



## DISTRICT OF COLUMBIA

# EXTREME RISK PROTECTION ORDER, EMERGENCY HOSPITALIZATION & INVOLUNTARY CIVIL COMMITMENT

## 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.



**Extreme Risk Protection Orders (ERPOs)** temporarily remove firearms and ammunition from individuals who pose a danger of injury to self (including suicide) or others. Criteria for ERPOs focus on dangerous behaviors, not mental illness diagnoses.

**Emergency hospitalizations** and **involuntary civil commitments** are primarily concerned with ensuring that a person with a suspected or diagnosed mental illness receives appropriate treatment.

## WHAT IS AN EXTREME RISK PROTECTION ORDER?

### What is an Extreme Risk Protection Order?

In the District of Columbia, 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 firearm, ammunition, registration certificate, license to carry a concealed pistol, or dealer's license.<sup>1</sup>

#### *Mental illness diagnosis*

The District of Columbia's **ERPO** law does not require the petitioner to demonstrate that the respondent has a suspected or diagnosed mental illness. Dangerous behaviors are the main criteria for an ERPO, including an act or threat of violence against self or others, the violation of a court order, and the use of controlled substances, among others.<sup>2</sup> An ERPO petitioner must establish that a person poses a significant danger of harming themselves or others<sup>3</sup>

#### *Firearm prohibition*

**ERPOs** prohibit persons at significant risk of injury to self or others from purchasing, possessing, or receiving firearms or ammunition for the duration of the order.<sup>4</sup> ERPOs require respondents to immediately surrender all firearms, ammunition, registration certificates, licenses to carry a concealed pistol, and dealer's licenses in the respondent's possession to law enforcement serving the ERPO while the ERPO is in effect.<sup>5</sup>

## WHAT IS AN EMERGENCY HOSPITALIZATION? WHAT IS INVOLUNTARY CIVIL COMMITMENT?

In the District of Columbia, an **emergency hospitalization** is the detention of an individual believed to be mentally ill who presents a danger to themselves or others if not immediately detained for observation and diagnosis.<sup>6</sup> **Involuntary civil commitment** is the hospitalization of an individual with a mental illness who presents a danger to themselves or others if not committed.<sup>7</sup> A person may be involuntarily committed following an **emergency hospitalization**<sup>8</sup> but pursuant to a court order.<sup>9</sup>

#### *Mental illness diagnosis*

An individual may be detained for an **emergency hospitalization** if there is reason to believe the individual is mentally ill and, because of the illness, is likely to injure themselves or others if not immediately detained for emergency observation and diagnosis, and hospitalization is the less restrictive option.<sup>10</sup> An individual admitted for an emergency hospitalization may be held for up to 48-hours.<sup>11</sup> An individual may be committed to a psychiatric facility for **involuntary civil commitment** if the court or a jury determines the individual is mentally ill and, because of that mental illness, is likely to injure themselves or others if not committed, and hospitalization is the least restrictive alternative consistent with the best interests of the person and the public.<sup>12</sup> An involuntary civil commitment lasts for a period of one year.<sup>13</sup>

#### *Firearm prohibition*

In the District of Columbia, an individual is prohibited from possessing or controlling any firearm, unless the individual holds a valid registration certificate for the firearm.<sup>14</sup> An individual is ineligible for a registration certificate if they have been **involuntarily committed** to a mental health facility within the past 5 years.<sup>15</sup> An individual who is ineligible for a registration certificate may petition the Superior Court for relief from disqualification.<sup>16</sup> The District of Columbia does not prohibit firearm possession for persons detained for an **emergency hospitalization**.

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## ENDNOTES

1 D.C. Code Ann. § 7-2510.01(1).

2 D.C. Code Ann. § 7-2510.03(e).

3 D.C. Code Ann. §§ 7-2510.04(e); 7-2510.03(g).

4 D.C. Code Ann. § 7-2510.01(1).

5 D.C. Code Ann. § 7-2510.07(b).

6 D.C. Code Ann. § 21-521.

7 D.C. Code Ann. § 21-545.

8 D.C. Code Ann. § 21-526(c).

9 D.C. Code Ann. § 21-545.

10 D.C. Code Ann. §§ 21-521; 21-522(a), (b).

11 D.C. Code Ann. § 21-523. In some instances an individual may be detained for up to 7 days for emergency observation and diagnosis pursuant to a petition filed with the court and in other instances the individual may be detained for up to 21 days if judicial proceedings for an involuntary commitment begin prior to the expiration of the emergency hospitalization. D.C. Code Ann. §§ 21-523; 21-526.

12 D.C. Code Ann. § 21-545(b)(2).

13 D.C. Code Ann. § 21-545(b)(2).

14 D.C. Code Ann. § 7-2502.01(a).

15 D.C. Code Ann. § 7-2502.03(a)(6)(A).

16 D.C. Code Ann. § 7-2502.03(f)(1).

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