



# VERMONT

# EXTREME RISK PROTECTION ORDER



# RELIEF FROM ABUSE ORDER

## 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.



## WHAT IS AN EXTREME RISK PROTECTION ORDER?

In Vermont, 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, possessing, or receiving any dangerous weapons, including firearms.

## HOW ARE ERPOS DIFFERENT?

### Petitioners

A State's Attorney or the Office of the Vermont Attorney General may petition for an **ERPO**.

### Protections

**ERPOs** offer one type of protection: they temporarily prohibit persons at risk of injury to self or others from purchasing, possessing, or receiving dangerous weapons for the duration of the order. ERPOs require respondents to temporarily turn over dangerous weapons to law enforcement, a federally licensed dealer, or, if the court orders, a third party.

## WHAT IS A RELIEF FROM ABUSE ORDER?

In Vermont, a Relief from Abuse (RFA) Order is a civil order issued by a judge that provides various forms of relief from abuse, including ordering the respondent<sup>1</sup> to refrain from abuse and threatening abuse, prohibiting contact with the plaintiff, and awarding temporary child custody.

## HOW ARE RFA ORDERS DIFFERENT?

### Petitioners

Family, household members (including persons who have lived together for any period of time and persons in a dating relationship), family or household members on behalf of a minor child, and a minor 16 years of age or older, or a minor of any age who is in a dating relationship may petition for an **RFA order**.

### Protections

An **RFA order** may order various forms of relief from abuse, including but not limited to ordering the respondent to stay away from the plaintiff, refrain from entering the home of the plaintiff, and refrain from abusing the plaintiff. An RFA order does not require a firearm purchase and possession prohibition; however, the court may order a respondent to relinquish all firearms, ammunition, and weapons in their possession and prohibit the purchase and possession of firearms, ammunition, and weapons for the duration of the order.

## DIVE DEEPER

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

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# EXPLORE THE DIFFERENCES

## EXTREME RISK PROTECTION ORDER & RELIEF FROM ABUSE ORDER COMPARISON CHART

### PETITIONS AND ORDERS

#### What results from the issuance of an order?

#### EXTREME RISK PROTECTION ORDER (ERPO)

Temporarily prohibits respondent from having control of, purchasing, possessing, or receiving a dangerous weapon, including firearms, and requires the dispossession of deadly weapons<sup>2</sup>

#### RELIEF FROM ABUSE (RFA) ORDER

The court may order relief, including but not limited to, ordering the respondent to refrain from:

- Abusing the plaintiff and any children
- Cruelly treating or killing any animal owned, possessed, leased, kept, or held as a pet by either party or by a minor child residing in the household
- Interfering with the personal liberty of the plaintiff or the plaintiff's children, or both
- Coming within a fixed distance of the plaintiff, the plaintiff's children, the plaintiff's residence, or the plaintiff's place of employment
- Contacting, directly or indirectly, the plaintiff or the plaintiff's children, or both

The court may also order the respondent to vacate the household immediately and may order sole possession of the premises to the plaintiff

Upon a finding that there is immediate danger of physical or emotional harm to minor children, the court may award temporary custody of these minor children to the plaintiff or to other persons

Any other relief the court considers necessary to protect the plaintiff or children<sup>3</sup>

<b>Is the order criminal or civil?</b>	Civil  If the respondent violates the order they may be charged with a crime <sup>4</sup>	Civil  If the respondent violates the order they may be charged with a crime <sup>5</sup>
<b>What types of orders are available?</b>	<i>Ex parte</i> ERPO  Final ERPO	Emergency RFA Order  Final RFA Order
<b>Who may petition for an order?</b>	A State's Attorney or the Office of the Vermont Attorney General <sup>6</sup>	Family, household members (including persons who have lived together for any period of time and persons in a dating relationship), and family or household members on behalf of a minor child <sup>7</sup>  A minor 16 years of age or older, or a minor of any age who is in a dating relationship, may seek relief on their own behalf <sup>8</sup>
<b>May a minor be the respondent to an order?</b>	The law does not explicitly state whether minors are eligible respondents	Yes
<b>Can the order be issued 24/7?</b>	Yes <sup>9</sup>	Yes <sup>10</sup>
<b>Which court hears the petition?</b>	Family Division of the Superior Court <sup>11</sup>  <i>ex parte</i> ERPOs may be issued by the Criminal, Civil, or Family Division of the Superior Court <sup>12</sup>	Family Division of the Superior Court <sup>13</sup>  Emergency RFA orders may be issued by the Criminal, Civil, or Family Division of the Superior Court <sup>14</sup>
<b>What is the burden of proof?</b>	<i>ex parte</i> ERPO: preponderance of the evidence <sup>15</sup>  Final ERPO: clear and convincing evidence <sup>16</sup>	Emergency RFA Order: Not specified in the statute  Final RFA Order: preponderance of the evidence <sup>17</sup>
<b>What must be proven?</b>	<i>Ex parte</i> ERPO: the respondent poses an imminent and extreme risk of causing harm to self or others by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent's custody or control <sup>18</sup>  Final ERPO: the respondent poses an extreme risk of causing harm to self or others by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent's custody or control <sup>19</sup>	Emergency RFA Order: immediate danger of further abuse <sup>20</sup>  Final RFA Order: the respondent has abused the plaintiff, and (1) there is a danger of further abuse <i>or</i> (2) the respondent is currently incarcerated and has been convicted of one of the following: murder, attempted murder, kidnapping, domestic assault, aggravated domestic assault, sexual assault, aggravated sexual assault, stalking, aggravated stalking, lewd or lascivious conduct with a child, use of a child in a sexual performance, or consenting to a sexual performance <sup>21</sup>



