



ILLINOIS

FIREARMS RESTRAINING ORDER & DOMESTIC VIOLENCE ORDER OF PROTECTION

HOW DO THEY DIFFER?



Bloomberg American
Health Initiative

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WHAT IS A FIREARMS RESTRAINING ORDER?

In Illinois, a Firearms Restraining Order (FRO) is a civil order that temporarily prohibits individuals who pose a significant danger of injury to self (including suicide) or others from purchasing and possessing firearms.

HOW ARE FROS DIFFERENT?

Petitioners

A family member (including a spouse, parent, child, person who shares a common dwelling with the respondent)¹ and law enforcement officers may petition for a **FRO**.

Protections

FROs offer one type of protection: they temporarily prohibit persons at risk of injury to self or others from purchasing or possessing firearms for the duration of the order. FROs require respondents to temporarily turn over firearms and any Firearm Owners Identification card and Concealed Carry License to law enforcement.

WHAT IS A DOMESTIC VIOLENCE ORDER OF PROTECTION?

In Illinois, a Domestic Violence Order of Protection (Order of Protection) is a civil or criminal order issued by a judge that provides various forms of relief from abuse, including ordering the respondent² to refrain from abuse and threatening abuse, prohibiting contact with the person eligible for relief,³ awarding temporary child custody, and prohibiting possession of firearms when certain criteria are met. This document focuses on civil Orders of Protection.

HOW ARE ORDERS OF PROTECTION DIFFERENT?

Petitioners

Family and household members (including current and former spouses, parents, children, step-children, persons with a child in common, persons who share a common dwelling)⁴ who have been abused by the respondent may petition for an **Order of Protection**. Additionally, any person may petition for an Order of Protection on behalf of a high-risk adult with disabilities,⁵ a minor child, or an adult who has been abused by a family or household member but is unable to file a petition independently.

Protections

An **Order of Protection** may order various forms of relief from abuse, including but not limited to ordering the respondent to stay away from any person eligible for relief, refrain from entering the home of a person eligible for relief, and refrain from purchasing or possessing firearms.

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

EXPLORE THE DIFFERENCES

FIREARMS RESTRAINING ORDER & DOMESTIC VIOLENCE ORDER OF PROTECTION COMPARISON CHART

PETITIONS AND ORDERS

	FIREARMS RESTRAINING ORDER (FRO)	DOMESTIC VIOLENCE ORDER OF PROTECTION
What results from the issuance of an order?	Temporarily prohibits respondent from purchasing and possessing firearms, and requires the respondent to surrender any Firearm Owner's Identification (FOID) card and any Concealed Carry License ⁶	The court may order relief, including but not limited to: <ul style="list-style-type: none"> - Ordering the respondent to refrain from further abuse or threats of abuse - Ordering the respondent to refrain from contacting the petitioner - Ordering the respondent to stay away from the petitioner - Awarding temporary child custody - Ordering the respondent to surrender firearms and refrain from possessing and purchasing firearms for the duration of the order⁷
Is the order criminal or civil?	Civil If respondent violates the order, they may be charged with a crime ⁸	Civil ⁹ If the respondent violates the order they may be charged with a crime ¹⁰
What types of orders are available?	Emergency FRO ¹¹ Six-Month FRO ¹²	Emergency Order of Protection ¹³ Interim Order of Protection ¹⁴ Plenary Order of Protection ¹⁵

Who may petition for an order?

Family members (including a spouse, parent, child, or step-child of the respondent, any other person related by blood or present marriage to the respondent, or a person who shares a common dwelling with the respondent) or law enforcement¹⁶

Family or household members (including current and former spouses, parents, children, stepchildren, other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly have a child in common, persons who share or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, and persons with disabilities and their personal assistants and caregivers)¹⁷

Any person on behalf of a high-risk adult with disabilities or on behalf of a minor child or adult who has been abused by a family or household member but is unable to file a petition¹⁸

May a minor be the respondent to the order?

The law does not explicitly state whether minors are eligible respondents

Yes¹⁹

Can the order be issued 24/7?

No

Yes, an Emergency Order of Protection²⁰

Which court hears the petition?

Circuit Court²¹

Circuit Court, unless specific courts are designated by local rule or order²²

What is the burden of proof?

Emergency FRO: probable cause²³

Preponderance of the evidence²⁵

Six-Month FRO: clear and convincing evidence²⁴

What must be proven?

Emergency FRO: respondent poses an immediate and present danger of causing personal injury to self or others by possessing a firearm²⁶

The petitioner has been abused by a family or household member or that the petitioner is a high-risk adult with disabilities who has been abused, neglected, or exploited²⁸

Six-Month FRO: respondent poses a significant danger of causing injury to self or others in the near future by possessing a firearm²⁷

What factors may the court consider?

