colorado (663 total deaths)⁵ than from motor vehicle crashes (545 total deaths).⁶ Similar to national data, the majority of gun deaths in Colorado are suicides⁷ (Figure 1), which accounted for 81% of all firearm deaths in Colorado in 2014.⁸ However, the age-adjusted rate of firearm suicide in Colorado is significantly higher than the United States (9.34 and 6.34 deaths per 100,000, respectively).⁹



Source: CDC’s WISQARS™ (Web-based Injury Statistics Query and Reporting System).

In 2014, more people died from firearm injuries in Colorado than motor vehicle crashes.

Figure 2. All Intents Age-Adjusted Firearm Death Rate per 100,000

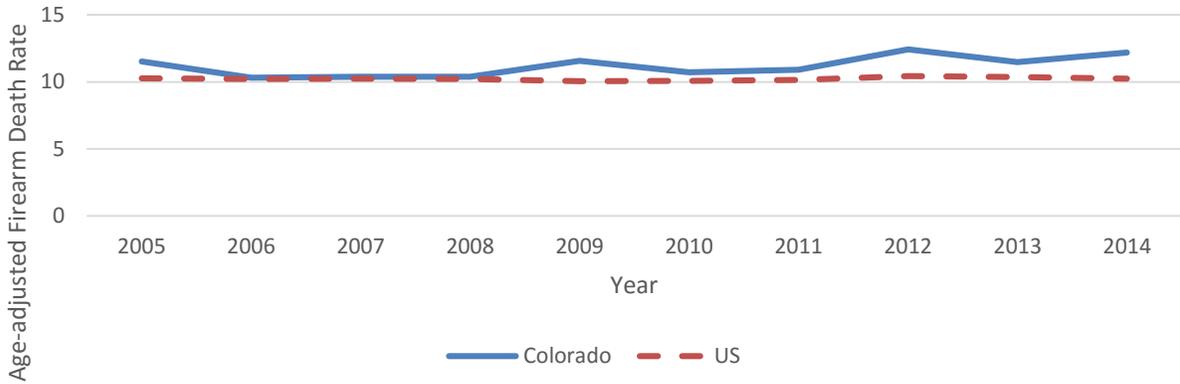


Figure 3. Suicide Age-Adjusted Firearm Death Rate per 100,000

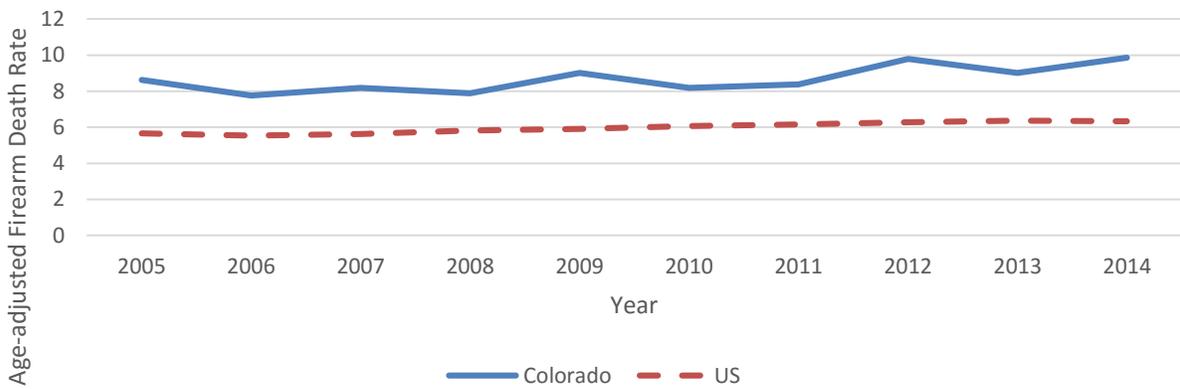
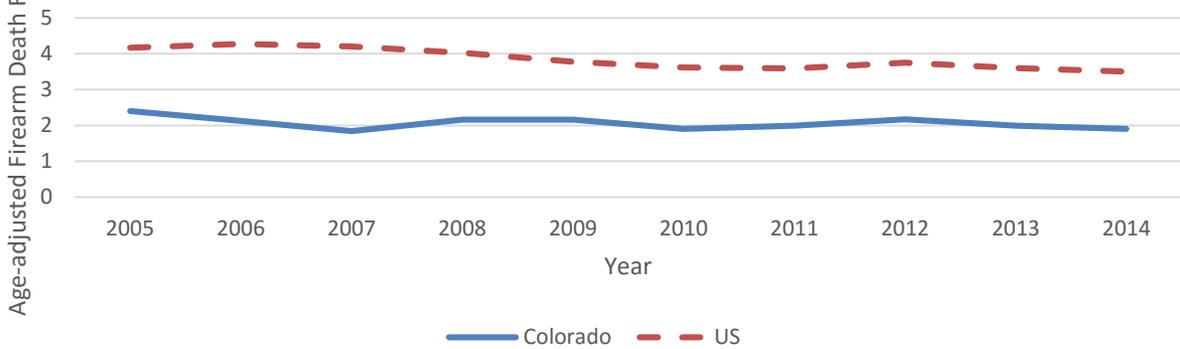


