



ILLINOIS

FIREARMS RESTRAINING ORDER



INVOLUNTARY INPATIENT ADMISSION

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.

Firearms Restraining Orders (FROs) temporarily remove firearms from individuals at risk of harming themselves (including suicide) or others. Criteria for a FRO focus on dangerous behaviors, not mental illness diagnoses.

Involuntary inpatient admission is primarily concerned with ensuring that a person with a suspected or diagnosed mental health disorder receives appropriate treatment.

WHAT IS A FIREARMS RESTRAINING ORDER?

In Illinois, a **FRO**¹ is a civil order that temporarily prohibits individuals who pose a significant danger of causing personal injury to themselves (including suicide) or others from purchasing and possessing firearms.

Mental illness diagnosis

Illinois' **FRO** 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 a FRO, including any act or threat of violence toward self or others, controlled dangerous substance or alcohol misuse, and violation of a domestic violence order of protection, among others.² A FRO petitioner must establish that a person poses a danger of causing personal injury to self or others.³

Firearm prohibition

FROs prohibit respondents from purchasing or possessing firearms for the duration of the order and require respondents to surrender their firearms, Firearm Owner's Identification (FOID) card, and any concealed carry license to law enforcement upon service of the order.⁴

WHAT IS AN INVOLUNTARY INPATIENT ADMISSION?

In Illinois, **involuntary inpatient admission** (also referred to as involuntary admission on an inpatient basis or involuntary inpatient commitment) is the hospitalization of an individual with a mental illness who is reasonably believed to present a danger to themselves or others unless treated on an inpatient basis for up to 90 days.⁵ A person may be involuntarily admitted following an examination sought pursuant to: an *emergency admission*,⁶ a *temporary detention*,⁷ or a *court order*.⁸

Mental illness diagnosis

An individual may be **involuntarily admitted on an inpatient basis** if the court finds by clear and convincing evidence that:

- (1) because of a mental illness the individual is reasonably expected to engage in conduct that will place themselves or others in physical harm or in reasonable expectation of physical harm unless treated on an inpatient basis;
- (2) because of a mental illness the individual is unable to provide for their basic physical needs without assistance of others unless treated on an inpatient basis; or
- (3) the individual has a mental illness, refuses treatment or is not adhering to treatment, because of their mental illness fails to understand the need for their treatment, and if not treated is expected to engage in conduct that will place themselves or others in physical harm or in reasonable expectation of physical harm or will be unable to provide for their basic physical needs without assistance of others.^{9 10}

A person may be admitted for an examination pursuant to an *emergency admission*, a *temporary detention*, or a *court order* if it is believed they should be involuntarily admitted on an inpatient basis.

Firearm Prohibition

Persons **involuntarily admitted on an inpatient basis**:

- (1) will have any firearms in their possession at the time of admission (or any time firearms are discovered) confiscated by hospital staff and transferred to law enforcement, who will retain possession of firearms for a minimum of 90 days¹¹ and
- (2) are subject to denial or revocation of a Firearm Owner's Identification (FOID) card while they are involuntarily admitted.¹²

Persons who have been a patient of a mental health facility within the past 5 years or were a patient more than 5 years ago, but lack proper certification that they are no longer a danger, are also subject to denial or revocation of a FOID card.¹³ Regardless of hospitalization, individuals who have been adjudicated as a person with a mental or developmental disability are subject to denial or revocation of a FOID card.¹⁴

ENDNOTES

1 430 Ill. Comp. Stat. Ann. 67/5.

2 430 Ill. Comp. Stat. Ann. 67/40(e).

3 430 Ill. Comp. Stat. Ann. 67/35(a); 67/40(a).

4 430 Ill. Comp. Stat. Ann. 67/40(h); 430 Ill. Comp. Stat. Ann. 67/35(g).

5 405 Ill. Comp. Stat. Ann. 5/1-119; 5/3-813 (additional periods of inpatient commitment may be sought).

6 405 Ill. Comp. Stat. Ann. 5/3-600. An examination to determine whether subject to involuntary admission and in need of immediate hospitalization must occur within 24 hours of admission to the hospital.... 405 Ill. Comp. Stat. Ann. 5/3-604.

7 405 Ill. Comp. Stat. Ann. 5/3-607 (examination to determine whether subject to involuntary admission and in need of immediate hospitalization must occur within 24 hours of the temporary detention).

8 405 Ill. Comp. Stat. Ann. 5/3-700. An examination to determine whether subject to involuntary admission must occur within 24 hours of admission to the hospital. 405 Ill. Comp. Stat. Ann. 5/3-704.

9 405 Ill. Comp. Stat. Ann. 5/1-119.

10 405 Ill. Comp. Stat. Ann. 5/3-602.

11 720 Ill. Comp. Stat. Ann. 5/24-6(c).

12 430 Ill. Comp. Stat. Ann. 65/8(f), (t) (No person may possess a firearm without having in their possession a properly issued FOID card in their name).

13 430 Ill. Comp. Stat. Ann. 65/8(e), (u). (Proper certification means the individual has received a mental health evaluation by a physician, clinical psychologist, or qualified examiner and has received a certification that he or she is not a clear and present danger to himself, herself, or others.)

14 430 Ill. Comp. Stat. Ann. 65/8(r), (s).

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.

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