

**MASSACHUSETTS**

**EXTREME RISK**

**PROTECTION  
ORDER**

**&**

**DOMESTIC ABUSE**

**PREVENTION  
ORDER**

**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 AN EXTREME RISK PROTECTION ORDER?

In Massachusetts, an Extreme Risk Protection Order (ERPO) 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, other weapons, and ammunition.

## HOW ARE ERPOS DIFFERENT?

### Petitioners

Family or household members (including current or former spouses, persons with a child in common and persons currently or formerly in a substantive dating or engagement relationship)<sup>1</sup> and the licensing authority<sup>2</sup> may petition for an **Extreme Risk Protection Order (ERPO)**.

### Protections

An **ERPO** offers one type of protection: It temporarily separates a person at risk of injury to self or others from lethal means, including firearms, other weapons, and ammunition. An ERPO prohibits the respondent from purchasing and possessing firearms, other weapons, and ammunition, and requires the respondent to turn over any license to carry firearms, firearm identification cards, firearms, other weapons, and ammunition to law enforcement for the duration of the order.

## WHAT IS A DOMESTIC ABUSE PREVENTION ORDER?

In Massachusetts, a Domestic Abuse Prevention Order (abuse prevention order) is a civil order issued by a judge that provides various forms of relief from abuse to a victim of abuse, including ordering the respondent<sup>3</sup> to refrain from abuse and threatening abuse, prohibiting contact with the plaintiff, and awarding temporary child custody.

## HOW ARE ABUSE PREVENTION ORDERS DIFFERENT?

### Petitioners

Family or household members (including persons with a child in common and persons currently or formerly in a substantive dating or engagement relationship)<sup>4</sup> may petition for a **Domestic Abuse Prevention Order (abuse prevention order or 209A order)**.

### Protections

An **abuse prevention order** 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 the petitioner, and refrain from purchasing or possessing firearms. The court shall order the surrender of any license to carry firearms, firearms identification cards and all firearms, rifles, shotguns, machine guns, weapons and ammunition in the respondent's possession for emergency and temporary abuse prevention orders if the petitioner demonstrates a substantial likelihood of immediate danger of abuse. For a final order, the court shall order the surrender or continued surrender of any license to carry firearms, firearms identification cards and all firearms, rifles, shotguns, machine guns, weapons and ammunition in the respondent's possession if the court determines their possession presents a likelihood of abuse to the plaintiff.

## DIVE DEEPER

In Massachusetts, ERPOs serve a different purpose than abuse prevention orders. For a more detailed description of the differences, see the comparison chart.

# EXPLORE THE DIFFERENCES

## EXTREME RISK PROTECTION ORDER & DOMESTIC ABUSE PREVENTION ORDER COMPARISON CHART

### PETITIONS AND ORDERS

	EXTREME RISK PROTECTION ORDER (ERPO)	ABUSE PREVENTION ORDER
<b>What results from the issuance of an order?</b>	Temporarily prohibits respondent from purchasing and possessing firearms and ammunition, and requires immediate surrender of any license to carry firearms, firearms identification cards and all firearms, rifles, shotguns, machine guns, weapons and ammunition <sup>5</sup>	The court may order relief, including but not limited to:  Ordering the respondent to refrain from abusing the petitioner  Ordering the respondent to refrain from contacting the petitioner unless authorized by the court  Ordering the respondent to vacate and remain away from the household, multiple family dwelling, and workplace  Awarding temporary custody of a minor child <sup>6</sup>
<b>Is the order criminal or civil?</b>	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>
<b>What types of orders are available?</b>	Emergency ERPO  Final ERPO	Emergency Abuse Prevention Order  Temporary Abuse Prevention Order  Final Abuse Prevention Order
<b>Who may petition for an order?</b>	Family or household members (including current or former spouses, persons currently or formerly residing in the same household, persons currently or formerly related by blood or marriage, persons with a child in common, persons currently or formerly in a substantive dating or engagement relationship) and the licensing authority <sup>9</sup>	Family or household members (including current or former spouses, persons currently or formerly residing in the same household, persons currently or formerly related by blood or marriage, persons with a child in common, persons currently or formerly in a substantive dating or engagement relationship) <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	Yes <sup>11</sup>
<b>Can the order be issued 24/7?</b>	Yes, an emergency ERPO may be issued during non-court hours <sup>12</sup>	Yes, an emergency abuse prevention order may be issued during non-court hours <sup>13</sup>