Figure 4. Homicide Age-Adjusted Firearm Death Rate per 100,000



Source: CDC's WISQARS™ (Web-based Injury Statistics Query and Reporting System). Fatal Injury Reports, 1999-2014, for National, Regional, and States

II. CONSORTIUM RECOMMENDATIONS & POLICY OPPORTUNITIES FOR COLORADO

The discourse after horrific mass shootings often centers on the link between gun violence and mental illness. While research shows mental illness is strongly associated with suicide,^{10,11} the majority of mentally ill individuals will never be violent toward others.¹²⁻¹⁴ There are certain times when mentally ill persons are at increased risk of interpersonal violence, such as the time period surrounding an involuntary hospitalization,^{15, 16} but most people with common mental illnesses are not more violent than the general population without mental illness.¹⁷ Mental illness alone accounts for a very small proportion of societal violence (about 4%);¹⁸ therefore, policies must address other risk factors for dangerousness in order to reduce overall violence in society.^{19, 20} Aside from mental illness on its own, stronger predictors for interpersonal violence—including homicide—are a history of violence (violent misdemeanor crime convictions²¹ and domestic violence²²⁻²⁴), drug abuse,²⁵ and alcohol abuse.^{26,27}

The Consortium recommends states expand current federal firearm prohibitions to include broader risk factors for dangerousness. Policies addressing risk factors for dangerousness provide a comprehensive, evidence-based approach to gun violence prevention that does not stigmatize mental illness alone as the root cause of violence.

MENTAL HEALTH RISK FACTORS FOR DANGEROUSNESS

Evidence shows that while mental illness on its own is not a strong predictor for violent behavior toward others, there are circumstances when mental illness makes an individual more prone to violence. The first episode of psychosis, and the time period just before and after an involuntary hospitalization, for example.^{28, 29} Mental illness is strongly associated with self-harm, and common mental illnesses such as depression can increase risk of suicide.^{30, 31} Risk of suicide and access to firearms is particularly dangerous; 90% of attempted suicides by firearm are fatal.³² See below for the Consortium's recommendation regarding mental health risk factors for dangerousness.

Recommendation #1: Current state law should be strengthened to temporarily prohibit individuals from purchasing or possessing firearms after a short-term involuntary hospitalization. Concurrently, the process for restoring firearm rights should be clarified and improved.

- 1.1 States should enact new legislation temporarily prohibiting individuals from purchasing or possessing firearms after a short-term involuntary hospitalization. This prohibition should be predicated on a clinical finding of danger to self or danger to others.

- 1.2 Restoration of an individual's ability to purchase or possess a firearm following a firearm disqualification due to mental illness should be based on an evaluation by a qualified clinician and a finding that the petitioner is unlikely to relapse and present a danger to self or others in the foreseeable future.

Colorado Law

Colorado law does not prohibit persons after a short-term involuntary hospitalization (72-hour detainment) from purchasing or possessing firearms.³³ Colorado law does not base restoration of an individual's ability to purchase or possess a firearm following a firearm disqualification due to mental illness on an evaluation by a qualified clinician and a finding that the petitioner is unlikely to relapse and present a danger to self or others in the foreseeable future.

Colorado should prohibit persons who have been involuntarily hospitalized from purchasing or possessing firearms and refine the restoration process to include a clinical evaluation and risk assessment.

OTHER RISK FACTORS FOR DANGEROUSNESS

As the majority of violence is related to factors other than mental illness alone, the Consortium recommends a risk-based approach to reducing violence, looking at other risk factors for dangerousness. A history of violence,^{34, 35} including violent misdemeanor convictions³⁶ and perpetration of domestic violence,³⁷⁻³⁹ is the strongest predictor of violence toward others. Individuals who abuse alcohol are at increased risk of homicide and suicide,⁴⁰ and research also shows that firearm owners are more likely to abuse alcohol.⁴¹⁻⁴⁴ Studies also show that illegal use of controlled substances is related to an increased risk of violence.⁴⁵⁻⁴⁹ The cognitive impairment associated with drug use also makes it difficult to avoid violent conflict.⁵⁰⁻⁵² See below for the Consortium's recommendations regarding these other risk factors for dangerousness.

