



FLORIDA

**RISK PROTECTION
ORDER
&
INJUNCTION FOR
PROTECTION
AGAINST
DOMESTIC
VIOLENCE AND
DATING VIOLENCE
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 A RISK PROTECTION ORDER?

In Florida, a Risk Protection Order (RPO) is a civil order that temporarily prohibits individuals who pose a danger of injury to self (including suicide) or others from purchasing and possessing firearms and ammunition.

WHAT IS AN INJUNCTION FOR PROTECTION AGAINST DOMESTIC VIOLENCE?

In Florida, an Injunction for Protection Against Domestic Violence is a civil order issued by a judge that provides various forms of relief from abuse to a family or household member who is the victim of domestic violence or believes they are in danger of becoming a victim of domestic violence. An Injunction for Protection Against Domestic Violence may order the respondent¹ to refrain from committing domestic violence, award temporary child custody, and refrain from purchasing or possessing firearms and ammunition if subject to a final injunction.

WHAT IS AN INJUNCTION FOR PROTECTION AGAINST DATING VIOLENCE?

In Florida, an Injunction for Protection Against Dating Violence is a civil order issued by a judge that provides various forms of relief from abuse to a dating partner who is the victim of dating violence and believes they are in danger of becoming a victim of another act of dating violence. An Injunction for Protection Against Dating Violence may order the respondent to refrain from committing acts of violence, prohibit contact with the petitioner, and order the respondent to refrain from purchasing or possessing firearms for the duration of the order.

HOW ARE RPOS DIFFERENT?

Petitioners

Law enforcement officers may petition for an RPO.

Protections

An RPO offers one type of protection: It temporarily separates a person at risk of injury to self or others from a lethal mean, firearms [and ammunition]. An RPO prohibits the respondent from purchasing or possessing firearms and ammunition for the duration of the order, and requires the respondent to turn over firearms and ammunition to law enforcement.

HOW ARE INJUNCTIONS FOR PROTECTION DIFFERENT?

Petitioners

Family and household members (including current or former spouses, persons related by blood or marriage, persons with a child in common)² may petition for an **Injunction for Protection Against Domestic Violence**. Family and household members (other than persons with a child in common) must currently or have formerly resided together as if family.

Persons who have or have had a continuing and significant relationship of a romantic or intimate nature within the past 6 months, or a parent or legal guardian of any minor child who is living at home may petition for an **Injunction for Protection from Dating Violence**.

Protections

An **Injunction for Protection Against Domestic Violence** 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 a petitioner, and to refrain from purchasing or possessing firearms and ammunition if subject to a final injunction.

An **Injunction for Protection Against Dating Violence** may order various forms of relief from abuse, including but not limited to ordering the respondent to stay away from the petitioner, refrain from contacting the petitioner, and to refrain from purchasing or possessing firearms for the duration of the order.

DIVE DEEPER

In Florida, RPOs serve a different purpose than **Injunctions for Protection**. For a more detailed description of the differences, see the comparison chart.

EXPLORE THE DIFFERENCES

RISK PROTECTION ORDER & INJUNCTION FOR PROTECTION AGAINST DOMESTIC VIOLENCE AND DATING VIOLENCE COMPARISON CHART

PETITIONS AND ORDERS	RISK PROTECTION ORDER (RPO)	INJUNCTION FOR PROTECTION AGAINST DOMESTIC VIOLENCE	INJUNCTION FOR PROTECTION AGAINST DATING VIOLENCE
<p>What results from the issuance of an order?</p>	<p>Temporarily prohibits respondent from purchasing and possessing firearms and ammunition and requires the surrender of any license to carry a concealed weapon or firearm³</p>	<p>The court may order relief, including but not limited to:</p> <ul style="list-style-type: none"> - Ordering the respondent to refrain from committing acts of domestic violence; - Prohibiting respondent from going to or within 500 feet of any place petitioner lives, works, or attends school; - Prohibiting respondent from contacting petitioner; - Awarding to the petitioner the temporary exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner; - Awarding temporary child custody⁴ <p>A respondent subject to a final injunction may not have in their care, custody, possession, or control any firearm or ammunition⁵</p>	<p>The court may order relief, including but not limited to:</p> <ul style="list-style-type: none"> - Ordering the respondent to refrain from committing any acts of violence; - Prohibiting respondent from going to or within 500 feet of any place petitioner lives, works, or attends school; - Prohibiting respondent from contacting petitioner; - Ordering respondent not to use or possess any firearms; - Ordering such other relief as the court deems necessary for the protection of the petitioner⁶

