

CALIFORNIA

EMERGENCY GUN VIOLENCE RESTRAINING ORDER

A GUIDE TO THE PROCESS



Bloomberg American
Health Initiative

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CALIFORNIA

Emergency Gun Violence Restraining Order Process

Authorized petitioners in California include:

- Law enforcement

REQUEST EMERGENCY ORDER FROM SUPERIOR COURT JUDGE

Petitioner requests an emergency GVRO from the judge orally or by written petition, and describes why there is reasonable cause to believe the respondent poses an immediate danger of causing personal injury to self or others and less restrictive means are unavailable.

SUPERIOR COURT JUDGE ASSESSES EMERGENCY GVRO PETITION

Upon request for an emergency GVRO, Superior Court judge decides whether to issue an emergency GVRO and sets a hearing date within 21 days.

COURT ISSUES EMERGENCY GVRO & ORDER IS SERVED

Upon issuance of the emergency GVRO, law enforcement serves the respondent with a copy of the emergency GVRO at the respondent's location, and explains the terms of the emergency GVRO, including dispossession of firearms and ammunition.

RESPONDENT COMPLIES WITH TEMPORARY GVRO & DISPOSESSES FIREARMS

Respondent temporarily disposes self of any firearms or ammunition while the emergency GVRO is in effect. Dispossession must happen immediately upon service of the GVRO or, if law enforcement does not request immediate surrender or if the respondent was present at the hearing, the respondent must surrender firearms and ammunition to law enforcement or transfer or sell them to a licensed firearms dealer within 24 hours.

Respondent files a receipt with the court and the law enforcement agency that served the emergency GVRO showing that all firearms and ammunition were surrendered to law enforcement or transferred or sold to a licensed firearms dealer.

UPDATE BACKGROUND CHECK SYSTEM

No later than one court day after issuing the emergency GVRO, the court notifies the California Department of Justice (CA DOJ) that a GVRO has been issued.

Within one business day of service, law enforcement submits proof of service to the California Restraining and Protective Order System.

UNCONTESTED PETITION FOR GVRO AFTER HEARING

The respondent can file a form stating that they are not contesting the petition and relinquishing their firearm rights for a specified duration, or if no duration is specified for one year. The court shall issue the GVRO without any hearing.

PROCEED WITH HEARING FOR GVRO AFTER HEARING

Within 21 days after issuance of the temporary GVRO, petitioner presents the petition in court, where respondent and witnesses are present, and the court determines whether respondent should be prohibited from purchasing and possessing firearms for between 1 and 5 years.

GVRO AFTER HEARING ISSUED

If the respondent is present at the hearing, the respondent is served with the GVRO at the hearing. If the respondent is not present at the hearing, law enforcement or private server (any person 18 or older and not a party to the action) serves the respondent with a copy of the GVRO at the respondent's location.

GVRO AFTER HEARING IS NOT ISSUED

If a GVRO After Hearing is not issued, firearms and ammunition removed pursuant to emergency GVRO are returned to the respondent unless possession is otherwise prohibited by law. The court notifies CA DOJ when a GVRO has been dissolved or terminated.

UPDATE BACKGROUND CHECK SYSTEM

The clerk of the court will notify CA DOJ of the issuance of a GVRO based on a respondent filing a form not contest the order within one business day of the issuance of the order.

GVRO AFTER HEARING TERMINATED OR RENEWED

Petitioner may seek renewal at any time within the final three months of the GVRO. Respondent may submit one written request per year during the effective period of the order for a hearing to terminate the order. Termination can happen at any time during the effective period of the order per judicial decision. Upon expiration or termination of GVRO, law enforcement returns firearms and ammunition to the respondent, unless possession is otherwise prohibited by law upon expiration of the GVRO.

UPDATE BACKGROUND CHECK SYSTEM

The court will notify CA DOJ that the GVRO has been renewed no later than one court day after renewing the order. The court will notify CA DOJ that the GVRO has been dissolved or terminated no later than 5 court days after dissolving or terminating the order.

CA DOJ will update the status of the GVRO within 15 days.

*California Assembly Bill 12, effective on September 1, 2020, amends and increases the duration and renewal of a GVRO from one year to a period of time between 1 and 5 years, subject to earlier termination or renewal by the court. The amendment will require a court consider the length of time that the threat of personal injury is likely to continue, and to issue the GVRO based on that determination.