



COLORADO

EXTREME RISK PROTECTION ORDERS

&

72-HOUR MENTAL HEALTH HOLD AND SHORT-/LONG-TERM TREATMENT

HOW DO THEY DIFFER?



Bloomberg American Health Initiative

Information on this website does not constitute legal advice. Every factual situation is unique; if you want legal advice specific to your particular circumstances, please consult knowledgeable counsel.



Extreme Risk Protection Orders (ERPOs) temporarily remove firearms from individuals at risk of harming themselves (including suicide) or others. Criteria for an ERPO focus on dangerous behaviors, not mental illness diagnoses.

A 72-hour mental health hold and short- and long-term treatment are primarily concerned with ensuring that a person with a suspected or diagnosed mental health disorder receives appropriate treatment.

WHAT IS AN EXTREME RISK PROTECTION ORDER?

In Colorado, an **ERPO**¹ is a civil order that temporarily prohibits individuals who pose a danger of injuring themselves (including suicide) or others from purchasing and possessing firearms.

Mental illness diagnosis

Colorado's ERPO law does not require the petitioner to demonstrate that the respondent has a suspected or diagnosed mental disorder. Dangerous behaviors are the main criteria for an ERPO; an ERPO petitioner must establish that a person poses a danger of harming themselves or others. The court will consider relevant evidence including any act or threat of violence toward self or others, abuse of controlled substance or alcohol, and violation of a protective order, among other behaviors.²

Firearm prohibition

ERPOs prohibit respondents from purchasing or possessing firearms for the duration of the order and require respondents to surrender their firearms and concealed carry permits to law enforcement upon execution of the order.³

WHAT IS A 72-HOUR MENTAL HEALTH HOLD? SHORT-TERM TREATMENT? LONG-TERM TREATMENT?

In Colorado, a **72-hour mental health hold** is the evaluation and treatment of an individual alleged to have a mental health disorder and be a danger to self or other or gravely disabled⁴ due to the disorder.⁵ A person may be taken into custody by an intervening professional⁶ for a 72-hour mental health hold pursuant to an emergency procedure because the person appears to be an imminent danger or pursuant to a court order.⁷

Short-term treatment is the hospitalization of an individual following a 72-hour mental health hold for up to three months of further evaluation and treatment.⁸ Short-term treatment may extend an additional three months if necessary for treatment of the individual.⁹

Long-term treatment is the hospitalization, for up to six months, of an individual who has been in short-term treatment for five consecutive months but remains in need of further evaluation and treatment.¹⁰

Mental illness diagnosis

An individual may be detained for a 72-hour mental health hold if they appear to have a mental health disorder and as a result, is a[n] [imminent] danger to self or others or gravely disabled.¹¹ An individual may be certified for short- and long-term treatment if they: have a mental disorder, and as a result are a danger to self or others or are gravely disabled and are unwilling to participate in voluntary treatment.¹²

Firearm prohibition

A person certified for short- or long-term treatment is prohibited for the remainder of the person's life from purchasing and possessing firearms.¹³ However, a person certified for short- or long-term treatment may petition the court to remove their firearm prohibition beginning three years from when: (1) the period of the most recent certification expires, or (2) the individual receives an order in the nature of habeas corpus discharging the individual.¹⁴ Colorado does not prohibit firearm purchase and possession for persons detained for a 72-hour mental health hold.

COLORADO ERPO VS. COURT ORDERED MENTAL HEALTH TREATMENT: HOW DO THEY DIFFER?

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ENDNOTES

1 Colo. Rev. Stat. § 13-14.5-102(1).

2 Colo. Rev. Stat. § 13-14.5-105(3).

3 Colo. Rev. Stat. §§ 13-14.5-103(6)(g); 13-14.5-105(9)(f); 13-14.5-108.

4 "Gravely disabled" means a condition in which a person, as a result of a mental health disorder, is incapable of making informed decisions about or providing for his or her essential needs without significant supervision and assistance from other people. Colo. Rev. Stat. Ann. § 27-65-102(9).

5 Colo. Rev. Stat. §§ 27-65-105; 27-65-106.

6 An "intervening professional" is

(A) A certified peace officer;

(B) A professional person;

(C) A registered professional nurse as defined in section 12-255-104(11) who by reason of postgraduate education and additional nursing preparation has gained knowledge, judgment, and skill in psychiatric or mental health nursing;

(D) A licensed marriage and family therapist, licensed professional counselor, or addiction counselor licensed under part 5, 6, or 8 of article 245 of title 12 who, by reason of postgraduate education and additional preparation, has gained knowledge, judgment, and skill in psychiatric or clinical mental health therapy, forensic psychotherapy, or the evaluation of mental health disorders; or

(E) A licensed clinical social worker licensed under the provisions of part 4 of article 245 of title 12. Colo. Rev. Stat. § 27-65-105(1)(a)(II)

7 Colo. Rev. Stat. §§ 27-65-105; 27-65-106.

8 Colo. Rev. Stat. § 27-65-107.

9 Colo. Rev. Stat. § 27-65-108.

10 Colo. Rev. Stat. § 27-65-109.

11 Colo. Rev. Stat. §§ 27-65-105; 27-65-106.

12 Colo. Rev. Stat. §§ 27-65-107 to 27-65-109.

13 Colo. Rev. Stat. § 13-5-142(1)-(2); 13-9-123(1)-(2).

14 Colo. Rev. Stat. §§ 13-5-142(3); 13-9-123(3); 27-65-107(7); 27-65-113.

ABOUT THIS PROJECT

In 2013, following the Sandy Hook massacre, the Consortium for Risk-Based Firearm Policy published evidence-based recommendations to address all forms of gun violence. Among the recommendations was a call for states to pass a new policy called Extreme Risk Protection Orders. As of September 1, 2020, seven years since the Consortium released its report, 19 states and the District of Columbia have passed new ERPO laws. Dozens more states have introduced ERPO bills.

With many laws in place, and several additional states poised to enact ERPO laws, there is a need for information, technical assistance, and support for implementing ERPO laws. This project was created to address that need. Please visit the central resource for ERPO implementers at americanhealth.jhu.edu/implementERPO.