Is the order criminal or civil?	Civil If respondent violates the order they may be charged with a crime ⁷	Civil If the respondent violates the order they may be charged with a crime ⁸	Civil If the respondent violates the order they may be charged with a crime ⁹
What types of orders are available?	Temporary RPO Final RPO	Temporary Injunction Final Injunction	Temporary Injunction Final Injunction
Who may petition for an order?	Law enforcement ¹⁰	Family members or household members (including current or former spouses, persons related by blood or marriage, persons currently or formerly residing together as if family, persons with a child in common) ¹¹	Persons currently or formerly in a continuing and significant relationship of a romantic or intimate nature within the past 6 months, ¹² or a parent or legal guardian of any minor child who is living at home ¹³
May a minor be a respondent to the order?	The law does not explicitly state whether minors are eligible respondents	The law does not explicitly state whether minors are eligible respondents	The law does not explicitly state whether minors are eligible respondents ¹⁴
Can the order be issued 24/7?	No	No	No
Which court hears the petition?	Circuit Court ¹⁵	Circuit Court ¹⁶	Circuit Court ¹⁷
What is the burden of proof?	Temporary RPO: reasonable cause ¹⁸ Final RPO: clear and convincing evidence ¹⁹	Temporary Injunction: N/A Final Injunction: reasonable cause ²⁰	Reasonable cause ²¹
What must be proven?	Temporary RPO: respondent poses a significant danger of causing injury to self or others in the near future by possessing a firearm or ammunition ²² Final RPO: respondent poses a significant danger of injury to self or others by possessing a firearm or ammunition ²³	Temporary Injunction: an immediate and present danger of domestic violence exists ²⁴ Final Injunction: the petitioner believes they are in imminent danger of becoming a victim of domestic violence ²⁵	Temporary Injunction: an immediate and present danger of violence exists ²⁶

What factors may the court consider?

The court may consider any relevant evidence, including, but not limited to, any of the following:

- A recent act or threat of violence against self or others, whether or not such violence or threat of violence involves a firearm
- Evidence of the respondent being seriously mentally ill or having recurring mental health issues
- A violation by the respondent of an RPO, or a no contact order
- A previous or existing risk protection order issued against the respondent
- Whether the respondent has been convicted of, had adjudication withheld on, or pled nolo contendere to a crime that constitutes domestic violence or a crime of violence or a threat of violence
- Whether the respondent has used, or has threatened to use, against self or others any weapons
- The unlawful or reckless use, display, or brandishing of a firearm by the respondent
- The recurring use of, or threat to use, physical force by the respondent against another person or the respondent stalking another person
- Corroborated evidence of the abuse of controlled substances or alcohol by the respondent
- Evidence of recent acquisition of firearms or ammunition by the respondent
- Any relevant information from family

Temporary Injunction:
Not specified in the statute

Final Injunction: The court must consider and evaluate all relevant factors alleged in the petition, including, but not limited to:

- The history between the petitioner and the respondent, including threats, harassment, stalking, and physical abuse
- Whether the respondent has attempted to harm the petitioner or family members or individuals closely associated with the petitioner
- Whether the respondent has threatened to conceal, kidnap, or harm the petitioner's child or children;
- Whether the respondent has intentionally injured or killed a family pet
- Whether the respondent has used, or has threatened to use, against the petitioner any weapons such as guns or knives
- Whether the respondent has physically restrained the petitioner from leaving the home or calling law enforcement
- Whether the respondent has a criminal history involving violence or the threat of violence
- The existence of a prior order of protection
- Whether the respondent has destroyed personal property belonging to the petitioner
- Whether the respondent engaged in any other behavior or

Not specified in the statute

	and household members concerning the respondent - Witness testimony, taken while the witness is under oath, relating to the matter before the court ²⁷	conduct that leads the petitioner to have reasonable cause to believe in imminent danger of becoming a victim of domestic violence ²⁸	
How long is the order in effect?	Temporary RPO: until the final RPO hearing ²⁹ Final RPO: up to 12 months ³⁰	Temporary Injunction: up to 15 days ³¹ Final Injunction: until modified or dissolved ³²	Temporary Injunction: up to 15 days ³³ Final Injunction: until modified or dissolved ³⁴
May the order be modified, terminated, or renewed?	The order may be terminated or renewed ³⁵	The order may be modified or terminated ³⁶	The order may be modified or terminated ³⁷
Are court records confidential?	No	No (with a few exceptions) ³⁸	No (with a few exceptions) ³⁹

