



CALIFORNIA

EMERGENCY GUN VIOLENCE RESTRAINING ORDERS

A GUIDE TO THE PROCESS



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.

CALIFORNIA

Emergency Gun Violence Restraining Order Process

Authorized petitioners in California include:

- Law enforcement

FILE PETITION WITH SUPERIOR COURT JUDGE FOR AN EMERGENCY ORDER

Petitioner requests an emergency GVRO from the judge, and describes why there is reasonable cause to believe the respondent poses an immediate and present danger of causing personal injury to self or others and less restrictive means are unavailable.

SUPERIOR COURT JUDGE ASSESSES EMERGENCY GVRO PETITION

Upon request for an emergency GVRO, Superior Court judge decides whether to issue an emergency GVRO and sets a hearing date within 21 days.

COURT ISSUES EMERGENCY GVRO & ORDER IS SERVED

Upon issuance of the emergency GVRO, law enforcement serves the respondent with a copy of the emergency GVRO at the respondent's location, and explains the terms of the emergency GVRO, including dispossession of firearms and ammunition.

RESPONDENT COMPLIES WITH TEMPORARY GVRO & DISPOSES FIREARMS

Respondent temporarily disposes self of any firearms or ammunition while the emergency GVRO is in effect. Dispossession must happen immediately upon service of the GVRO or, if law enforcement does not request immediate surrender or if the respondent was present at the hearing, the respondent must surrender firearms and ammunition to law enforcement or transfer or sell them to a licensed firearms dealer within 24 hours.

Respondent files a receipt with the court and the law enforcement agency that served the emergency GVRO showing that all firearms and ammunition were surrendered to law enforcement or transferred or sold to a licensed firearms dealer.

UPDATE BACKGROUND CHECK SYSTEM

No later than one court day after issuing the emergency GVRO, the court notifies the California Department of Justice (CA DOJ) that a GVRO has been issued.

Within one business day of service, law enforcement submits proof of service to the California Restraining and Protective Order System.

PROCEED WITH HEARING FOR GVRO AFTER HEARING

Within 21 days after issuance of the emergency GVRO, petitioner presents the petition in court, where respondent and witnesses are present, and the court determines whether respondent should be prohibited from purchasing and possessing firearms for 1 year.*

GVRO AFTER HEARING IS ISSUED

If the respondent is present at the hearing, the respondent is served with the GVRO at the hearing. If the respondent is not present at the hearing, law enforcement or private server (any person 18 or older and not a party to the action) serves the respondent with a copy of the GVRO at the respondent's location.

GVRO AFTER HEARING IS NOT ISSUED

If a GVRO After Hearing is not issued, firearms and ammunition removed pursuant to emergency GVRO are returned to the respondent unless possession is otherwise prohibited by law.

The court notifies CA DOJ when a GVRO has been dissolved or terminated.

GVRO AFTER HEARING IS TERMINATED OR RENEWED

Petitioner may seek renewal at any time within the final three months of the GVRO.

Respondent may submit one written request for a hearing to terminate the order. Termination can happen at any time during the effective period of the order. Upon expiration or termination of GVRO, law enforcement returns firearms and ammunition to the respondent, unless possession is otherwise prohibited by law upon expiration of the GVRO.

UPDATE BACKGROUND CHECK SYSTEM

The court notifies CA DOJ that a GVRO has been dissolved or terminated, no later than 5 court days after dissolving or terminating the order.

CA DOJ will update the status of the GVRO within 15 days.

*California Assembly Bill 12, effective on September 1, 2020, amends and increases the duration and renewal of a GVRO from one year to a period of time between 1 and 5 years, subject to earlier termination or renewal by the court. The amendment will require a court consider the length of time that the threat of personal injury is likely to continue, and to issue the GVRO based on that determination.