



## MASSACHUSETTS

# EMERGENCY EXTREME RISK PROTECTION ORDERS

## A GUIDE TO THE PROCESS



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.

## MASSACHUSETTS

# Emergency Extreme Risk Protection Order Process

### Authorized petitioners in Massachusetts include:

- 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)
- Licensing authority/policy department where the respondent lives

### REQUEST AN EMERGENCY ERPO DURING NON-COURT HOURS

If the petitioner is a family or household member, contact law enforcement and inform them you seek an emergency ERPO. Law enforcement then contacts an “on-call” judge and either the officer reads the petition or the petitioner reads the petition.

If law enforcement is the petitioner, law enforcement contacts an “on-call” judge and reads the petition.

### ON-CALL JUDGE ASSESSES EMERGENCY ERPO PETITION

Judge decides whether there is reasonable cause to believe the respondent poses a risk of causing bodily injury to self or others by the respondent having a firearm, weapon or ammunition.

### EMERGENCY ERPO ISSUED (DURING NON-COURT HOURS)

Law enforcement immediately serves the respondent with a copy of the emergency ERPO (issued during non-court hours), which informs the respondent that the order remains in effect until the end of the next business day.

### COMPLY WITH EMERGENCY ERPO (ISSUED DURING NON-COURT HOURS), DISPOSSESS FIREARMS

The respondent turns over any license to carry firearms, firearm identification cards and all firearms, weapons, and ammunition to their local law enforcement agency.

Law enforcement issues a receipt to the respondent and files a copy with the court.

### PETITIONER FILES EMERGENCY ERPO PETITION DURING COURT HOURS

During court hours, petitioner files an ERPO petition describing why the respondent poses a risk of causing bodily injury to self or others by having a firearm, weapon or ammunition.

(The petitioner will not need to fill out a new petition if the petition used to issue the emergency ERPO – during non-court hours – is on file with the clerk.)

### COURT ASSESSES EMERGENCY ERPO PETITION

Court decides whether to issue an emergency ERPO prior to the hearing where the respondent will have an opportunity to be heard.

### EMERGENCY ERPO ISSUED

Law enforcement serves the respondent a copy of the emergency ERPO which will remain in effect for ten days or until the ERPO hearing.

### EMERGENCY ERPO NOT ISSUED

If the judge decides to proceed with an ERPO hearing, law enforcement serves the respondent a copy of the petition and summons within 7 days of the hearing which is held within 10 days of the petition's filing.

### UPDATE BACKGROUND CHECK SYSTEM

The clerk magistrate of the court forwards a copy of the ERPO to: the licensing authority, the Commissioner of Probation, the MA Department of Criminal Justice Information Services (DCJIS) (who forwards the order for inclusion into the National Instant Criminal Background Check System (NICS)), and any other federal or state computer-based systems used by law enforcement or others to identify prohibited firearm purchasers.

### PROCEED WITH ERPO HEARING

Court decides if the respondent poses a risk of causing bodily injury to self or others by having in their possession a firearm, weapon or ammunition.

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In Massachusetts, petitioners may begin the ERPO process by requesting an emergency ERPO during non-court hours (i.e. when the court is closed for business) or by requesting an emergency ERPO during court hours. The difference between the two is the time of day the petitioner seeks an ERPO. Additionally, an emergency ERPO sought during non-court hours remains in effect only until the end of the next court day, providing the petitioner the time to go to court during court hours to petition for an ERPO.

\*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.

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### PROCEED WITH ERPO HEARING

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Court decides if the respondent poses a risk of causing bodily injury to self or others by having in their possession a firearm, weapon or ammunition.

### ERPO ISSUED

If the respondent is at the hearing, they are served with the ERPO while in court.

If the respondent is not at the hearing, law enforcement serves respondent with a copy of the ERPO, the petition, and informational resources, including a list of services relating to crisis intervention, mental health, substance use disorders and counseling.

Background check system is updated.

ERPO is in effect for up to one year.

(If firearms were not surrendered pursuant to an emergency order, they are surrendered at this time.)

### ERPO NOT ISSUED

If the respondent requests the return of items surrendered and is found to be suitable for a license to carry firearms or a firearm identification card and lawfully permitted to possess firearms or ammunition, law enforcement returns any license to carry firearms or firearm identification card and all firearms, weapons, and ammunition requested.

Background check system is updated.

### TERMINATE OR RENEW ERPO

The court may modify, suspend or terminate the ERPO at any time upon motion by either party.

### UPDATE BACKGROUND CHECK SYSTEM

The clerk magistrate of the court forwards a copy of the terminated or expired ERPO to: the licensing authority, the Commissioner of Probation, DCJIS (who transmits for entry into NICS), and any other federal or state computer-based systems used by law enforcement or others to identify prohibited purchasers of firearms.

### RETURN FIREARMS

Upon expiration or termination of an ERPO, the respondent may request the return of firearms, weapons, and ammunition.

Law enforcement returns items requested after confirming the respondent is not otherwise prohibited from purchasing and possessing firearms or ammunition.