Recommendation #2: States should enact new prohibitions on individuals' ability to purchase or possess a firearm that reflect evidence-based risk of dangerousness.

- 2.1 Individuals convicted of a violent misdemeanor should be prohibited from purchasing or possessing firearms for at least ten years.
- 2.2 Individuals who are subject to temporary domestic violence restraining orders should be prohibited from purchasing and possessing firearms for the duration of the temporary order.
 - 2.2-A. Individuals who are subject to domestic violence restraining orders of any kind should have firearms removed.

- 2.3 Individuals convicted of two or more DWI or DUIs in a period of five years should be prohibited from purchasing and possessing firearms for at least five years.
- 2.4 Individuals convicted of two or more misdemeanor crimes involving controlled substances in a five-year period should be prohibited from purchasing or possessing firearms for at least five years.

Colorado Law

Colorado law prohibits purchase and possession of firearms by persons convicted “of any crime, the underlying factual basis of which is found by the court on the record to be a misdemeanor crime of domestic violence, as defined in 18 U.S.C. sec. 921(a)(33)...”⁵³

Colorado law prohibits purchase and possession of firearms by subjects to temporary domestic violence restraining orders.⁵⁴

Colorado law does not prohibit the following persons from purchasing or possessing firearms:

- Persons convicted of violent misdemeanors (not related to domestic violence);
- Persons convicted of two or more DWI or DUIs in a period of five years;
- Persons convicted of two or more misdemeanor crimes involving controlled substances in a five-year period.

Colorado law provides that a judge issuing a domestic violence restraining order that qualifies as an order described in 18 U.S.C. sec. 922(d)(8) or (g)(8), shall order the respondent to “relinquish, for the duration of the order, any firearm or ammunition in the respondent's immediate possession or control or subject to the respondent's immediate possession or control,” to a law enforcement agency, federally licensed firearms dealer, or a qualified third party.⁵⁵

Colorado currently meets or exceeds Consortium recommendation 2.2. Colorado should extend the prohibition on purchase and possession of firearms by persons convicted of misdemeanor crimes of domestic violence to all violent misdemeanors. Colorado should extend the removal of firearms from persons subject to domestic violence restraining orders to temporary domestic violence restraining orders. Colorado should prohibit the purchase and possession of firearms by individuals convicted of two or more DWI or DUIs in a period of five years, and individuals convicted of two or more misdemeanor crimes involving controlled substances in a five-year period.

PERIODS OF CRISIS

Law enforcement and concerned family members need tools to temporarily suspend firearms access during periods of crisis. Connecticut⁵⁶ and Indiana⁵⁷ have discretionary gun-removal tools for law enforcement, and California⁵⁸ became the first state in the country to pass a law providing family members with a similar option. See below for the Consortium's recommendations regarding these periods of crisis.

Recommendation #3: Develop a mechanism to authorize law enforcement officers to remove firearms when they identify someone who poses an immediate threat of harm to self or others. States should also provide law enforcement with a mechanism to request a warrant authorizing gun removal when the risk of harm to self or others is credible, but not immediate. In addition, states should create a new civil restraining order process to allow family members and intimate partners to petition the court to authorize removal of firearms and temporarily prohibit firearm purchase and possession based on a credible risk of physical harm to self or others, even when domestic violence is not an issue.

- 3.1 Authorize law enforcement to remove guns from any individual who poses an immediate threat of harm to self or others.
- 3.2 Create a new civil restraining order process to allow private citizens to petition the court to request that guns be temporarily removed from a family member or intimate partner who poses a credible risk of harm to self or others. This process should mirror the restraining order process in most states and include a temporary *ex parte* order as well as a long-term order issued after a hearing in which the respondent had an opportunity to participate. Respondents to an order issued through this process (Gun Violence Restraining Order or GVRO) will be prohibited from purchasing and possessing guns for the duration of the order and required to relinquish all firearms in their possession for the duration of the order. Law enforcement officers should be able to request a warrant through this process to remove guns when there is a credible risk of harm that is not immediate.
- 3.3 Include due process protections for affected individuals. Specifically, provide respondents with an opportunity to participate in a hearing after having their guns are removed by law enforcement (3.1) or through the GVRO process (3.2) and assure processes are in place for returning all removed guns at the conclusion of the temporary prohibition.

Colorado Law

Colorado law does not provide for the temporary removal of firearms from persons deemed by a court to be dangerous to themselves or others as provided in legislation like California's GVRO.

