



# DISTRICT OF COLUMBIA

# EXTREME RISK PROTECTION ORDER

# & CIVIL PROTECTION ORDER

## 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.



## 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.

## HOW ARE ERPOS DIFFERENT?

### Petitioners

Persons related to the respondent by blood, adoption, guardianship, marriage, domestic partnership, having a child in common, cohabitating, or maintaining a romantic, dating, or sexual relationship; law enforcement officers; and mental health professionals<sup>1</sup> may petition for an ERPO.

### Protections

An ERPO offers one type of protection: It temporarily separates a person at risk of injury to self or others from a lethal means, firearms. An ERPO prohibits the respondent from purchasing or possessing, or receiving firearms and ammunition, and requires respondents to turn over all firearms, ammunition, registration certificates, licenses to carry a concealed pistol, and dealer's licenses in the respondent's possession to law enforcement for the duration of the order.

## WHAT IS A CIVIL PROTECTION ORDER?

In the District of Columbia, a Civil Protection Order (CPO) is a civil order issued by a judge that provides various forms of relief from abuse to victims of domestic abuse, including ordering the respondent<sup>2</sup> to refrain from committing criminal offenses against the petitioner, awarding temporary child custody, and requires the respondent surrender all firearms in their possession for a final CPO (surrender may be ordered for a temporary CPO).

## HOW ARE CPOS DIFFERENT?

### Petitioners

Family members, persons with a child in common, dating partners, household members, partners in common, certain minors on their own, and a parent, guardian, custodian, or other appropriate adult on behalf of a minor may petition for a CPO.<sup>3</sup>

### Protections

A CPO may order various forms of relief from abuse, including but not limited to ordering the respondent to stay away from the petitioner, refrain from entering the home of the petitioner, and refrain from purchasing or possessing firearms. A court may prohibit a respondent subject to a temporary protection order from purchasing and possessing firearms; a respondent subject to a final civil protection order is prohibited from purchasing or possessing firearms.

## DIVE DEEPER

In District of Columbia, ERPOs serve a different purpose than CPOs. For a more detailed description of the differences, see the comparison chart.

# EXPLORE THE DIFFERENCES

## EXTREME RISK PROTECTION ORDER & CIVIL PROTECTION ORDER COMPARISON CHART

### PETITIONS AND ORDERS

### EXTREME RISK PROTECTION ORDER (ERPO)

### CIVIL PROTECTION ORDER (CPO)

#### What results from the issuance of an order?

Temporarily prohibits respondent from purchasing, possessing, or receiving any firearms, ammunition, a registration certificate, a license to carry a concealed pistol, or a dealer's license<sup>4</sup> and requires the surrender of all firearms, ammunition, registration certificates, licenses to carry a concealed pistol, and dealer's licenses for the length of the order<sup>5</sup>

The court may order relief, including but not limited to:

- Ordering the respondent to refrain from committing or threatening to commit criminal offenses against the petitioner and other protected persons
- Ordering the respondent to stay away from or have no contact with the petitioner and any other protected persons or locations
- Ordering the respondent to participate in psychiatric or medical treatment or counseling programs
- Ordering the respondent to relinquish possession or use of certain personal property owned jointly by the parties or by the petitioner individually
- Awarding temporary custody of a minor child or children of the parties
- Ordering the respondent to relinquish possession of any firearms<sup>6</sup>

#### Is the order criminal or civil?

Civil  
If respondent violates the order they may be charged with a crime<sup>7</sup>

Civil  
If the respondent violates the order they may be charged with a crime<sup>8</sup>

#### What types of orders are available?

*Ex parte* ERPO  
Final ERPO

Temporary (*ex parte*) Protection Order  
Civil (final) Protection Order

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**Who may petition for an order?**

Persons related to the respondent by blood, adoption, guardianship, marriage, domestic partnership, having a child in common, cohabitating, or maintaining a romantic, dating, or sexual relationship; and mental health professionals; law enforcement; mental health professionals<sup>9</sup>

Current or former spouses or domestic partners; persons with a child in common; persons currently or formerly in a dating, romantic, or sexual relationship; persons who share a mutual residence; current or former partners in common; persons related by blood, marriage, adoption, legal custody, or domestic partnership; or parent, guardian, custodian, or other appropriate adult on behalf of a minor<sup>10</sup>

A minor who is 16 years of age or older, or is at least 12 but less than 16 years of age and a victim of intimate partner violence may file a petition on his or her own<sup>11</sup>

Victim of stalking, sexual assault, or sexual abuse<sup>12</sup>

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**May a minor be the respondent to an order?**

The law does not explicitly state whether minors are eligible respondents

Respondent may be 12 years of age or older<sup>13</sup>

A custodial parent, guardian, or custodian may not file for a CPO against the minor<sup>14</sup>

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**Can the order be issued 24/7?**

No

No

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**Which court hears the petition?**

Superior Court<sup>15</sup>

Superior Court<sup>16</sup>

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**What is the burden of proof?**

*Ex parte* ERPO: probable cause<sup>17</sup>  
Final ERPO: preponderance of the evidence<sup>18</sup>

