



CALIFORNIA

GUN VIOLENCE RESTRAINING ORDER

&

DOMESTIC VIOLENCE RESTRAINING ORDER

HOW DO THEY DIFFER?



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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 A GUN VIOLENCE RESTRAINING ORDER?

In California, a Gun Violence Restraining Order (GVRO) is civil order that temporarily prohibits an individual who poses a significant danger of causing injury to self (including suicide) or others from purchasing or possessing any firearms or ammunition.¹

WHAT IS A DOMESTIC VIOLENCE RESTRAINING ORDER?

In California, a Domestic Violence Restraining Order (DVRO) is a civil order issued by a judge that provides various forms of relief from abuse, including ordering the respondent⁴ to refrain from abuse and threatening abuse, prohibiting contact with the person eligible for relief,⁵ and ordering the respondent to surrender firearms and refrain from purchasing or possessing firearms for the duration of the order.⁶ California also has a criminal DVRO available when criminal charges have been filed against the respondent. This document focuses on civil DVROs.

HOW ARE GVROS DIFFERENT?

Petitioners

An immediate family member² and a law enforcement officer may petition for a **GVRO**.³

Protections

GVROs offer one type of protection: They temporarily prohibit persons at risk of injury to self or others from purchasing or possessing firearms and ammunition for the duration of the order. GVROs require respondents to temporarily turn over firearms and ammunition to law enforcement or to a licensed firearms dealer.

HOW ARE DVROS DIFFERENT?

Petitioners

A current or former spouse, a current or former cohabitant, a person in a dating or engagement relationship with the respondent, a person with a child in common with the respondent, a minor child 12 years of age or older who has been abused by the respondent, any other persons related by consanguinity or affinity within the second degree, and a law enforcement officer may petition for a **DVRO**.

Protections

DVROs may order various forms of relief from abuse, including but not limited to ordering the respondent to stay away from any person eligible for relief, refrain from entering the home of a person eligible for relief, and refrain from purchasing or possessing firearms; prohibiting the respondent from returning to the residence; and awarding temporary child custody.

DIVE DEEPER

In California, GVROs serve a different purpose than DVROs. For a more detailed description of the differences, see the comparison chart.

EXPLORE THE DIFFERENCES

GVRO & DVRO COMPARISON CHART

PETITIONS AND ORDERS

What results from the issuance of an order?

GUN VIOLENCE RESTRAINING ORDER (GVRO)

Prohibits and enjoins respondent from having, owning, purchasing, possessing, or receiving any firearms and ammunition, and requires the surrender of firearms and ammunition for the duration of the order⁷

DOMESTIC VIOLENCE RESTRAINING ORDER (DVRO)

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 refrain from contacting the petitioner
- Ordering the respondent to stay away from the petitioner
- Awarding temporary child custody
- Ordering the respondent to surrender firearms and refrain from purchasing and possessing firearms for the duration of the order⁸

Is the order criminal or civil?

Civil⁹

Civil

If respondent violates the order they may be charged with a crime¹⁰

If the respondent violates the order they may be charged with a crime¹¹

What types of orders are available?

