



OREGON

EXTREME RISK PROTECTION ORDER & FAMILY ABUSE PREVENTION ACT RESTRAINING ORDER

HOW DO THEY DIFFER?



Bloomberg American Health Initiative

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WHAT IS AN EXTREME RISK PROTECTION ORDER?

In Oregon, an Extreme Risk Protection Order (ERPO) is a civil order that temporarily prohibits individuals who pose a danger of injury to self (including suicide) or others from purchasing and possessing a deadly weapon.

HOW ARE ERPOS DIFFERENT?

Petitioners

Family or household members (including, spouses, intimate partners, and parents, children, or siblings) and law enforcement officers may petition for an **ERPO**.

Protections

An **ERPO** offers one type of protection: It temporarily separates a person at risk of injury to self or others from deadly weapons, including firearms. An ERPO prohibits the respondent from purchasing or possessing deadly weapons for the duration of the order, and requires the respondent to turn over deadly weapons to law enforcement, or transfer them to a gun dealer or a third party.

WHAT IS A FAMILY ABUSE PREVENTION ACT RESTRAINING ORDER?

In Oregon, a Family Abuse Prevention Act (FAPA) restraining order is a civil order issued by a judge that provides various forms of relief from abuse to an abuse victim, including ordering the respondent¹ to refrain from abuse and threatening abuse, prohibiting contact with the petitioner, and awarding temporary child custody.

HOW ARE FAPA RESTRAINING ORDERS DIFFERENT?

Petitioners

Family or household members (including current and former spouses, current and former intimate partners, and persons with a child in common) may petition for a **FAPA restraining order**.²

Protections

A **FAPA restraining order** may order various forms of relief from abuse, including but not limited to ordering the respondent to refrain from entering the home of a petitioner, refrain from abusing the petitioner, and surrender all firearms and ammunition.

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In Oregon, ERPOs serve a different purpose than FAPA restraining orders. For a more detailed description of the differences, see the comparison chart.

EXPLORE THE DIFFERENCES

EXTREME RISK PROTECTION ORDER & FAMILY ABUSE PREVENTION ACT RESTRAINING ORDER COMPARISON CHART

PETITIONS AND ORDERS

What results from the issuance of an order?

EXTREME RISK PROTECTION ORDER (ERPO)

Temporarily prohibits respondent from purchasing and possessing a deadly weapons and requires surrender of any concealed handgun permit³

FAMILY ABUSE PREVENTION ACT (FAPA) RESTRAINING ORDER

The court may order relief, including but not limited to:

- Ordering the respondent to refrain from further abuse or threats of abuse
- Ordering the respondent to move if respondent and petitioner share a residence
- Prohibiting the respondent from entering the petitioner's residence
- Awarding temporary child custody
- Awarding any relief the court considers necessary to provide for the safety and welfare of the petitioner⁴

Firearm and ammunition possession is prohibited if:

- A FAPA restraining order is issued, continued, or remains in effect after a hearing at which the respondent had the opportunity to be heard or had an opportunity to request a hearing but did not
- The subject of the FAPA is a family or household member, a child of the petitioner, or a child of the respondent
- There was a finding the respondent represents a credible threat to the physical safety of the protected party⁵

Is the order criminal or civil?	Civil If respondent violates the order they may be charged with a crime ⁶	Civil If the respondent violates the order they may be charged with contempt of court or a crime ⁷
What types of orders are available?	ERPO	FAPA Restraining Order ⁸
Who may petition for an order?	Family or household member (including a spouse, intimate partners, mother, father, child, or sibling, or any person living in the same household as the respondent), and law enforcement ⁹	Family or household member (including a current and former spouse, an adult person related by blood, marriage, or adoption, a person who currently or formerly cohabitation with the respondent, a person involved in a sexually intimate relationship within the preceding two years, current and former intimate partners, and a person with a child in common) ¹⁰
May a minor be the respondent to an order?	The law does not explicitly state whether minors are eligible respondents	No ¹¹
Can the order be issued 24/7?	No	No
Which court hears the petition?	Circuit Court	Circuit Court
What is the burden of proof?	Clear and convincing evidence ¹²	Preponderance of the evidence ¹³
What must be proven?	Respondent presents a risk in the near future, including an imminent risk, of suicide or of causing physical injury to another person ¹⁴	The petitioner has been the victim of abuse committed within the 180 days preceding the petition, that there is an imminent danger of further abuse to the petitioner, and that the respondent represents a credible threat to the physical safety of the petitioner or the petitioner's child ¹⁵
What factors may the court consider?	The court must consider whether respondent has: <ul style="list-style-type: none"> - A history of suicide threats or attempts or acts of violence, or use, attempted use or threatened use of physical force - A previous conviction for a misdemeanor involving violence, stalking, domestic violence, driving under the influence, or cruelty or abuse of animals - Evidence of recent unlawful use of controlled substances - Previous unlawful and reckless use, display or brandishing of a deadly weapon - A previous violation by the respondent of a FAPA restraining order 	Not specified in the statute