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**What factors may the court consider?**

An extreme risk of harm to self or others may be shown by establishing that:

Not specified in the statute

- The respondent has inflicted or attempted to inflict bodily harm on another
- The respondent's threats or actions have placed others in reasonable fear of physical harm
- The respondent's actions or inactions have presented a danger to persons in the respondent's care
- The respondent has threatened or attempted suicide or serious bodily harm<sup>22</sup>

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**How long is the order in effect?**

*Ex parte* ERPO: up to 14 days<sup>23</sup>  
Final ERPO: up to 6 months

Emergency RFA Order: up to 14 days<sup>24</sup>  
Final RFA Order: for a fixed period of time to be ordered by the court<sup>25</sup>

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**May the order be modified, terminated, or renewed?**

The order may be terminated or renewed<sup>26</sup>

The order may be modified or terminated<sup>27</sup>

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**Are court records confidential?**

No

No (with a few exceptions)

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**FIREARM DISPOSSESSION**

**EXTREME RISK PROTECTION ORDER (ERPO)**

**RELIEF FROM ABUSE (RFA) ORDER**

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**What firearms must be surrendered?**

All dangerous weapons, including firearms, in the respondent's possession<sup>28</sup>

Firearm surrender is not required under the law; however, the court may order any relief it considers necessary to protect the plaintiff or children<sup>29</sup>

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**What is the process for firearm dispossession?**

The respondent must relinquish any firearm in their possession, custody, or control upon service of an ERPO to law enforcement, a federally licensed firearms dealer, or, if the court orders, a third party<sup>30</sup>

The respondent must relinquish any dangerous weapons, other than a firearm, in their possession, custody, or control upon service of an ERPO to law enforcement<sup>31</sup>

If a final RFA requires the respondent relinquish all firearms, ammunition, or weapons, the respondent shall relinquish all firearms, ammunition, and weapons to a law enforcement agency, a federally licensed firearms dealer, or, if the court orders, a third party<sup>32</sup>

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**Is an order to search for and seize firearms issued in conjunction with the ERPO or RFA Order?**

No

No

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## ENDNOTES

- 1 A "respondent" is a person subject to an order.
- 2 Vt. Stat. Ann. tit. 13, § 4053(e)(2).
- 3 Vt. Stat. Ann. tit. 15, §§ 1103(c)(1)-(2); 1104(a)(1).
- 4 Vt. Stat. Ann. tit. 13, § 4058(b)(1).
- 5 Vt. Stat. Ann. tit. 13 § 1030.
- 6 Vt. Stat. Ann. tit. 13, § 4053(a).
- 7 Vt. Stat. Ann. tit. 15 §§ 1101; 1103(a).
- 8 Vt. Stat. Ann. tit. 15 §§ 1103(a); 1104(a).
- 9 Vt. Stat. Ann. tit. 13, § 4057(b).
- 10 Vt. Stat. Ann. tit. 15 § 1106(b)(1).
- 11 Vt. Stat. Ann. tit. 13, §§ 4051(1); 4052(a).
- 12 Vt. Stat. Ann. tit. 13, § 4052(b).
- 13 Vt. Stat. Ann. tit. 15 § 1102(a).
- 14 Vt. Stat. Ann. tit. 15 § 1102(b).
- 15 Vt. Stat. Ann. tit. 13, § 4054(b)(1).
- 16 Vt. Stat. Ann. tit. 13, § 4053(b), (e)(1).
- 17 Vt. Stat. Ann. tit. 15, § 1103(b).
- 18 Vt. Stat. Ann. tit. 13, § 4054(b)(1).
- 19 Vt. Stat. Ann. tit. 13, § 4053(e)(1).
- 20 Vt. Stat. Ann. tit. 15 § 1104(a)(1).
- 21 Vt. Stat. Ann. tit. 15, § 1103(c)(1).
- 22 Vt. Stat. Ann. tit. 13, § 4053(c)(2).
- 23 Vt. Stat. Ann. tit. 13, § 4054(c)(1).
- 24 Vt. Stat. Ann. tit. 15, § 1104(b).
- 25 Vt. Stat. Ann. tit. 15, § 1103(e).
- 26 Vt. Stat. Ann. tit. 13, § 4055.
- 27 Vt. Stat. Ann. tit. 15, § 1103(e).
- 28 Vt. Stat. Ann. tit. 13, § 4053(e)(2).
- 29 Vt. Stat. Ann. tit. 15, § 1103(c)(1).
- 30 Vt. Stat. Ann. tit. 13, § 4059(b).
- 31 Vt. Stat. Ann. tit. 13, § 4059(a).
- 32 Vt. Stat. Ann. tit. 20, § 2307(b)(1)-(2).

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## 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](http://americanhealth.jhu.edu/implementERPO).