Emergency GVRO

Emergency Protective Order

Temporary GVRO

Temporary Restraining Order

GVRO After Hearing¹²

Permanent Restraining Order

Who may petition for an order?	Emergency GVRO: law enforcement Temporary GVRO: immediate family members or law enforcement ¹³ GVRO After Hearing: immediate family members or law enforcement ¹⁴	Emergency Protective Order: law enforcement ¹⁵ Temporary Restraining Order: a current or former spouse, a current or former cohabitant, a person in a dating or engagement relationship with the respondent, a person with a child in common with the respondent, a minor child 12 years of age or older who has been abused by the respondent, and any other person related by consanguinity or affinity within the second degree ¹⁶ Permanent Restraining Order: a current or former spouse, a current or former cohabitant, a person in a dating or engagement relationship with the respondent, a person with a child in common with the respondent, a minor child 12 years of age or older who has been abused by the respondent, and any other person related by consanguinity or affinity within the second degree ¹⁷
May a minor be the respondent to an order?	The law does not explicitly state whether minors are eligible respondents	No A juvenile restraining order may be issued through the juvenile court system against a minor ¹⁸
Can the order be issued 24/7?	Yes, for Emergency GVROs only ¹⁹	Yes, for Emergency Protective Orders only ²⁰
Which court hears the petition?	Superior Court ²¹	Superior Court ²²
What is the burden of proof?	Emergency GVRO: reasonable cause ²³ Temporary GVRO: substantial likelihood ²⁴ GVRO After Hearing: clear and convincing evidence ²⁵	Emergency Protective Order: reasonable grounds ²⁶ Temporary Restraining Order: reasonable proof ²⁷ Permanent Restraining Order: reasonable proof ²⁸
What must be proven?	Emergency GVRO: respondent poses an immediate and present danger of injury to self or others by possessing a firearm and less restrictive means are unavailable ²⁹ Temporary GVRO: respondent poses a significant danger in the near future of injury to self or others by possessing a firearm and less restrictive means are unavailable ³⁰ GVRO After Hearing: respondent poses a significant danger of injury to self or others by possessing a firearm and less restrictive means are unavailable ³¹	Emergency Protective Order: respondent poses an immediate and present danger of domestic violence and an Emergency Protective Order is necessary to prevent domestic violence ³² Temporary Restraining Order: reasonable proof of a past act or acts of abuse ³³ Permanent Restraining Order: whether failure to issue a protective order will jeopardize the safety of the petitioner ³⁴

GVRO VS. DVRO: HOW DO THEY DIFFER IN CALIFORNIA?

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What factors may the court consider?	The court shall consider evidence of: <ul style="list-style-type: none"> - A recent threat or act of violence towards self or another - A prior violation of an emergency or current protective order - A prior conviction for possession of a firearm by a felon - A pattern of violent acts or threats within the past 12 months³⁵ <p>The court may consider any other evidence of an increased risk for violence, including but not limited to:</p> <ul style="list-style-type: none"> - The unlawful and reckless use, display, or brandishing of a firearm by the respondent - The history of use, attempted use, or threatened use of physical force by the respondent against another person - A prior arrest for a felony offense - A history of a violation of a protective order - Documentary evidence, including, but not limited to, police reports and records of convictions, of either recent criminal offenses that involve controlled substances or alcohol or ongoing abuse of controlled substances or alcohol - Evidence of recent acquisition of firearms, ammunition, or other deadly weapons³⁶ 	The court shall consider evidence of: <ul style="list-style-type: none"> - Recent incident of abuse or threat - Whether physical or emotional harm will occur - Totality of the circumstances³⁷
How long is the order in effect?	Emergency GVRO: expires 21 days from the date the order is issued ³⁸ Temporary GVRO: expires 21 days from the date the order is issued ³⁹ GVRO After Hearing: 1 year ⁴⁰	Emergency Protective Order: 5 business days or 7 calendar days (whichever is shorter) ⁴¹ Temporary Restraining Order: up to 20 days, or 25 days upon a showing of good cause ⁴² Permanent Restraining Order: up to 5 years ⁴³
May the order be modified, terminated, or renewed?	The order may be terminated or renewed ⁴⁴	The order may be modified or terminated ⁴⁵
Are court records confidential?	No	No (with a few exceptions) ⁴⁶

FIREARM DISPOSSESSION

GUN VIOLENCE RESTRAINING ORDER (GVRO)

DOMESTIC VIOLENCE RESTRAINING ORDER (DVRO)

What firearms must be surrendered?

All firearms and ammunition in the respondent's possession⁴⁷

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What is the process for firearm dispossession?

The respondent must immediately surrender all firearms and ammunition in their possession to law enforcement serving the GVRO or arrange the surrender, transfer, or sale of all firearms and ammunition within 24 hours of being served with the GVRO⁴⁹

The respondent must immediately surrender all firearms and ammunition in their possession to law enforcement serving the restraining order or arrange to surrender, transfer, or sell all firearms and ammunition within 24 hours of being served with the protective order requiring surrender⁵⁰

Is an order to search for and seize firearms issued in conjunction with the GVRO or DVRO?