Court will consider several factors, including, but not limited to:

Court will consider whether harm will occur if the remedies requested are not granted³⁰

- Unlawful and reckless use, display, or brandishing of a firearm by the respondent

- History of use, attempted use, or threatened use of physical force by the respondent against another person

- Prior arrest of the respondent for a felony offense

- Evidence of the abuse of controlled substances or alcohol by the respondents
- Recent threat of violence or act of violence by the respondent directed toward self or another
- Violation of a Domestic Violence Order of Protection
- Pattern of violent acts or violent threats, including but not limited to, threats of violence or acts of violence by the respondent directed toward self or another²⁹

How long is the order in effect?	Emergency FRO: up to 14 days ³¹ Six-Month FRO: 6 months ³²	Emergency Order of Protection: 14 to 21 days Interim Order of Protection: up to 30 days Plenary Order of Protection: no more than 2 years ³³
May the order be modified, terminated, or renewed?	The order may be terminated or renewed ³⁴	The order may be modified or extended ³⁵
Are court records confidential?	No ³⁶	No ³⁷

FIREARM DISPOSSESSION

FIREARMS RESTRAINING ORDER (FRO)

DOMESTIC VIOLENCE ORDER OF PROTECTION

What firearms must be surrendered?	All firearms in respondent's possession, as well as any Firearm Owner's Identification (FOID) card and Concealed Carry License ³⁸	If the Order of Protection orders surrender, all firearms in respondent's possession, as well as any Firearm Owner's Identification (FOID) card ³⁹ must be surrendered
What is the process for firearm dispossession?	Respondent shall turn over to law enforcement any firearm or FOID card and Concealed Carry License in their possession ⁴⁰	Respondent shall turn over to law enforcement any firearm or FOID card in their possession ⁴¹
Is an order to search for and seize firearms issued in conjunction with a FRO or Order of Protection?	Yes ⁴²	Yes, if possession is prohibited ⁴³

ENDNOTES

¹ See the chart for a complete list of family members.

² A “respondent” is a person subject to an order.

³ In Illinois, a “person eligible for relief” includes a person who has been abused by a family or household member. “Family or household member” includes the following:

1. Spouses;
2. Former spouses;
3. Parents;
4. Children;
5. Stepchildren;
6. Other persons related by blood or by present or prior marriage;
7. Persons who share or formerly shared a common dwelling;
8. Persons who have or allegedly have a child in common;
9. Persons who share or allegedly share a blood relationship through a child;
10. Persons who have or had a dating or engagement relationship;
11. Persons with disabilities and their personal assistants and caregivers.

⁷⁵⁰ Ill. Comp. Stat. Ann. 60/103

⁴ See note 3 above, or the chart for a full list of “family and household members.”

⁵ “High-risk adult with disabilities” is “a person aged 18 or over whose physical or mental disability impairs his or her ability to seek or obtain protection from abuse, neglect, or exploitation.” 750 Ill. Comp. Stat. Ann. 60/103(8).

⁶ 430 Ill. Comp. Stat. Ann. 67/40(h); 430 Ill. Comp. Stat. Ann. 35(g)(2).

⁷ 750 Ill. Comp. Stat. Ann. 60/214.

⁸ 430 Ill. Comp. Stat. Ann. 67/65.

⁹ 750 Ill. Comp. Stat. Ann. 60/202.

¹⁰ 750 Ill. Comp. Stat. Ann. 60/223.

¹¹ 430 Ill. Comp. Stat. Ann. 67/35(a).

¹² 430 Ill. Comp. Stat. Ann. 67/40(a).

¹³ 750 Ill. Comp. Stat. Ann. 60/217.

¹⁴ 750 Ill. Comp. Stat. Ann. 60/218.

¹⁵ 750 Ill. Comp. Stat. Ann. 60/219.

¹⁶ 430 Ill. Comp. Stat. Ann. 67/5.

¹⁷ 750 Ill. Comp. Stat. Ann. 60/103.

¹⁸ 750 Ill. Comp. Stat. Ann. 60/201.

¹⁹ 750 Ill. Comp. Stat. Ann. 60/214.

²⁰ 750 Ill. Comp. Stat. Ann. 60/217(c).

²¹ 430 Ill. Comp. Stat. Ann. 67/10(a).

²² 750 Ill. Comp. Stat. Ann. 60/202(a).

²³ 430 Ill. Comp. Stat. Ann. 67/35(f).

²⁴ 430 Ill. Comp. Stat. Ann. 67/40(f).

²⁵ 750 Ill. Comp. Stat. Ann. 60/205(a).

²⁶ 430 Ill. Comp. Stat. Ann. 67/35(a).

²⁷ 430 Ill. Comp. Stat. Ann. 67/40(a).

²⁸ 750 Ill. Comp. Stat. Ann. 60/214(a).

²⁹ 430 Ill. Comp. Stat. Ann. 67/40(e)(1-7).

³⁰ 750 Ill. Comp. Stat. Ann. 60/217.

³¹ 430 Ill. Comp. Stat. Ann. 67/35(i).

³² Conn. Gen. Stat. § 29-38c(d).

³³ 750 Ill. Comp. Stat. Ann. 60/220.

³⁴ 430 Ill. Comp. Stat. Ann. 67/45.

³⁵ 750 Ill. Comp. Stat. Ann. 60/220.

³⁶ 430 Ill. Comp. Stat. Ann. 67/50.

³⁷ 750 Ill. Comp. Stat. Ann. 60/202(a-5), effective January 1, 2020. However, an emergency petition shall not be made publicly available until the petition is served on the respondent.

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

³⁹ 750 Ill. Comp. Stat. Ann. 60/214(b)(14.5).

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

⁴¹ 750 Ill. Comp. Stat. Ann. 60/214(b)(14.5).

⁴² 430 Ill. Comp. Stat. Ann. 67/40(g-5); 430 Ill. Comp. Stat. Ann. 67/35(f-5).

⁴³ 750 Ill. Comp. Stat. Ann. 60/214(b)(14.5)(a).

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/implementedERPO.