



ILLINOIS

EMERGENCY FIREARMS RESTRAINING ORDER

A GUIDE TO THE PROCESS



Bloomberg American
Health Initiative

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ILLINOIS

Emergency Firearms Restraining Order Process

FILE AN EMERGENCY FIREARMS RESTRAINING ORDER (EMERGENCY FRO) PETITION

During court hours, petitioner goes to Circuit Court where the respondent resides and files a petition for an emergency FRO, explaining why the respondent poses an immediate and present danger of causing personal injury to self or another.

If the petition alleges that the respondent poses an immediate and present danger of causing personal injury to an intimate partner,* or that an intimate partner is the target of a threat or act of violence by the respondent, the petitioner shall make a good faith effort to provide notice to any and all intimate partners of the respondent.

ASSESS EMERGENCY FRO PETITION

An emergency hearing is held on an ex parte basis on the same day that the petition is filed or the next day that the court is in session to determine whether to issue an emergency FRO.

The court will issue a search warrant upon a finding of probable cause that the respondent possesses firearms, ammunition, or firearm parts that could be assembled to make an operable firearm to allow law enforcement to search for and seize the identified items.

IF AN EMERGENCY FRO IS ISSUED, SERVE THE ORDER

Unless the respondent was present in court when the order was issued, the sheriff or other law enforcement official shall promptly serve that order upon the respondent and file proof of the service. Upon service of the summons, the respondent has 7 days to file an answer or file their appearance.

COMPLY WITH EMERGENCY FRO, DISPOSESS FIREARMS

When an emergency FRO is served, the respondent surrenders any firearm, ammunition, or firearm parts that could be assembled to make an operable firearm in their possession to law enforcement. The respondent's Firearm Owner's Identification (FOID) Card and Concealed Carry License will be suspended for the duration of the order.

UPDATE BACKGROUND CHECK SYSTEM

As soon as possible after receiving emergency FRO from the clerk, law enforcement enters the emergency FRO into the Law Enforcement Agencies Data System (LEADS).

Authorized petitioners in Illinois include:

- Family members (including a current or former spouse, parent, child, or stepchild of the respondent, any other person related by blood or present marriage to the respondent, a person who has a minor child in common with the respondent, or a person who shares a common dwelling with the respondent)
- Law enforcement

PROCEED WITH SIX-MONTH FRO HEARING

Unless both parties agree to extend the emergency FRO, a hearing will be scheduled in no more than 14 days after the issuance of an emergency FRO where the respondent will have an opportunity to be heard. At the hearing, the petitioner must prove that the respondent poses a significant danger of causing personal injury to self or another by having in their custody or control, purchasing, possessing, or receiving firearms, ammunition, or firearm parts that could be assembled to make an operable firearm.

IF SIX-MONTH FRO IS ISSUED

If the respondent is present at the hearing, they will receive the six-month FRO while in court.

If the respondent is not present at the six-month FRO hearing, law enforcement will promptly serve the respondent with the order and file proof of service.

Law enforcement may also serve the respondent with short form notification. Law enforcement enters the six-month FRO into LEADS.

IF A SIX-MONTH FRO IS NOT ISSUED

If an emergency FRO is terminated and a six-month FRO is not issued, then (1) the emergency FRO will dissolve, (2) the respondent's firearms, ammunition, or firearm parts that could be assembled to make an operable firearm will be returned to their possession and any FOID Cards or Concealed Carry Licenses will no longer be suspended, and (3) law enforcement will update LEADS.

TERMINATE OR RENEW FRO

If court issues a six-month FRO, respondent may request one termination hearing during the period of the order.

A petitioner may request a renewal of a six-month FRO at any time within three months before the expiration of a six-month FRO.

A renewed order shall be in effect for six months, subject to further renewal or termination by order of the court.

UPDATE BACKGROUND CHECK SYSTEM

Law enforcement will update LEADS after the expiration or termination of an FRO.

RETURN FIREARMS

The respondent's firearms, ammunition, or firearm parts that could be assembled to make an operable firearm will be returned to their possession and any FOID Cards or Concealed Carry Licenses will no longer be suspended after the six-month FRO is terminated or expired.

In Illinois, petitioners may begin the FRO process by requesting an emergency FRO or by requesting a six-month FRO. The difference between the two depends on whether the threatened violence is imminent and requires immediate intervention as provided by an emergency FRO or the threatened violence is not imminent and therefore intervention can wait for a six-month FRO hearing that involves the respondent.

*In Illinois, an "intimate partner" includes a: spouse, former spouse, person with child in common with respondent, and person in current or former dating relationship with the respondent.