Colorado should create a Gun Violence Restraining Order (GVRO) mechanism to enable law enforcement and family or household members to petition the court to temporarily prohibit an individual in crisis from purchasing or possessing firearms.

III. CONCLUSION

Colorado does not meet all of the Consortium's risk-based firearm prohibitions. Colorado should prohibit individuals who have been involuntarily hospitalized from purchasing or possessing firearms and refine the restoration process to include a clinical evaluation and risk assessment. Colorado should also extend the prohibition on purchase and possession of firearms by persons convicted of misdemeanor crimes of domestic violence to all violent misdemeanors. Colorado should extend the removal of firearms from persons subject to domestic violence restraining orders to temporary domestic violence restraining orders. Colorado should prohibit the purchase and possession of firearms by individuals convicted of two or more DWI or DUIs in a period of five years, and individuals convicted of two or more misdemeanor crimes involving controlled substances in a five-year period. The recommendations in this report provide a blueprint for strengthening Colorado state firearm policies by 1) expanding firearm prohibitions to encompass groups the research evidence shows are at heightened risk of committing violence and 2) developing mechanisms to allow for firearms to be removed from individuals who are at a serious risk of harm to self or others.

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⁵⁵ Colo. Rev. Stat. Ann. § 13-14-105.5 (West).

⁵⁶ CONN. GEN. STAT. § 29-38C

⁵⁷ IND. CODE ANN. § 35-47-14

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Appendix I.

An analysis of current Colorado law and the corresponding Consortium recommendations is provided in the table below.

Consortium Recommendation #1: Mental Health Risk Factors for Dangerousness	
1.1: Prohibit individuals following a short-term involuntary hospitalization from purchasing or possessing a firearm.	
Summary of Current Statute & Recommendation	
<ul style="list-style-type: none">• Colorado does not prohibit persons who have been involuntarily hospitalized from purchasing or possessing firearms.• Recommendation: Colorado should prohibit persons who have been involuntarily hospitalized from purchasing or possessing firearms.	
Current Statute	
N/A	
1.2: Refine the restoration process to include evidence from a clinician that the petitioner is unlikely to be a danger to themselves or others in the foreseeable future.	
Summary of Current Statute & Recommendation	
<ul style="list-style-type: none">• Colorado does not require that a petitioner seeking relief from disability to undergo a clinical evaluation and risk assessment.• Recommendation: Colorado should refine the restoration process to include a clinical evaluation and risk assessment.	
Current Statute	
<p>§ 13-5-142.5. National instant criminal background check system--judicial process for awarding relief from federal prohibitions--legislative declaration <i>Colo. Rev. Stat. Ann. § 13-5-142.5 (West)</i></p> <p>(1) Legislative declaration. The purpose of this section is to set forth a judicial process whereby a person may apply or petition for relief from federal firearms prohibitions imposed pursuant to 18 U.S.C. sec. 922(d)(4) and (g)(4), as permitted by the federal "NICS Improvement Amendments Act of 2007" (Pub.L. 110-180, sec. 105).</p> <p>(2) Eligibility. A person may petition for relief pursuant to this section if:</p> <p>(a)(I) He or she has been found to be incapacitated by order of the court pursuant to part 3 of article 14 of title 15, C.R.S.;</p> <p>(II) He or she has been committed by order of the court to the custody of the unit in the department of human services that administers behavioral health programs and services, including those related to mental health and substance abuse, pursuant to section 27-81-112 or 27-82-108, C.R.S.; or</p> <p>(III) The court has entered an order for the person's involuntary certification for short-term treatment of mental illness pursuant to section 27-65-107, C.R.S., for extended certification for treatment of mental illness pursuant to section 27-65-108, C.R.S., or for long-term care and treatment of mental illness pursuant to section 27-65-109, C.R.S.; and</p> <p>(b) He or she is a person to whom the sale or transfer of a firearm or ammunition is prohibited by 18 U.S.C. sec. 922(d)(4), or who is prohibited from shipping, transporting, possessing, or receiving a firearm or ammunition pursuant to 18 U.S.C. sec. 922(g)(4).</p> <p>(3) Due process. In a court proceeding pursuant to this section:</p> <p>(a) The petitioner shall have an opportunity to submit his or her own evidence to the court concerning his or her petition;</p> <p>(b) The court shall review the evidence; and</p> <p>(c) The court shall create and thereafter maintain a record of the proceeding.</p> <p>(4) Proper record. In determining whether to grant relief to a petitioner pursuant to this section, the court shall receive evidence concerning, and shall consider:</p>	