	- Evidence of an acquisition or attempted acquisition within the previous 180 days of a deadly weapon	
	- Any additional information the court finds to be reliable, including a statement by the respondent ¹⁶	
How long is the order in effect?	1 year or until the order is terminated. The respondent may request a hearing to object to the ERPO ¹⁷ after the court issues an <i>ex parte</i> order.	1 year or until the order is withdrawn or amended, or until the order is superseded ¹⁸
May the order be modified, terminated, or renewed?	The order may be terminated or renewed ¹⁹	The order may be modified or terminated ²⁰
Are court records confidential?	No	No
FIREARM DISPOSSESSION	EXTREME RISK PROTECTION ORDER (ERPO)	FAMILY ABUSE PREVENTION ACT (FAPA) RESTRAINING ORDER
What firearms must be surrendered?	All deadly weapons and concealed handgun permits in the respondent's possession ²¹	All firearms and ammunition in the respondent's possession ²²
What is the process for firearm dispossession?	The respondent must immediately turn over all deadly weapons and concealed handgun permits to law enforcement serving the order or arrange for a third party or a gun dealer to take possession of them ²³	The respondent must, within 24 hours of issuance, turn over all firearms and ammunition to law enforcement, a licensed gun dealer, or a third party ²⁴
Is an order to search for and seize firearms issued in conjunction with the ERPO or FAPA Restraining Order?	No ²⁵	No

ENDNOTES

1 A "respondent" is a person subject to an order.

2 See the comparison chart for a complete list of "family or household members"

3 Or. Rev. Stat. Ann. §§ 166.527(1); 166.537.

4 Or. Rev. Stat. Ann. § 107.718(1).

5 Or. Rev. Stat. Ann. § 166.255(1)(a).

6 Or. Rev. Stat. Ann. § 166.543(1).

7 Or. Rev. Stat. Ann. §§ 133.310(3); 166.255(1)(a).

8 A note on the use of "temporary" and "final" to describe Oregon's ERPO and FAPA restraining order. In Oregon, both orders, which may be issued ex parte, allow the respondent to request a hearing (if they so choose) within 30 days of issuance of the order. If a hearing is requested, the initial order is temporarily in effect until the hearing at which the order may be continued (creating the final order) or terminated. If the respondent does not request a hearing, the "temporary" order is automatically continued for one year (from date of original issuance), becoming a final ERPO.

9 Or. Rev. Stat. Ann. §§ 166.525(2); 166.527(1).

10 Or. Rev. Stat. Ann. § 107.705(4).

11 <https://www.courts.oregon.gov/forms/Documents/FAPA-APPLY-PACKET-Statewide.pdf>

12 Or. Rev. Stat. Ann. §§ 166.527(6)(a); 166.530(3)(b).

13 Or. Rev. Stat. Ann. § 107.710(2).

14 Or. Rev. Stat. Ann. §§ 166.527(6)(a); 166.530(3)(b).

15 Or. Rev. Stat. Ann. § 107.718(1).

16 Or. Rev. Stat. Ann. § 166.527(4).

17 Or. Rev. Stat. Ann. §§ 166.527(10); 166.530(3).

18 Or. Rev. Stat. Ann. § 107.718(3).

19 Or. Rev. Stat. Ann. §§ 166.533; 166.535.

20 Or. Rev. Stat. Ann. §§ 107.725; 107.730.

21 Or. Rev. Stat. Ann. § 166.537.

22 H.R. 2013, 80th Leg. Assemb., Reg. Sess. (Or. 2020).

23 Or. Rev. Stat. Ann. § 166.537(1).

24 H.R. 2013, 80th Leg. Assemb., Reg. Sess. (Or. 2020).

25 Or. Rev. Stat. Ann. § 166.537(3).

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 April 16, 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.