



Extreme Risk Protections Orders

*The Deputy Zackari Parrish, III,
Violence Prevention Act*

Legislative Action – Working for Freedom from Gun Violence

The Extreme Risk Protection Order Law (ERPO) enables families, household members and law enforcement to obtain court orders to temporarily suspend firearms access for persons who are dangerous to themselves and others. The law is named after Douglas County Deputy Sheriff Zackari Parrish, III, who was shot and killed in an early morning ambush the last day of 2017. In that case, the shooter had previously exhibited dangerous behaviors; his mother had even attempted to remove his firearms.

Families know best. They are the first to know if a loved one is suffering from behavioral issues.

How does it work?

- Family and law enforcement can petition a civil court to issue an ERPO based on facts presented to a judge.
- The judge may issue an emergency ERPO for up to 14 days. The respondent (person considered to be dangerous) is not present for the initial hearing.
- Before the end of the emergency ERPO, a subsequent hearing will be held with both the petitioner and respondent to determine if there is a need to continue the protection order. It can be continued for 364 days. The court shall appoint counsel for the respondent.
- The respondent may appeal one time during the 364-day ERPO.
- At the expiration of an ERPO, the order may be renewed or firearms are returned,

Who can petition for an ERPO?

The set of persons who can request an ERPO is limited: family, law enforcement, household members in the last six months, person who has a child in common with the respondent, a domestic partner, legal guardian, former spouses, and past or present unmarried couples.

What are the burdens of proof?

- At the emergency hearing, the petitioner must prove by preponderance of the evidence that the respondent is a danger to self or others.
- At the subsequent hearing, the petitioner must prove by clear and convincing evidence (higher level of proof) that the respondent continues to be a danger.
- At an appeal hearing, the respondent must prove by clear and convincing evidence that he or she is no longer presenting a danger to self or others.

Is this constitutional?

Colorado joins fourteen other states in having an Extreme Risk Law. The Connecticut law, enacted in 1999, has been found constitutional, as well as the law in Indiana, enacted in 2006.

What about due process?

ERPO is modeled on domestic violence protection orders, which likewise can have emergency hearings without the respondent. Emergency child protection orders can operate similarly.

What about searches and seizure?

Amendment IV to the US constitution only prohibits “unreasonable searches and seizures.”