- (a) The circumstances regarding the firearms prohibitions imposed by 18 U.S.C. sec. 922(g)(4);
- (b) The petitioner's record, which must include, at a minimum, the petitioner's mental health records and criminal history records; and
- (c) The petitioner's reputation, which the court shall develop, at a minimum, through character witness statements, testimony, or other character evidence.
- (5) **Proper findings.** (a) Before granting relief to a petitioner pursuant to this section, the court shall issue findings that:
- (I) The petitioner is not likely to act in a manner that is dangerous to public safety; and
- (II) Granting relief to the petitioner is not contrary to the public interest.
- (b)(I) If the court denies relief to a petitioner pursuant to this section, the petitioner may petition the court of appeals to review the denial, including the record of the denying court.
- (II) A review of a denial shall be de novo in that the court of appeals may, but is not required to, give deference to the decision of the denying court.
- (III) In reviewing a denial, the court of appeals has discretion, but is not required, to receive additional evidence necessary to conduct an adequate review.

Consortium Recommendation #2: Other Risk Factors for Dangerousness

2.1: Prohibit individuals convicted of a violent misdemeanor from purchasing or possessing a firearm for at least ten years.

Summary of Current Statute & Recommendation

- Colorado prohibits persons convicted of a misdemeanor crime of domestic violence from purchasing or possessing a firearm, but does not prohibit those who have been convicted other violent misdemeanors from purchasing or possessing a firearm for at least ten years.
- **Recommendation:** Colorado should prohibit individuals convicted of all violence misdemeanor from purchasing or possessing a firearm for at least ten years.

Current Statute

§ 18-6-801. Domestic violence—sentencing *Colo. Rev. Stat. Ann. § 18-6-801 (West)*

(8)(a) In addition to any sentence that is imposed upon a defendant for violation of any criminal law under this title, if a defendant is convicted of any crime, the underlying factual basis of which is found by the court on the record to be a misdemeanor crime of domestic violence, as defined in 18 U.S.C. sec. 921(a)(33), or that is punishable by a term of imprisonment exceeding one year and includes an act of domestic violence, as defined in section 18-6-800.3(1), the court:

(I) Shall order the defendant to:

(A) Refrain from possessing or purchasing any firearm or ammunition for the duration of the order ...

2.2: Prohibit individuals subject to a temporary domestic violence restraining order from purchasing or possessing a firearm for the duration of the order.

Summary of Current Statute & Recommendation

- Colorado prohibits purchase and possession of firearms by individuals subject to a temporary domestic violence restraining order.
- **Recommendation:** None. Colorado meets or exceeds the Consortium recommendation for the temporary restraining order.

Current Statute

§ 13-14-105.5. Civil protection orders--prohibition on possessing or purchasing a firearm *Colo. Rev. Stat. Ann. § 13-5-105.5 (West)*

(11) A person subject to a civil protection order issued pursuant to section 13-14-104.5(1)(a) who possesses or attempts to purchase or receive a firearm or ammunition while the protection order is in effect violates the order pursuant to section 18-6-803.5(1)(c), C.R.S.

§ 13-14-104.5. Procedure for temporary civil protection order

Colo. Rev. Stat. Ann. § 13-5-104.5 (West)

(1)(a) Any municipal court of record, if authorized by the municipal governing body; any county court; and any district, probate, or juvenile court shall have original concurrent jurisdiction to issue a temporary or permanent civil protection order against an adult or against a juvenile who is ten years of age or older for any of the following purposes:

- (I) To prevent assaults and threatened bodily harm;
- (II) To prevent domestic abuse;
- (III) To prevent emotional abuse of the elderly or of an at-risk adult;
- (IV) To prevent sexual assault or abuse; and
- (V) To prevent stalking.

(b) 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.

(2) Any civil protection order issued pursuant to this section shall be issued using the standardized set of forms developed by the state court administrator pursuant to [section 13-1-136](#).

(3) Venue for filing a motion or complaint pursuant to this section is proper in any county where the acts that are the subject of the motion or complaint occur, in any county where one of the parties resides, or in any county where one of the parties is employed. This requirement for venue does not prohibit the change of venue to any other county appropriate under applicable law.

(4) A motion for a temporary civil protection order shall be set for hearing at the earliest possible time, which hearing may be ex parte, and shall take precedence over all matters, except those matters of the same character that have been on the court docket for a longer period of time. The court shall hear all such motions as expeditiously as possible.

(5) Any district court, in an action commenced under the "Uniform Dissolution of Marriage Act", article 10 of title 14, C.R.S., shall have authority to issue temporary and permanent protection orders pursuant to the provisions of subsection (1) of this section. Such protection order may be as a part of a motion for a protection order accompanied by an affidavit filed in an action brought under article 10 of title 14, C.R.S. Either party may request the court to issue a protection order consistent with any other provision of this article.

