

**HAWAII**

# **GUN VIOLENCE PROTECTIVE ORDER**

**&**

# **ORDERS FOR PROTECTION**

**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.

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## WHAT IS A GUN VIOLENCE PROTECTIVE ORDER?

In Hawaii, a Gun Violence Protective Order (GVPO) 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 or ammunition.

## HOW ARE GVPOS DIFFERENT?

### Petitioners

Law enforcement, family or household members (including current or former spouses, persons with a child in common, parents, current or former dating partners),<sup>1</sup> medical professionals, educators, or colleagues may petition for a **GVPO**.

### Protections

**GVPOs** offer one type of protection: These orders temporarily separate a person at risk of causing injury to self or others from lethal means — their firearms (and ammunition). A GVPO prohibits the respondent purchasing, possessing, or receiving firearms or ammunition for the duration of the order, and requires the respondent to turn over firearms and ammunition to law enforcement.

## WHAT ARE ORDERS FOR PROTECTION?

In Hawaii, an Order for Protection is a civil order issued by a judge that provides various forms of relief from abuse to a victim of domestic abuse, a person who has alleged a past act or acts of abuse, a person for whom abuse may be imminent because of threats, or a person for whom extreme psychological abuse or malicious property damage is imminent. An Order for Protection may order the respondent<sup>2</sup> to stay away from the petitioner, refrain from entering the home of the petitioner, and prohibit the respondent from possessing or controlling any firearm or ammunition for the duration of the order, among others.

## HOW ARE ORDERS FOR PROTECTION DIFFERENT?

### Petitioners

Family or household members (including current or former spouses, persons with a child in common, current or former dating partners);<sup>3</sup> family or household members on behalf of a family or household member who is a minor, an incapacitated person or a person who is physically unable to complete or file the petition; and any state agency on behalf of a minor, an incapacitated person or a person who is physically unable to complete or file the petition may petition for an **Order for Protection**.

### Protections

An **Order for Protection** may order various forms of relief from abuse, including ordering the respondent to stay away from the petitioner, refrain from entering the home of the petitioner, and prohibiting the respondent from possessing or controlling any firearm or ammunition for the duration of the order. The respondent shall surrender any firearm or ammunition to law enforcement. A law enforcement officer serving an Order for Protection may take custody of any and all firearms and ammunition surrendered, found in plain sight, or discovered during a search.

### DIVE DEEPER

In Hawaii, GVPOs serve a different purpose than Orders for Protection. For a more detailed description of the differences, see the comparison chart.

# EXPLORE THE DIFFERENCES

## GUN VIOLENCE PROTECTIVE ORDERS & ORDERS FOR PROTECTION COMPARISON CHART

### PETITIONS AND ORDERS

### GUN VIOLENCE PROTECTIVE ORDERS (GVPO)

### ORDERS FOR PROTECTION

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

Respondent is required to surrender any firearms and ammunition, and is temporarily prohibited from purchasing, possessing, or receiving any firearms or ammunition<sup>4</sup>

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

- Ordering the respondent to refrain from further abuse or threats of abuse against the petitioner or anyone residing in the petitioner's residence
- Ordering the respondent to refrain from contacting the petitioner
- Ordering the respondent to stay away from the petitioner's residence
- Prohibiting the respondent from taking, concealing, removing, threatening, physically abusing, or otherwise disposing of any animal belonging to the household<sup>5</sup>
- The court may also transfer all rights to a wireless telephone number or numbers of a shared wireless plan to the petitioner or remove or release the petitioner from a shared wireless plan and assign a substitute telephone number or numbers<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* GVPO  
One-year GVPO

Temporary Restraining Order (TRO)  
Final Order for Protection

<b>Who may petition for an order?</b>	Law enforcement, family or household members (including current or former spouses, persons with a child in common, parents, children, persons related by consanguinity, persons related by adoption, persons currently or formerly jointly residing with respondent, current or former dating partners, current or former legal guardians), medical professionals (e.g., a licensed physician, advanced practice registered nurse, psychologist, or psychiatrist who has examined the respondent), educators, or colleagues <sup>9</sup>	Family or household members (including current or former spouses, persons who have a child in common, parents, children, persons related by consanguinity, person currently or formerly residing in the same dwelling, current or former dating partners); family or household members on behalf of a family or household member who is a minor, an incapacitated person or a person who is physically unable to complete or file the petition; and any state agency on behalf of a minor, an incapacitated person or a person who is physically unable to complete or file the petition <sup>10</sup>
<b>May a minor be the respondent to an order?</b>	The law does not explicitly state whether minors are eligible respondents	The law does not explicitly state whether minors are eligible respondents
<b>Can the order be issued 24/7?</b>	No	No <sup>11</sup>
<b>Which court hears the petition?</b>	Family Court <sup>12</sup>	Family Court <sup>13</sup>
<b>What is the burden of proof?</b>	<i>Ex parte</i> GVPO: probable cause <sup>14</sup>  One-year GVPO: preponderance of the evidence <sup>15</sup>	TRO: probable cause <sup>16</sup>  Final Order for Protection: not specified in the statute
<b>What must be proven?</b>	<i>Ex parte</i> GVPO: respondent poses an imminent danger of causing bodily injury to self or others by owning, purchasing, possessing, receiving, or having in the respondent's custody or control any firearm or ammunition <sup>17</sup>  One-year GVPO: respondent poses a significant danger of causing bodily injury to self or others by owning, purchasing, possessing, receiving, or having in the respondent's custody or control any firearm or ammunition <sup>18</sup>	TRO: past acts of abuse have occurred, or threats of abuse make it probable that acts of abuse may be imminent <sup>19</sup>  Final Order for Protection: the respondent did not show cause why the order should not be continued and an order for protection is necessary to prevent domestic abuse or a recurrence of abuse <sup>20</sup>
<b>What factors may the court consider?</b>	The court shall consider relevant evidence, including evidence of facts relating to the respondent's:  - Unlawful, reckless, or negligent use, display, storage, possession, or brandishing of a firearm  - Act or threat of violence against self or others, regardless of whether the violence involves a firearm  - Violation of a protective order or restraining order	All relevant evidence <sup>22</sup>

