



CALIFORNIA

TEMPORARY 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

Temporary Gun Violence Restraining Order Process

Authorized petitioners in California include:

- Immediate family members, including domestic partners and household members
- Law enforcement

FILE PETITION WITH SUPERIOR COURT JUDGE FOR A TEMPORARY ORDER

Petitioner goes to court and submits a temporary GVRO petition during court hours. Petitioner describes for the court why there is a substantial likelihood to believe the respondent poses a significant danger of causing personal injury in the near future to self or others, and less restrictive means are unavailable.

SUPERIOR COURT JUDGE ASSESSES TEMPORARY GVRO PETITION

Upon the filing of the petition or on the next business day, Superior Court judge decides whether to issue a temporary GVRO and sets a hearing within 21 days.

COURT ISSUES TEMPORARY GVRO & ORDER IS SERVED

Law enforcement or private server (any person 18 years old or older and not a party to the action) serves the GVRO at the respondent's location, and provides the respondent with a copy of the order, explaining the terms of the temporary GVRO, including dispossession of firearms and ammunition.

COURT DOES NOT ISSUE TEMPORARY GVRO

Superior Court judge dismisses petition. No further action is taken. Process ends.

RESPONDENT COMPLIES WITH TEMPORARY GVRO & DISPOSES SELF OF FIREARMS

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

Respondent files a receipt with the court and the law enforcement agency that served the 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 temporary 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 temporary 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 temporary 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 per judicial decision.

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 will notify 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 61, effective September 1, 2020, amends the petitioner list, authorizing employers, a coworker who has substantial and regular interactions with the person and approval of their employer, or an employee or teacher of a secondary or postsecondary school, with the approval of a school administrator or a school administration staff member with a supervisory role, that the person has attended in the last six months to petition for a temporary or GVRO After Hearing.

*California Assembly Bill 12, effective on September 1, 2020, amends and increases the duration and renewal of a GVRO After Hearing 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.