Temporary Protection Order: not specified in the statute<sup>19</sup>

Civil Protection Order: good cause<sup>20</sup>

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**What must be proven?**

Respondent poses a significant danger of causing bodily injury to self or others by having possession or control of, purchasing, or receiving any firearm or ammunition<sup>21</sup>

Temporary Protection Order: the safety or welfare of the petitioner or a household member is immediately endangered by respondent<sup>22</sup>

Civil Protection Order: the respondent has committed or threatened to commit a crime against the petitioner or against petitioner's animal or a household animal<sup>23</sup>

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**What factors may the court consider?**

The court shall consider all relevant evidence, including:

- History or pattern of threats of violence, or acts of violence, by the respondent directed toward themselves or others

- Recent threats of violence, or acts of violence, by the respondent directed toward themselves or others

Not specified in the statute

- The respondent's acquisition of any firearms, ammunition, or other deadly or dangerous weapons within one year before the filing of the petition
- The unlawful or reckless use, display, or brandishing of a firearm or other weapon by the respondent
- Respondent's criminal history
- Respondent's violation of a court order
- Evidence of the respondent experiencing a mental health crisis, or other dangerous mental health issues
- Respondent's use of a controlled substance<sup>24</sup>

<b>How long is the order in effect?</b>	<i>Ex parte</i> ERPO: up to 14 days <sup>25</sup> Final ERPO: 1 year <sup>26</sup>	Temporary Protection Order: up to 14 days or until the final hearing <sup>27</sup>  Civil Protection Order: up to 1 year <sup>28</sup>
<b>May the order be modified, terminated, or renewed?</b>	Order may be terminated or renewed <sup>29</sup>	Order may be modified, extended, or terminated <sup>30</sup>
<b>Are court records confidential?</b>	No, unless the petitioner or the respondent requests the court seal the record while the petition is pending <sup>31</sup>	Not specified in the statute

## **FIREARM DISPOSSESSION**

### **EXTREME RISK PROTECTION ORDER (ERPO)**

### **CIVIL PROTECTION ORDER (CPO)**

<b>What firearms must be surrendered?</b>	All firearms, ammunition, registration certificates, licenses to carry a concealed pistol, and dealer's licenses in the respondent's possession or control <sup>32</sup>	All firearms in the respondent's possession for a final order (may be ordered by the judge for a temporary protection order) <sup>33</sup>
<b>What is the process for firearm dispossession?</b>	The respondent must 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 <sup>34</sup>	Not specified in the statute
<b>Is an order to search for and seize firearms issued with the ERPO or CPO?</b>	After the court issues an ERPO, it may issue a search warrant <sup>35</sup>	No

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## ENDNOTES

1 A "mental health professional" includes any of the following persons engaged in the provision of or reasonably believed by the client to be engaged in the provision of professional services: a person licensed to practice medicine; a person licensed to practice psychology; a licensed social worker; a professional marriage, family, or child counselor; a rape crisis or sexual abuse counselor who has undergone at least 40 hours of training and is supervised by a licensed social worker, nurse, psychiatrist, psychologist, or psychotherapist; and a licensed nurse who is a professional psychiatric nurse. D.C. Code Ann. § 7-2510.01(1).

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

3 See the chart below for a complete list of petitioners.

4 D.C. Code Ann. § 7-2510.01(1).

5 D.C. Code Ann. § 7-2510.07(b).

6 D.C. Code Ann. § 16-1005(c)(1)-(12).

7 D.C. Code Ann. § 7-2510.11.

8 D.C. Code Ann. § 16-1005(f), (g).

9 D.C. Code Ann. § 7-2510.01(2).

10 D.C. Code Ann. §§ 16-1003(a), (a)(1); 16-1001(6) - (9), (12)

11 D.C. Code Ann. § 16-1003(a)(2), (a)(3).

12 D.C. Code Ann. § 16-1001(12).

13 D.C. Code Ann. § 16-1001(13).

14 D.C. Code Ann. § 16-1003(a)(6).

15 D.C. Code Ann. § 7-2510.02(a).

16 D.C. Code Ann. §§ 16-1001(2); 16-1003(a).

17 D.C. Code Ann. § 7-2510.04(e).

18 D.C. Code Ann. § 7-2510.03(g).

19 See D.C. Code Ann. § 16-1004.

20 D.C. Code Ann. § 16-1005(c).

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

22 D.C. Code Ann. § 16-1004(b)(1).

23 D.C. Code Ann. § 16-1005(c).

24 D.C. Code Ann. § 7-2510.03(e).

25 See <https://www.dccourts.gov/sites/default/files/matters-docs/ERPO-Frequently-Asked-Questions.pdf>; <https://oag.dc.gov/sites/default/files/2019-09/DC-Red-Flag-Law.pdf>

26 D.C. Code Ann. § 7-2510.03(i).

27 D.C. Code Ann. § 16-1004(b)(2).

28 D.C. Code Ann. § 16-1005(d).

29 D.C. Code Ann. §§ 7-2510.06; 7-2510.08.

30 D.C. Code Ann. § 16-1005(d).

31 D.C. Code Ann. § 7-2510.02(d).

32 D.C. Code Ann. § 7-2510.07(b).

33 D.C. Code Ann. § 22-4503(a)(5).

34 D.C. Code Ann. § 7-2510.07(b).

35 D.C. Code Ann. § 7-2510.07(a).

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