(6) At the time a protection order is requested pursuant to this section, the court shall inquire about, and the requesting party and such party's attorney shall have an independent duty to disclose, knowledge such party and such party's attorney may have concerning the existence of any prior protection or restraining order of any court addressing in whole or in part the subject matter of the requested protection order. In the event there are conflicting restraining or protection orders, the court shall consider, as its first priority, issues of public safety. An order that prevents assaults, threats of assault, or other harm shall be given precedence over an order that deals with the disposition of property or other tangible assets. Every effort shall be made by judicial officers to clarify conflicting orders.

(7)(a) A temporary civil protection order may be issued if the issuing judge or magistrate finds that an imminent danger exists to the person or persons seeking protection under the civil protection order. In determining whether an imminent danger exists to the life or health of one or more persons, the court shall consider all relevant evidence concerning the safety and protection of the persons seeking the protection order. The court shall not deny a petitioner the relief requested because of the length of time between an act of abuse or threat of harm and the filing of the petition for a protection order.

(b) If the judge or magistrate finds that an imminent danger exists to the employees of a business entity, he or she may issue a civil protection order in the name of the business for the protection of the employees. An employer is not be liable for failing to obtain a civil protection order in the name of the business for the protection of the employees and patrons.

(8) Upon the filing of a complaint duly verified, alleging that the respondent has committed acts that would constitute grounds for a civil protection order, any judge or magistrate, after hearing the evidence and being fully satisfied therein that sufficient cause exists, may issue a temporary civil protection order to prevent the actions complained of and a citation directed to the respondent commanding the respondent to appear before the court at a specific time and date and to show cause, if any, why said temporary civil protection order should not be made permanent. In addition, the court may order any other relief that the court deems appropriate.

Complaints may be filed by persons seeking protection for themselves or for others as provided in [section 26-3.1-102\(1\)\(b\)](#) and [\(1\)\(c\), C.R.S.](#)

(9) A copy of the complaint, a copy of the temporary civil protection order, and a copy of the citation must be served upon the respondent and upon the person to be protected, if the complaint was filed by another person, in accordance with the rules for service of process as provided in rule 304 of the rules of county court civil procedure or [rule 4 of the Colorado rules of civil procedure](#). The citation must inform the respondent that, if the respondent fails to appear in court in accordance with the terms of the citation, a bench warrant may be issued for the arrest of the respondent, and the temporary protection order previously entered by the court made permanent without further notice or service upon the respondent.

(10) The return date of the citation must be set not more than fourteen days after the issuance of the temporary civil protection order and citation. If the petitioner is unable to serve the respondent in that period, the court shall extend the temporary protection order previously issued, continue the show of cause hearing, and issue an alias citation stating the date and time to which the hearing is continued. The petitioner may thereafter request, and the court may grant, additional continuances as needed if the petitioner has still been unable to serve the respondent.

(11)(a) Any person against whom a temporary protection order is issued pursuant to this section, which temporary protection order excludes the person from a shared residence, is permitted to return to the shared residence one time to obtain sufficient undisputed personal effects as are necessary for the person to maintain a normal standard of living during any period prior to a hearing concerning the order. The person against whom a temporary protection order is issued is permitted to return to the shared residence only if the person is accompanied at all times by a peace officer while the person is at or in the shared residence.

(b) When any person is served with a temporary protection order issued against the person excluding the person from a shared residence, the temporary protection order must contain a notification in writing to the person of the person's ability to return to the shared residence pursuant to paragraph (a) of this subsection (11). The written notification shall be in bold print and conspicuously placed in the temporary protection order. A judge, magistrate, or other judicial officer shall not issue a temporary protection order that does not comply with this section.

(c) Any person against whom a temporary protection order is issued pursuant to this section, which temporary protection order excludes the person from a shared residence, may avail himself or herself of the forcible entry and detainer remedies available pursuant to article 40 of this title. However, such person is not entitled to return to the residence until such time as a valid writ of restitution is executed and filed with the court issuing the protection order and, if necessary, the protection order is modified accordingly. A landlord whose lessee has been excluded from a residence pursuant to the terms of a protection order may also avail himself or herself of the remedies available pursuant to article 40 of this title.

§ 18-6-803.5. Crime of violation of a protection order--penalty--peace officers' duties—definitions

Colo. Rev. Stat. Ann. § 18-6-803.5 (West)

(1) A person commits the crime of violation of a protection order if, after the person has been personally served with a protection order that identifies the person as a restrained person or otherwise has acquired from the court or law enforcement personnel actual knowledge of the contents of a protection order that identifies the person as a restrained person, the person:

(c) Violates a civil protection order issued pursuant to section 13-14-105.5, C.R.S., or pursuant to section 18-1-1001(9) by:

(I) Possessing or attempting to purchase or receive a firearm or ammunition while the protection order is in effect; or

2.2-A: Remove firearms from persons subject to any type of domestic violence restraining order.

