



DELAWARE

EMERGENCY LETHAL VIOLENCE PROTECTIVE 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.

DELAWARE

Emergency Lethal Violence Protective Order Process

Authorized petitioners in Delaware include:

- Law enforcement

FILE AN EMERGENCY LETHAL VIOLENCE PROTECTIVE ORDER (LVPO) PETITION

During court hours, petitioner goes to the Justice of the Peace Court where the respondent lives and files a petition explaining why the respondent poses an *immediate and present* danger of causing physical injury to self or others

ASSESS EMERGENCY LVPO PETITION

Within 24 hours of the filing of the petition, an emergency hearing will be held on an ex parte basis at the Justice of the Peace Court where the judge will decide whether to issue an emergency LVPO.

IF AN EMERGENCY LVPO IS ISSUED, SERVE THE ORDER

A law enforcement officer will immediately serve the respondent with an Emergency LVPO in the manner directed by the court (e.g. personal service, mail service, or another manner).

COMPLY WITH LVPO AND DISPOSSESS FIREARMS

When an Emergency LVPO is issued, respondent must turn over to law enforcement all firearm(s) or ammunition.

(The court may prohibit the respondent from residing with another individual who owns, possesses, or controls firearms or ammunition. The court may order law enforcement to search and seize firearms and ammunition.)

PROCEED WITH NONEMERGENCY LVPO HEARING

Within 15 days of issuance of the Emergency LVPO, a hearing will be held where the petitioner and respondent have an opportunity to be heard, and the petitioner must prove that the respondent poses a danger of causing physical injury to self or others by controlling, owning, purchasing, possessing, having access to, or receiving a firearm.

IF A NONEMERGENCY LVPO IS ISSUED

If the respondent is present at the hearing, they are served with a certified copy of the order. If the respondent is not present at the hearing, the court will direct the manner in which the respondent is to be served (e.g. personal service, mail service, or another manner).

A Nonemergency LVPO is in effect for up to 1 year.

IF A NONEMERGENCY LVPO IS NOT ISSUED

If the court decides to not issue a Nonemergency LVPO, the Emergency LVPO will be vacated and law enforcement will return firearms and ammunition to the respondent if the respondent may lawfully possess firearms.

TERMINATE OR RENEW LVPO

If the court issues a Nonemergency LVPO, the respondent is entitled to one hearing during the period of the order to request a termination.

A petitioner may request renewal of a Nonemergency LVPO at any time within 3 months before the expiration of an LVPO.

RETURN FIREARMS

Law enforcement will return firearms and ammunition to the respondent when the Nonemergency LVPO is terminated or expired if the respondent may lawfully possess firearms.