<b>Which court hears the petition?</b>	District or Boston Municipal Court <sup>14</sup>	Superior, Probate and Family, District or Boston municipal court  If petitioner and respondent are in a dating relationship: District, Probate, or Boston municipal court <sup>15</sup>
<b>What is the burden of proof?</b>	Emergency ERPO: reasonable grounds <sup>16</sup>  Final ERPO: preponderance of the evidence <sup>17</sup>	Emergency Abuse Prevention Order: substantial likelihood <sup>18</sup>  Temporary Abuse Prevention Order: substantial likelihood <sup>19</sup>  Final Abuse Prevention Order: none specified
<b>What must be proven?</b>	Respondent poses a risk of causing bodily injury to self or others by being in possession of a license to carry firearms or firearm identification card or by having a firearm, rifle, shotgun, machine gun, weapon, or ammunition in the respondent's control, ownership, or possession <sup>20</sup>	Emergency Abuse Prevention Order: a substantial likelihood of immediate danger of abuse <sup>21</sup>  Temporary Abuse Prevention Order: a substantial likelihood of immediate danger of abuse <sup>22</sup>  Final Prevention Order: not specified in the statute
<b>What factors may the court consider?</b>	None specified in the statute	Abuse consists of one or more of the following acts:  - attempting to cause or causing physical harm  - placing another in fear of imminent serious physical harm  - causing another to engage involuntarily in sexual relations by force, threat or duress <sup>23</sup>
<b>How long is the order in effect?</b>	Emergency ERPO issued during non-court hours: until the end of the next court business day after issuance or until an ERPO is petitioned for in court, whichever is earlier <sup>24</sup>  Emergency ERPO issued in court: 10 days or until the final ERPO hearing, whichever is earlier <sup>25</sup>  Final ERPO: up to 1 year <sup>26</sup>	Emergency Prevention Order: until the next court business day <sup>27</sup>  Temporary Prevention Order: up to 10 court business days <sup>28</sup>  Final Prevention Order: up to 1 year <sup>29</sup>
<b>May the order be modified, terminated, or renewed?</b>	The order may be modified, terminated, or renewed <sup>30</sup>	The order may be modified or terminated <sup>31</sup>
<b>Are court records confidential?</b>	No (with a few exceptions) <sup>32</sup>	No (with a few exceptions) <sup>33</sup>
<b>What factors may the court consider?</b>	None specified in the statute	Abuse consists of one or more of the following acts:  - attempting to cause or causing physical harm  - placing another in fear of imminent serious physical harm  - causing another to engage involuntarily in sexual relations by force, threat or duress <sup>34</sup>

<b>How long is the order in effect?</b>	<p>Emergency ERPO issued during non-court hours: until the end of the next court business day after issuance or until an ERPO is petitioned for in court, whichever is earlier<sup>35</sup></p> <p>Emergency ERPO issued in court: 10 days or until the final ERPO hearing, whichever is earlier<sup>36</sup></p> <p>Final ERPO: up to 1 year<sup>37</sup></p>	<p>Emergency Prevention Order: until the next court business day<sup>38</sup></p> <p>Temporary Prevention Order: up to 10 court business days<sup>39</sup></p> <p>Final Prevention Order: up to 1 year<sup>40</sup></p>
<b>May the order be modified, terminated, or renewed?</b>	The order may be modified, terminated, or renewed <sup>41</sup>	The order may be modified or terminated <sup>42</sup>
<b>Are court records confidential?</b>	No (with a few exceptions) <sup>43</sup>	No (with a few exceptions) <sup>44</sup>

## **FIREARM DISPOSSESSION**

### **EXTREME RISK PROTECTION ORDER (ERPO)**

### **ABUSE PREVENTION ORDER**

<b>What firearms must be surrendered?</b>	<p>All firearms, rifles, shotguns, machine guns, weapons, and ammunition in the respondent's possession<sup>45</sup></p> <p>Respondents must also surrender any license to carry firearms and firearms identification cards<sup>46</sup></p>	<p>All firearms, rifles, shotguns, machine guns, weapons and ammunition in the respondent's possession, and any license to carry firearms and firearms identification cards for emergency and temporary prevention orders if the petitioner demonstrates a substantial likelihood of immediate danger of abuse</p> <p>All firearms, rifles, shotguns, machine guns, weapons and ammunition in the respondent's possession, and any license to carry firearms and firearms identification cards for a final prevention order, if the court determines the possession of these items present a likelihood of abuse to the plaintiff<sup>47</sup></p>
<b>What is the process for firearm dispossession?</b>	The respondent must immediately surrender any license to carry firearms, firearms identification cards and all firearms, rifles, shotguns, machine guns, weapons and ammunition to the law enforcement of the municipality where the respondent resides <sup>48</sup>	The respondent must immediately surrender any license to carry firearms, firearms identification cards and all firearms, rifles, shotguns, machine guns, weapons and ammunition to law enforcement <sup>49</sup>
<b>Is an order to search for and seize firearms issued in conjunction with the ERPO or Abuse Prevention Order?</b>	No	No