- Abuse of controlled substances or alcohol or commission of any criminal offense that involves controlled substances or alcohol

- Recent acquisition of any firearms, ammunition, or other deadly weapons<sup>21</sup>

**How long is the order in effect?**

*Ex parte* GVPO: up to 14 days<sup>23</sup>  
One-year GVPO: one year<sup>24</sup>

TRO: up to 180 days or until the effective date of a final order for protection, whichever occurs first<sup>25</sup>

Final Order for Protection: for a reasonable amount of time as the court deems appropriate<sup>26</sup>

**May the order be modified, terminated, or renewed?**

The order may be terminated or renewed<sup>27</sup>

The order may be modified, extended, or terminated<sup>28</sup>

**Are court records confidential?**

Yes (with a few exceptions)<sup>29</sup>

No

**FIREARM  
DISPOSSESSION**

**GUN VIOLENCE PROTECTIVE  
ORDERS (GVPO)**

**ORDERS FOR PROTECTION**

**What firearms must be surrendered?**

All firearms and ammunition the respondent owns possesses<sup>30</sup>

All firearms and ammunition in the respondent's possession, if ordered by the court<sup>31</sup>

**What is the process for firearm dispossession?**

The respondent must immediately surrender all firearms and ammunition in their possession to law enforcement serving the order, or if personal service by law enforcement is not possible the respondent shall arrange with law enforcement for the surrender of firearms and ammunition within 48 hours of service of the GVPO<sup>32</sup>

Law enforcement will issue a receipt to the respondent and file a copy with the court within 72 hours<sup>33</sup>

The respondent must voluntarily surrender all firearms and ammunition in their possession to law enforcement within 48 hours of the date of disqualification, unless upon service firearms and ammunition were turned over to law enforcement

If the respondent fails to voluntarily surrender or dispose of all firearms and ammunition within 48 hours from the date of disqualification, law enforcement may seize all firearms and ammunition<sup>34</sup>

**Is an order to search for and seize firearms issued in conjunction with the GVPO or Orders for Protection?**

No<sup>35</sup>

No<sup>36</sup>

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## ENDNOTES

- 1 See the chart for a complete list of "family or household members."
- 2 A "respondent" is a person subject to an order.
- 3 See the chart for a complete list of "family or household members."
- 4 Haw. Rev. Stat. Ann. §§ 134-64(g); 134-65(d); 134-67.
- 5 Haw. Rev. Stat. Ann. §§ 586-4(a), (c); 586-5.5(a). The court may order certain provisions of the TRO to be mutually applicable to the petitioner.
- 6 Haw. Rev. Stat. Ann. § 586-5.8(a).
- 7 Haw. Rev. Stat. Ann. § 134-7(f).
- 8 Haw. Rev. Stat. Ann. §§ 586-4(e); 586-11; 134-7(f).
- 9 Haw. Rev. Stat. Ann. § 134-61.
- 10 Haw. Rev. Stat. Ann. §§ 586-1; 586-3(b).
- 11 While there are no statutory provisions for after hours, emergency orders, a law enforcement officer who reasonably believes an individual committed abuse against a family or household member shall order the person to leave the premises and order the person have no contact with the abused family or household member for two business days. See Haw. Rev. Stat. Ann. § 709-906(4)(b).
- 12 Haw. Rev. Stat. Ann. § 134-62.
- 13 Haw. Rev. Stat. Ann. § 586-2.
- 14 Haw. Rev. Stat. Ann. § 134-64(f).
- 15 Haw. Rev. Stat. Ann. § 134-65(c).
- 16 Haw. Rev. Stat. Ann. § 586-4(c).
- 17 Haw. Rev. Stat. Ann. § 134-64(f).
- 18 Haw. Rev. Stat. Ann. § 134-65(c).
- 19 Haw. Rev. Stat. Ann. § 586-4(c).
- 20 Haw. Rev. Stat. Ann. § 586-5.5(a).
- 21 Haw. Rev. Stat. Ann. §§ 134-64(d); 134-65(b).
- 22 Haw. Rev. Stat. Ann. § 586-5.5(a).
- 23 Haw. Rev. Stat. Ann. § 134-64(i).
- 24 Haw. Rev. Stat. Ann. § 134-65.
- 25 Haw. Rev. Stat. Ann. § 586-5(a).
- 26 Haw. Rev. Stat. Ann. § 586-5.5(a).
- 27 Haw. Rev. Stat. Ann. § 134-66.
- 28 Haw. Rev. Stat. Ann. §§ 586-5(b); 586-9.
- 29 Haw. Rev. Stat. Ann. § 134-63(b).
- 30 Haw. Rev. Stat. Ann. § 134-67(a).
- 31 Haw. Rev. Stat. Ann. § 134-7(f).
- 32 Haw. Rev. Stat. Ann. § 134-67(b).
- 33 Haw. Rev. Stat. Ann. § 134-67(c).
- 34 Haw. Rev. Stat. Ann. § 134-7.3(b).
- 35 Haw. Rev. Stat. Ann. § 134-67(d).
- 36 Haw. Rev. Stat. Ann. § 134-7(f).

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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).