FIREARM DISPOSSESSION

	RISK PROTECTION ORDER (RPO)	INJUNCTION FOR PROTECTION AGAINST DOMESTIC VIOLENCE	INJUNCTION FOR PROTECTION AGAINST DATING VIOLENCE
What firearms must be surrendered?	All firearms and ammunition in the respondent's possession and any license to carry a concealed weapon or firearm ⁴⁰	There is no statutory process for surrender, however a respondent may not have in their care, custody, possession, or control any firearm or ammunition if the person has been issued a final injunction that is currently in force and effect ⁴¹	There is no statutory provision requiring surrender of firearms
What is the process for firearm dispossession?	The respondent must immediately surrender all firearms and ammunition and any license to carry a concealed weapon or firearm to law enforcement serving the order or arrange with the designated law enforcement agency for the immediate surrender ⁴²	Not specified in the statute	Not specified in the statute
Is an order to search for and seize firearms issued in conjunction with the RPO or Injunctions for Protection?	No ⁴³	No	No

ENDNOTES

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

2 See the chart below for a complete list of "family and household members."

3 Fla. Stat. § 790.401.

4 Fla. Stat. § 741.30(5)(a); (6)(a).

5 Fla. Stat. §§ 741.30(6)(g); 790.233(1). See Form 12.980(a), Petition for Injunction for Protection Against Domestic Violence.

6 Fla. Stat. § 784.046(7). See Form 12.980(n), Petition for Injunction for Protection Against Dating Violence.

7 Fla. Stat. § 790.401(11)(b).

8 Fla. Stat. § 741.30(6)(g).

9 Fla. Stat. § 784.046(9)(a).

10 Fla. Stat. § 790.401(1)(a).

11 Fla. Stat. §§ 741.28; 741.30(1)(e). Family members must currently or have formerly resided together in the same home. Household members must currently or have formerly resided together as if family.

12 Fla. Stat. § 784.046(1)(d). The following factors will be considered to determine the existence of a relationship: (1) a dating relationship must have existed within the past 6 months; (2) the nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and (3) the frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship.

13 Fla. Stat. § 784.046(2)(b).

14 However, there is a box to check on Form 12.980(a), Petition for Injunction for Protection Against Domestic Violence if the respondent is minor.

15 Fla. Stat. § 790.401(2)(j).

16 Fla. Stat. § 741.30(1)(a).

17 Fla. Stat. § 784.046(2)(b).

18 Fla. Stat. § 790.401(4)(c).

19 Fla. Stat. § 790.401(3)(b).

20 Fla. Stat. § 741.30(7)(b).

21 Fla. Stat. § 784.046(2)(b).

22 Fla. Stat. § 790.401(4)(c).

23 Fla. Stat. § 790.401(2)(e)(1).

24 Fla. Stat. § 741.30(5)(a).

25 Fla. Stat. § 741.30(6)(b).

26 Fla. Stat. § 784.046(6)(a).

27 Fla. Stat. § 790.401(3)(c).

28 Fla. Stat. § 741.30(6)(b).

29 Fla. Stat. § 790.401(4)(f).

30 Fla. Stat. §§ 790.401(3)(b); 790.401(4)(b).

31 Fla. Stat. § 741.30(5)(c).

32 Fla. Stat. § 741.30(6)(c).

33 Fla. Stat. § 784.046(6)(c).

34 Fla. Stat. § 784.046(7)(c).

35 Fla. Stat. § 790.401(6).

36 Fla. Stat. § 741.30(6)(c).

37 Fla. Stat. § 784.046(7)(c); (10).

38 Fla. Stat. § 741.30(3)(b).

39 la. Stat. § 784.046(4)(b).

40 Fla. Stat. § 790.401(7)(a).

41 Fla. Stat. §§ 741.30(6)(g); 790.233(1).

42 Fla. Stat. § 790.401(7)(a).

43 Fla. Stat. § 790.401(7)(d).

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.