



MARYLAND

EXTREME RISK PROTECTIVE ORDER



INVOLUNTARY INPATIENT ADMISSION

HOW DO THEY DIFFER?



Bloomberg American
Health Initiative

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

Court-ordered mental health evaluation and treatment is primarily concerned with ensuring that a person with a suspected or diagnosed mental illness receives appropriate treatment.

WHAT IS AN EXTREME RISK PROTECTIVE ORDER?

In Maryland, an ERPO¹ is a civil order that temporarily prohibits individuals who pose a danger of injuring themselves (including suicide) or others from purchasing and possessing firearms and ammunition. An ERPO also requires respondents (subject of the order) to surrender any firearms they possess. Criteria for an ERPO focus on dangerous behaviors, not mental illness diagnoses.

DEFINITIONS

Emergency Evaluation: An examination of an individual who is suspected of having a mental illness and presents a danger to self or others to determine if the individual meets the requirements for involuntary admission to a facility. A health professional who has examined the individual, a law enforcement officer, or another interested person may petition for an emergency evaluation. If the petitioner is a lay petitioner, they must present their petition to the Court for review and endorsement.¹³

Voluntary Admission: In Maryland, voluntary admission is the hospitalization of an individual with a treatable mental disorder who understands the nature of the request for admission, is able to give continuous assent to remain in the facility, and is able to ask for release. If the individual is 65 or older, a geriatric evaluation team must determine that there is no available, less restrictive form of care or treatment that is adequate for the individual's needs.¹⁴

WHAT IS INVOLUNTARY INPATIENT ADMISSION?

In Maryland, involuntary inpatient admission² (also known as civil commitment or involuntary commitment) is the hospitalization of an individual with a mental disorder who needs inpatient care because they present a danger to themselves or others; there is no less restrictive intervention; and they are unwilling (or unable) to be admitted voluntarily. A person may be involuntarily admitted following an emergency evaluation.

HOW ARE ERPOS DIFFERENT?

Petitioners

Family and household members, law enforcement officers, and health professionals may petition for an ERPO.³

Mental illness diagnosis

Maryland'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 (including suicide) or others. The court will *consider* relevant evidence including any act or threat of violence toward self or others, substance or alcohol misuse, and violation of a peace or protective order, among others.⁴

Judicial review

ERPOs are issued after a judicial officer has reviewed the petition, heard from any witnesses, and at the final hearing, heard from the respondent.

Firearm prohibition

ERPOs prohibit respondents from purchasing and possessing firearms and ammunition for the duration of the order and require respondents to surrender their firearms and ammunition to law enforcement.⁵

HOW IS INVOLUNTARY INPATIENT ADMISSION DIFFERENT?

Petitioners

Any person with a legitimate interest in the welfare of an individual may apply for involuntary inpatient admission for that individual.⁶

Mental illness diagnosis

An application for involuntary inpatient admission must include certificates from two health professionals who have examined and diagnosed the individual with a mental disorder.⁷ Additionally, the involuntary admission hearing officer must find evidence that the individual has a mental disorder, needs inpatient care, presents a danger to self or others, is unable or unwilling to be voluntarily admitted, and that there is no less restrictive intervention available. If the individual subject to the admission application is 65 or older, a geriatric evaluation team must also determine there is no less restrictive form of care available.⁸

Judicial review

The involuntary inpatient admission process provides an opportunity for a hearing with an impartial hearing officer to determine whether the person should be admitted. This process occurs under the Executive branch of Maryland government. Persons may be involuntarily hospitalized following an emergency evaluation while they await a hearing to determine whether they should be involuntarily admitted for inpatient treatment.⁹

Firearm prohibition

Law enforcement may remove firearms when collecting an individual for emergency evaluation, but they must return them to the individual after the evaluation if they are not involuntarily admitted. Persons involuntarily admitted are prohibited from purchasing and possessing firearms until they petition the Health Department and are granted relief from the firearm prohibition.¹⁰ Persons voluntarily admitted to an inpatient psychiatric facility for more than 30 consecutive days are also prohibited from purchasing and possessing firearms. However, *only* persons involuntarily admitted *and* found by the hearing officer to be unable to safely possess a firearm based on credible evidence of *dangerousness to others* are required to **surrender** their firearms.¹¹ Persons involuntarily hospitalized following an emergency evaluation, but before being involuntarily admitted, are not prohibited from possessing firearms.¹²

ENDNOTES

1 Md. Code Ann. Pub. Safety §§ 5-601 to 5-610.

2 Md. Code Ann. Health-Gen. §§ 10-613 to 10-619.

3 Md. Code Ann. Pub. Safety § 5-601(e).

4 Md. Code Ann. Pub. Safety § 5-602(a)(1)(vi).

5 Md. Code Ann. Pub. Safety §§ 5-603(a)(3), 5-604(a)(3), 5-605(c)(3).

6 Md. Code Ann. Health-Gen. § 10-614(a).

7 Md. Code Ann. Health-Gen. § 10-616(a).

8 Md. Code Ann. Health-Gen. § 10-632(e)(2).

9 See Md. Code Ann. Health-Gen. § 10-632(a) – (c)(1).

10 Md. Code Ann. Health-Gen. § 10-632(i); Md. Code Ann. Pub. Safety §§ 5-133(b)(9)-(10), 5-133.2(c)(1); Maryland Department of Health Behavioral Health Administration, Firearm Safety Act-Relief Process, <https://bhba.health.maryland.gov/Pages/Firearm-Safety-Act-ReliefProcess.aspx>.

11 Md. Code Ann. Health-Gen. § 10-632(i).

12 See Md. Code Ann. Pub. Safety § 5-133(b)(9)-(10).

13 Md. Code Ann. Health-Gen. §§ 10-620 to 10-630.

14 Md. Code Ann. Health-Gen. § 10-609(c), (d)(1).