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## ENDNOTES

1 See the chart below for a complete list of "family or household members."

2 In Massachusetts, the licensing authority may petition for an ERPO. The "licensing authority" is the Firearm Owners Identification Card (FID) licensing authority, or police department, in the respondent's town.

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

4 See the chart below for a complete list of "family or household members."

5 Mass. Gen. Laws, ch. 140 § 131S(d).

6 Mass. Gen. Laws, ch. 209A § 3.

7 Mass. Gen. Laws, ch. 140 § 131S(f).

8 Mass. Gen. Laws, ch. 209A § 3B; 3A; § 7.

9 Mass. Gen. Laws, ch. 140 § 12.

10 Mass. Gen. Laws, ch. 209A § 1. Persons in a substantive dating or engagement relationship will be decided based on: (1) the length of time of the relationship; (2) the type of relationship; (3) the frequency of interaction between the parties; and (4) if the relationship has been terminated by either person, the length of time elapsed since the termination of the relationship.

11 Mass. Gen. Laws, ch. 209A § 3.

12 Mass. Gen. Laws, ch. 140 § 131T(b).

13 Mass. Gen. Laws, ch. 209A § 5.

14 Mass. Gen. Laws, ch. 140 § 121.

15 Mass. Gen. Laws, ch. 209A §§ 1; 2.

16 Mass. Gen. Laws, ch. 140 § 131T(a), (b).

17 Mass. Gen. Laws, ch. 140 § 131S(c).

18 Mass. Gen. Laws, ch. 209A § 5.

19 Mass. Gen. Laws, ch. 209A § 4.

20 Mass. Gen. Laws, ch. 140 §§ 131T(a), (b); 131S(c).

21 Mass. Gen. Laws, ch. 209A § 5.

22 Mass. Gen. Laws, ch. 209A § 4.

23 Mass. Gen. Laws, ch. 209A § 1.

24 Mass. Gen. Laws, ch. 140 § 131T(b).

25 Mass. Gen. Laws, ch. 140 § 131T(a).

26 Mass. Gen. Laws, ch. 140 § 121.

27 Mass. Gen. Laws, ch. 209A § 5.

28 Mass. Gen. Laws, ch. 209A § 4.

29 Mass. Gen. Laws, ch. 209A § 3. If the petitioner appears at a court hearing prior to the expiration of the final ERPO, the court shall determine whether or not to extend the order for any additional time reasonably necessary to protect the petitioner or to enter a permanent order.

30 Mass. Gen. Laws, ch. 140 § 131S(d).

31 Mass. Gen. Laws, ch. 209A § 3.

32 Mass. Gen. Laws, ch. 140 § 131R(d).

33 Mass. Gen. Laws, ch. 209A § 8.

34 Mass. Gen. Laws, ch. 209A § 1.

35 Mass. Gen. Laws, ch. 140 § 131T(b).

36 Mass. Gen. Laws, ch. 140 § 131T(a).

37 Mass. Gen. Laws, ch. 140 § 121.

38 Mass. Gen. Laws, ch. 209A § 5.

39 Mass. Gen. Laws, ch. 209A § 4.

40 Mass. Gen. Laws, ch. 209A § 3. If the petitioner appears at a court hearing prior to the expiration of the final ERPO, the court shall determine whether or not to extend the order for any additional time reasonably necessary to protect the petitioner or to enter a permanent order.

41 Mass. Gen. Laws, ch. 140 § 131S(d).

42 Mass. Gen. Laws, ch. 209A § 3.

43 Mass. Gen. Laws, ch. 140 § 131R(d).

44 Mass. Gen. Laws, ch. 209A § 8.

45 Mass. Gen. Laws, ch. 140 § 131S(f); 131T(c).

46 Mass. Gen. Laws, ch. 140 § 131S(f); 131T(c).

47 Mass. Gen. Laws, ch. 209A § 3 B.

48 Mass. Gen. Laws, ch. 140 § 131S(f); 131T(c).

49 Mass. Gen. Laws, ch. 209A § 3B

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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).