COLORADO

EXTREME RISK PROTECTION ORDERS &
72-HOUR MENTAL HEALTH HOLD AND SHORT-/LONG-TERM TREATMENT

HOW DO THEY DIFFER?

Terrified neighbors called police as bullets flew into their backyards. A 69-year-old man who grabbed a .38 revolver from his home after his family discovered he was molesting his granddaughter. He was arrested with the gun in his vehicle. A 28-year-old man who grabbed a gun case and threatened suicide. When his ex-girlfriend tried to call for help, he grabbed her by her hair, threw her on the ground, and pushed her head into a wall. Police seized two handguns, two rifles, and a shotgun.

A 45-year-old man who told his fiancé by text message that he wanted to shoot her in the head, then visited his fiancé’s ex-boyfriend and threatened him with a knife behind his back. The man surrendered a handgun and an AR-15, the semi-automatic rifle frequently used by shooters. A 38-year-old man with a small arsenal and a history of domestic violence, whose wife suffered a serious laceration to her face. He had received a .22 and a Mosberg shotgun. He had walked into an auto parts store with a loaded handgun, but called police before shooting anyone. A 38-year-old man who, while intoxicated (at three times the legal limit), believed he was shooting at raccoons and rats in his backyard. Terrified neighbors called police as bullets flew into their backyards. A 69-year-old man who grabbed a .38 revolver and his home after his family discovered he was molesting his granddaughter. The man was arrested with the gun in his vehicle. A 28-year-old man who grabbed a gun case and threatened suicide. When his ex-girlfriend tried to call for help, he grabbed her by her hair, threw her on the ground, and pushed her head into a wall. Police seized two handguns, two rifles, and a shotgun.

A 33-year-old man who locked his daughter in a car with his wife, threatening her with a loaded firearm. When the girl escaped, she called police. A 40-year-old man who, while intoxicated (at three times the legal limit), believed he was shooting at raccoons and rats in his backyard. Terrified neighbors called police as bullets flew into their backyards. A 69-year-old man who grabbed a .38 revolver and his home after his family discovered he was molesting his granddaughter. The man was arrested with the gun in his vehicle. A 28-year-old man who grabbed a gun case and threatened suicide. When his ex-girlfriend tried to call for help, he grabbed her by her hair, threw her on the ground, and pushed her head into a wall. Police seized two handguns, two rifles, and a shotgun.

A 46-year-old man who told his fiancé by text message that he wanted to shoot her in the head, then visited his fiancé’s ex-boyfriend and threatened him with a knife behind his back. The man surrendered a handgun and an AR-15, the semi-automatic rifle frequently used by shooters. A 38-year-old man with a small arsenal and a history of domestic violence, whose wife suffered a serious laceration to her face. He had received a .22 and a Mosberg shotgun. He had walked into an auto parts store with a loaded handgun, but called police before shooting anyone. A 38-year-old man who, while intoxicated (at three times the legal limit), believed he was shooting at raccoons and rats in his backyard. Terrified neighbors called police as bullets flew into their backyards. A 69-year-old man who grabbed a .38 revolver and his home after his family discovered he was molesting his granddaughter. The man was arrested with the gun in his vehicle. A 28-year-old man who grabbed a gun case and threatened suicide. When his ex-girlfriend tried to call for help, he grabbed her by her hair, threw her on the ground, and pushed her head into a wall. Police seized two handguns, two rifles, and a shotgun.

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**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** 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.

*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.

**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 disabled due to the disorder. A person may be taken into custody by an intervening professional 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.

*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. Short-term treatment may extend an additional three months if necessary for treatment of the individual.

*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.

*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. 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.

*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. 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. Colorado does not prohibit firearm purchase and possession for persons detained for a 72-hour mental health hold.

*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.*
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.