No

No

ENDNOTES

1 Cal. Penal Code § 18100.

2 "Immediate family member" includes:

1. Spouse, whether by marriage or not;
2. Domestic partner;
3. Parent, child, any person related by consanguinity or affinity within the second degree;
4. Any other person who regularly resides in the household, or who, within the prior six months, regularly resided in the household.

Cal Penal Code § 422.4(b)(3).

3 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.

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

5 In California, a person eligible for relief includes any of the following individuals who may petition for a DVRO:

1. Spouse or former spouse;
2. A person who regularly resides in the household or a person who formerly regularly resided in the household;
3. A person with whom the respondent is having or has had a dating or engagement relationship;
4. A person with whom the respondent has had a child, where the presumption applies that the male parent is the father of the child of the female parent;
5. A child of a party or a child who is the subject of an action under the Uniform Parentage Act, where the presumption applies that the male parent is the father of the child to be protected;
6. Any other person related by consanguinity or affinity within the second degree

Cal. Fam. Code § 6211.

6 Cal. Fam. Code §§ 6218; 6320; 6321; 6322; 6252.

7 Cal. Penal Code § 18100.

8 Cal. Fam. Code §§ 6320; 6323; 6252; 6304.

9 Cal. Penal Code § 18100(a).

10 Cal. Penal Code § 18205.

11 Cal. Fam. Code § 6389(fm); Cal. Penal Code § 29825.

12 Cal. Penal Code §§ 18125; 18150; 18170.

13 Cal. Penal Code §§ 18125; 18130; 18170(a). 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.

14 Cal. Penal Code §§ 18125; 18130; 18170(a). 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.

15 Cal. Fam. Code §§ 6250; 6250.3.

16 Cal. Fam. Code § 6211.

17 Cal. Fam. Code § 6211.

18 Cal. Wel. & Inst. Code § 213.5.

19 Cal. Penal Code § 18145.

20 Cal. Fam. Code § 6241.

21 Cal. Penal Code § 18145.

22 Cal. Fam. Code § 6241.

23 Cal. Penal Code § 18125(a).

24 Cal. Penal Code § 18150(b).

25 Cal. Penal Code § 18175.

26 Cal. Fam. Code §§ 6250; 6251.

27 Cal. Fam. Code § 6300.

28 Cal. Fam. Code § 6300.

29 Cal. Penal Code § 18125(a)(1)-(2).

30 Cal. Penal Code § 18150(b)(1)-(2).

31 Cal. Penal Code § 18175(b)(1)-(2).

32 Cal. Fam. Code §§ 6250; 6251.

33 Cal. Fam. Code §§ 6250; 6300.

34 Cal. Fam. Code § 6340(a)(1).

35 Cal. Penal Code § 18155(b)(1).

36 Cal. Penal Code § 18155(b)(2).

37 Cal. Fam. Code §§ 6300; 6301; 6340(c).

38 Cal. Penal Code § 18125(b); 18165.

39 Cal. Penal Code § 18125(b); 18165.

40 Cal. Penal Code § 18175(d). California Assembly Bill 12, effective on September 1, 2020, amends and increases the duration and renewal of a GVRO issued after a hearing from one year to a period of time between one to 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.

41 Cal. Fam. Code § 6256.

42 Cal. Fam. Code § 242.

43 Cal. Fam. Code § 6345.

44 Cal. Penal Code § 18185(a); 18190(a).

45 Cal. Penal Code § 18185(a); 18190(a).

46 Cal. Fam. Code § 6301.5.

47 Cal. Penal Code § 18120(a)-(b).

48 Cal. Fam. Code § 6389(a).

49 Cal. Penal Code § 18120(b)(2)(A)-(B).

50 Cal. Fam. Code § 6389(a), (c)(2).

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.