Summary of Current Statute & Recommendation

- Under Colorado law, a judge shall order the removal of firearms from subjects of domestic violence restraining orders.
- **Recommendation:** Colorado should extend the requirement for the removal of firearms to subjects of temporary, or “ex parte” domestic violence restraining orders as well.

Current Statute

§ 13-14-105.5. Civil protection orders--prohibition on possessing or purchasing a firearm

Colo. Rev. Stat. Ann. § 13-14-105.5 (West)

(1) If the court subjects a person to a civil protection order pursuant to a provision of this article and the protection order qualifies as an order described in 18 U.S.C. sec. 922(d)(8) or (g)(8), the court, as part of such order:

(a) Shall order the person to:

(I) Refrain from possessing or purchasing any firearm or ammunition for the duration of the order; and

(II) Relinquish, for the duration of the order, any firearm or ammunition in the respondent's immediate possession or control or subject to the respondent's immediate possession or control; and

(b) May require that before the person is released from custody on bond, the person shall relinquish, for the duration of the order, any firearm or ammunition in the person's immediate possession or control or subject to the person's immediate possession or control.

(2)(a) Except as described in paragraph (b) of this subsection (2), upon issuance of an order pursuant to subsection (1) of this section, the respondent shall relinquish any firearm or ammunition:

(I) Not more than twenty-four hours after being served with the order in open court; or

(II) Not more than forty-eight hours after being served with the order outside of the court.

(b) A court may allow a respondent up to seventy-two hours to relinquish a firearm or up to five days to relinquish ammunition pursuant to paragraph (a) of this subsection (2) if the respondent demonstrates to the satisfaction of the court that he or she is unable to comply within the time frame set forth in said subsection (2).

(c) To satisfy the requirement in paragraph (a) of this subsection (2), the respondent may:

(I) Sell or transfer possession of the firearm or ammunition to a federally licensed firearms dealer described in 18 U.S.C. sec. 923, as amended; except that this provision shall not be interpreted to require any federally licensed firearms dealer to purchase or accept possession of any firearm or ammunition;

(II) Arrange for the storage of the firearm or ammunition by a law enforcement agency; except that this provision shall not be interpreted to require any law enforcement agency to provide storage of firearms or ammunition for any person; or

(III) Sell or otherwise transfer the firearm or ammunition to a private party who may legally possess the firearm or ammunition; except that a person who sells or transfers a firearm pursuant to this subparagraph (III) shall satisfy all of the provisions of section 18-12-112, C.R.S., concerning private firearms transfers, including but not limited to the performance of a criminal background check of the transferee.

(3) If a respondent is unable to satisfy the provisions of subsection (2) of this section because he or she is incarcerated or otherwise held in the custody of a law enforcement agency, the court shall require the respondent to satisfy such provisions not more than twenty-four hours after his or her release from incarceration or custody or be held in contempt of court. Notwithstanding any provision of this subsection (3), the court may, in its discretion, require the respondent to relinquish any firearm or ammunition in the respondent's immediate possession or control or subject to the respondent's immediate possession or control before the end of the respondent's incarceration. In such a case, a respondent's failure to relinquish a firearm or ammunition as required shall constitute contempt of court.

(4) A federally licensed firearms dealer who takes possession of a firearm or ammunition pursuant to this section shall issue a receipt to the respondent at the time of relinquishment. The federally licensed firearms dealer shall not return the firearm or ammunition to the respondent unless the dealer:

(a) Contacts the bureau to request that a background check of the respondent be performed; and

(b) Obtains approval of the transfer from the bureau after the performance of the background check.

(5) A local law enforcement agency may elect to store firearms or ammunition for persons pursuant to this section. If an agency so elects:

(a) The agency may charge a fee for such storage, the amount of which shall not exceed the direct and indirect costs incurred by the agency in providing such storage;

(b) The agency may establish policies for disposal of abandoned or stolen firearms or ammunition; and

(c) The agency shall issue a receipt to each respondent at the time the respondent relinquishes possession of a firearm or ammunition.

(6) If a local law enforcement agency elects to store firearms or ammunition for a person pursuant to this section, the law enforcement agency shall not return the firearm or ammunition to the respondent unless the agency:

(a) Contacts the bureau to request that a background check of the respondent be performed; and

(b) Obtains approval of the transfer from the bureau after the performance of the background check.

