

Extreme Risk Protection Order

EMPOWERING FAMILIES AND LAW ENFORCEMENT TO PREVENT GUN TRAGEDIES

Extreme Risk Protection Orders empower families and law enforcement to prevent gun tragedies by temporarily reducing access to guns for individuals at an elevated risk of endangering themselves or others.

A common thread in many high profile shootings are the family members of the shooters who saw their loved ones engage in dangerous behaviors and grew concerned about their risk of harming themselves or others—even before any violence occurred. In fact, family members are often the first to know when loved ones are in crisis in the many incidents of interpersonal violence and suicide that take place across this country every day. However, a gap in most states' laws makes it hard for families and law enforcement to intervene. An Extreme Risk Protection Order fills this gap by creating a mechanism for family members and household members to work with law enforcement to temporarily remove guns and prevent the purchase of new guns by individuals who pose an elevated risk of endangering themselves or others. This law will save lives while ensuring critical legal protections for respondents, just as it has in states that have already taken this responsible step.

WHAT IS AN EXTREME RISK PROTECTION ORDER?

An Extreme Risk Protection Order (ERPO) is a civil court order issued by a judge upon consideration of the evidence, prompted by petition by a family member or law enforcement, that temporarily prohibits a person in crisis from possessing or purchasing firearms or ammunition. ERPOs provide families and law enforcement officers with a formal legal process to temporarily reduce an individual's access to firearms if they pose a danger to themselves or others.

In many shootings, family and household members of the shooters noticed the person exhibiting dangerous behaviors and became concerned that they may harm him or herself or others. Unfortunately, there are few tools for family members to intervene during these periods of crisis. The ERPO offers family and household members – as well as law enforcement – a legal tool for helping a loved one who is displaying signs of endangering themselves or others by temporarily removing guns that are already in possession and prohibiting them from purchasing new ones for the duration of the order. In addition to potentially preventing an act of gun violence, the ERPO creates safer circumstances for the individual to seek treatment or engage other resources to address the underlying causes of the dangerous

121,000 Americans were shot in 2015 alone—over one million in the last decade.^{1,2}

Research estimates one life is saved for every 10-20 risk-warrants issued. (Connecticut's GVPO-style law).^{3,4}

60% of gun deaths are suicides.⁵

85% of suicide attempts with a firearm are fatal, making firearms the most lethal suicide attempt method that is commonly available. Temporarily reducing access to guns significantly increases the likelihood of surviving a

EXTREME RISK PROTECTION ORDER

HOW DOES THE ERPO WORK?

The ERPO is based on the long-standing infrastructure and procedure of domestic violence protection orders (in place in all 50 states) and involves both a court hearing and clearly defined due process protections. A qualifying petitioner (family member, household member, or law enforcement) would petition the civil court in their jurisdiction for an ERPO based on the evidence they present through a written application and at a hearing before a judge. This *does not* involve a criminal complaint. Specifically, the court process would include:

STAGE 1 At an initial hearing, a judge considers the information presented in the written petition and assesses whether the person is at risk of harming him/herself or someone else. The individual (respondent) may or may not receive notice about the hearing beforehand. If the respondent does not receive notice of the hearing beforehand, the hearing is “ex parte.”

If issued, an ex parte or temporary ERPO will be in effect for a short time period, typically three weeks or less. If the respondent does not own or possess firearms, he or she is temporarily prohibited from purchasing or otherwise acquiring a firearm. If the respondent does own firearms, he or she must surrender his or her guns for the duration of the order.

STAGE 2 Before the ex parte or temporary ERPO expires, a subsequent hearing will take place to address the claim of dangerousness. **For an order to be issued, ERPO petitioners will be required to testify and present evidence in a court of law. Respondents will also have an opportunity to present evidence to show that he or she is not a danger to him or herself or others and a ERPO is not necessary.**

If the court determines that the respondent presents a significant danger to themselves or others, the order prohibiting the purchase and possession of firearms will be extended for a longer time period, typically up to one year.

To terminate the ERPO before its expiration, the respondent may file a written request. The respondent must provide evidence to a judge that he or she does not pose a significant danger. When the order is terminated or expired, and the respondent is not otherwise prohibited from purchasing or possessing a gun, law enforcement or the FFL may return the firearms to the owner.

To renew the ERPO, the petitioner may file a written request. For a judge to renew the ERPO, an additional hearing will be held according to the same procedure and burden of proof as stage 2.

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- 1 National Center for Injury Prevention and Control, CDC. 2005-2015, United States Firearm Deaths and Rates per 100,000. *Fatal Injury Reports 1999-2015, for National, Regional, and States (RESTRICTED)*. Retrieved December 6, 2017, from http://www.cdc.gov/injury/wisqars/fatal_injury_reports.html.
 - 2 National Center for Injury Prevention and Control, CDC. 2005-2015, Overall Firearm Gunshot Nonfatal Injuries and Rates per 100,000. *Nonfatal Injury Reports, 2001-2015*. Retrieved December 6, 2017, from <http://www.cdc.gov/injury/wisqars/nonfatal.html>.
 - 3 Swanson, Jeffrey W. and Norko, Michael and Lin, Hsiu-Ju and Alanis-Hirsch, Kelly and Frisman, Linda and Baranoski, Madelon and Easter, Michele and Gilbert, Allison and Swartz, Marvin and Bonnie, Richard J., Implementation and Effectiveness of Connecticut's Risk-Based Gun Removal Law: Does it Prevent Suicides? (August 24, 2016). *Law and Contemporary Problems*, Forthcoming. Available at SSRN: <http://ssrn.com/abstract=2828847>
 - 4 <http://efsgv.org/wp-content/uploads/2016/09/FINAL-ERPO-complete-091916-1.pdf>
 - 5 National Center for Injury Prevention and Control, CDC. 2015, United States Firearm Deaths and Rates per 100,000. *Fatal Injury Reports 1999-2015, for National, Regional, and States (RESTRICTED)*. Retrieved January 24, 2017, from http://www.cdc.gov/injury/wisqars/fatal_injury_reports.html
 - 6 Miller, M., Azrael, D., & Barber, C. (2012). Suicide mortality in the United States: the importance of attending to method in understanding population-level disparities in the burden of suicide. *Annual review of public health*, 33, 393-408.

ABOUT THE EDUCATIONAL FUND TO STOP GUN VIOLENCE

The Educational Fund to Stop Gun Violence (Ed Fund) was founded in 1978 as a 501(c)(3) organization that makes communities safer by translating research into policy to reduce gun violence. The Ed Fund achieves this by engaging in policy development, advocacy, community and stakeholder engagement, and technical assistance.

ABOUT GIFFORDS

Giffords is a nonprofit organization dedicated to saving lives from gun violence. Led by former Congresswoman Gabrielle Giffords and her husband, Navy combat veteran and retired NASA astronaut Captain Mark Kelly, Giffords inspires the courage of people from all walks of life to make America safer.