(7)(a) A law enforcement agency that elects to store a firearm or ammunition for a person pursuant to this section may elect to cease storing the firearm or ammunition. A law enforcement agency that elects to cease storing a firearm or ammunition for a person shall notify the person of such decision and request that the person immediately make arrangements for the transfer of the possession of the firearm or ammunition to the person or, if the person is prohibited from possessing a firearm, to another person who is legally permitted to possess a firearm.

(b) If a law enforcement agency elects to cease storing a firearm or ammunition for a person and notifies the person as described in paragraph (a) of this subsection (7), the law enforcement agency may dispose of the firearm or ammunition if the person fails to make arrangements for the transfer of the firearm or ammunition and complete said transfer within ninety days of receiving such notification.

(8) If a respondent sells or otherwise transfers a firearm or ammunition to a private party who may legally possess the firearm or ammunition, as described in subparagraph (III) of paragraph (c) of subsection (2) of this section, the respondent shall acquire:

(a) From the transferee, a written receipt acknowledging the transfer, which receipt shall be dated and signed by the respondent and the transferee; and

(b) From the licensed gun dealer who requests from the bureau a background check of the transferee, as described in section 18-12-112, C.R.S. , a written statement of the results of the background check.

(9)(a) Not more than three business days after the relinquishment, the respondent shall file a copy of the receipt issued pursuant to subsection (4), (5), or (8) of this section, and, if applicable, the written statement of the results of a background check performed on the respondent, as described in paragraph (b) of subsection (8) of this section, with the court as proof of the relinquishment. If a respondent fails to timely file a receipt or written statement as described in this subsection (9):

(I) The failure constitutes a violation of the protection order pursuant to section 18-6-803.5(1)(c), C.R.S.; and

(II) The court shall issue a warrant for the respondent's arrest.

(b) In any subsequent prosecution for a violation of a protection order described in this subsection (9), the court shall take judicial notice of the defendant's failure to file a receipt or written statement, which will constitute prima facie evidence of a violation of the protection order pursuant to section 18-6-803.5(1)(c), C.R.S., and testimony of the clerk of the court or his or her deputy is not required.

(10) Nothing in this section shall be construed to limit a respondent's right to petition the court for dismissal of a protection order.

(11) A person subject to a civil protection order issued pursuant to section 13-14-104.5(1)(a) who possesses or attempts to purchase or receive a firearm or ammunition while the protection order is in effect violates the order pursuant to section 18-6-803.5(1)(c), C.R.S.

(12)(a) A law enforcement agency that elects in good faith to not store a firearm or ammunition for a person pursuant to subparagraph (II) of paragraph (c) of subsection (2) of this section shall not be held criminally or civilly liable for such election not to act.

(b) A law enforcement agency that returns possession of a firearm or ammunition to a person in good faith as permitted by subsection (6) of this section shall not be held criminally or civilly liable for such action.

2.3: Prohibit individuals convicted of two or more DUI or DWIs within a five-year period from purchasing or possessing firearms for at least five years.

Summary of Current Statute & Recommendation

- Colorado has no alcohol-related prohibitions on firearm purchase or possession.
- **Recommendation:** Recommend implementing Consortium recommendation 2.3 to prohibit individuals convicted of two or more DUI/DWI offenses within a five-year period from purchasing or possessing a firearm for at least five years.

Current Statute

N/A

2.4: Prohibit individuals convicted of two or more misdemeanor drug crimes within a five-year period from purchasing or possessing firearms for at least five years.

Summary of Current Statute & Recommendation

- Colorado has no drug-related prohibitions on firearm purchase or possession.
- **Recommendation:** Recommend implementing Consortium recommendation 2.3 to prohibit individuals convicted of two or more misdemeanor drug crimes within a five-year period from purchasing or possessing a firearm for at least five years.

Current Statute

N/A

Consortium Recommendation #3: Periods of Crisis

3.1-3.3: Create a Gun Violence Restraining Order (GVRO) mechanism to enable law enforcement, family members, and intimate partners to petition the court to temporarily prohibit an individual in crisis from purchasing or possessing firearms.

Summary of Current Statute & Recommendation

- There is no mechanism for law enforcement to apply for a warrant to remove firearms in Colorado based on risk of dangerousness.
- There is no civil mechanism for private citizens to petition the court to remove firearms. Nor is there a mechanism for private citizens to contact law enforcement to petition the removal of guns for the broader dangerous behaviors we identify in the state report.
- **Recommendation:** Recommend implementing Consortium recommendations 3.1, 3.2, and 3.3.

Current Statute

N/A