



# NEVADA

# ORDER FOR PROTECTION AGAINST HIGH-RISK BEHAVIOR & ORDER FOR PROTECTION AGAINST DOMESTIC VIOLENCE 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 ORDER FOR PROTECTION AGAINST HIGH-RISK BEHAVIOR?

In Nevada, an Order for Protection Against High-Risk Behavior is a civil order that temporarily prohibits individuals who pose a danger of injury to self (including suicide) or others from purchasing, possessing, controlling, or having custody of any firearm for the duration of the order and requires surrender of firearms and any permit to carry a handgun.

## HOW ARE ORDERS FOR PROTECTION AGAINST HIGH-RISK BEHAVIOR DIFFERENT?

### Petitioners

Family or household members (including persons with a child in common, domestic partners, persons in a dating relationship) and law enforcement officers may petition for an **Order for Protection Against High-Risk Behavior**.

### Protections

An **Order for Protection Against High-Risk Behavior** offers one type of protection: it temporarily separates a person at risk of causing injury to self or others from lethal means — their firearms. An Order for Protection prohibits the respondent from possessing, controlling, or having custody of any firearm for the duration of the order and requires the respondent to turn over their firearms to law enforcement or an individual designated by the court who does not reside with them. The respondent must surrender any permit to carry a handgun.

## WHAT IS AN ORDER FOR PROTECTION AGAINST DOMESTIC VIOLENCE?

In Nevada, an Order for Protection Against Domestic Violence is a civil order issued by a judge that provides various forms of relief from abuse to a victim of domestic violence or where there is a threat of domestic violence. An Order for Protection Against Domestic Violence may order the respondent<sup>1</sup> to refrain from abuse and threatening abuse, prohibit contact with the petitioner or minor child, and award temporary child custody.

## HOW ARE ORDERS FOR PROTECTION AGAINST DOMESTIC VIOLENCE DIFFERENT?

### Petitioners

Persons related by blood or marriage (except siblings or cousins), persons in a dating relationship, persons with a child in common, or any other person who has been appointed the custodian or legal guardian for the person's minor child may petition for an **Order for Protection Against Domestic Violence**.

### Protections

**Orders for Protection Against Domestic Violence** may order various forms of relief from abuse, including but not limited to ordering the respondent to stay away from a petitioner and any minor child, refrain from entering the home of petitioner, and any such other relief deemed necessary in an emergency situation. If the court issues an extended order, the respondent is prohibited from subsequently purchasing or acquiring a firearm for the duration of the Order. The court may order the respondent to surrender, sell, or transfer any firearm in the respondent's possession, custody, or control and prohibit the respondent from possessing any firearm for the duration of the Order.

### DIVE DEEPER

In Nevada, Orders for Protection Against High-Risk Behavior serve a different purpose than Orders for Protection Against Domestic Violence. For a more detailed description of the differences, see the comparison chart.

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# EXPLORE THE DIFFERENCES

## ORDER FOR PROTECTION AGAINST HIGH-RISK BEHAVIOR & ORDER FOR PROTECTION AGAINST DOMESTIC VIOLENCE COMPARISON CHART

### PETITIONS AND ORDERS

#### ORDER FOR PROTECTION AGAINST HIGH-RISK BEHAVIOR

#### ORDER FOR PROTECTION AGAINST DOMESTIC VIOLENCE

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

Respondent is required to surrender any firearm and permit to carry a handgun, and is temporarily prohibited from possessing, controlling, or having custody of any firearm for the duration of the order<sup>2</sup>

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

- Enjoining the respondent from threatening, physically injuring or harassing the petitioner or minor child, either directly or through an agent
  - Excluding the respondent from the petitioner's place of residence
  - Prohibiting the respondent from entering the residence, school or place of employment of the petitioner or minor child and order the adverse party to stay away from any specified place frequented regularly by them
  - If the court has jurisdiction, grant temporary custody of the minor child to the petitioner
  - Enjoining the respondent from physically injuring, threatening to injure or taking possession of any animal that is owned or kept by the petitioner or minor child, either directly or through an agent
  - Enjoining the respondent from physically injuring or threatening to injure any animal that is owned or kept by the respondent either directly or through an agent
  - Ordering such other relief as it deems necessary in an emergency situation
- If an extended order is issued, the court may also:
- Specify arrangements for visitation of the minor child and require supervision of that visitation by a third party if necessary
  - Specify arrangements for the possession and care of any animal owned or kept by the parties

- Order the respondent to avoid or limit communication with the petitioner or minor child
- Order the respondent to pay rent or make payments on a mortgage on the petitioner's residence
- Order the respondent to pay for the support of the petitioner or minor child, if the respondent is found to have a duty to support the petitioner or minor child
- Order the respondent to pay all costs and fees incurred by the petitioner in bringing the action
- Order the respondent to pay monetary compensation to the petitioner for lost earnings and expenses incurred as a result of attending any hearing<sup>3</sup>
- Prohibit the respondent from subsequently purchasing or possessing a firearm for the duration of the order<sup>4</sup>
- Order the respondent to surrender, sell, or transfer any firearm in the adverse party's possession or under the adverse party's custody or control<sup>5</sup>

<b>Is the order criminal or civil?</b>	Civil If respondent violates the order they may be charged with a crime <sup>6</sup>	Civil If the respondent violates the order they may be charged with a crime <sup>7</sup>
<b>What types of orders are available?</b>	<i>Ex parte</i> Order for Protection Against High-Risk Behavior  Extended Order for Protection Against High-Risk Behavior	Temporary Order for Protection Against Domestic Violence  Extended Order for Protection Against Domestic Violence
<b>Who may petition for an order?</b>	Law enforcement, family or household members (including persons with a child in common, domestic partners, and persons in a dating relationship) <sup>8</sup>	Persons related by blood or marriage (except siblings or cousins), persons in a dating relationship, persons with a child in common, or any other person who has been appointed the custodian or legal guardian for the person's minor child <sup>9</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>	Yes, an <i>ex parte</i> order may be issued 24/7 <sup>10</sup>	Yes, a temporary order may be issued 24/7 <sup>11</sup>
<b>Which court hears the petition?</b>	Justice Court <sup>12</sup>	Justice or District Court
<b>What is the burden of proof?</b>	<i>Ex parte</i> : preponderance of the evidence <sup>13</sup>  Extended: clear and convincing evidence <sup>14</sup>	Temporary and Extended Order: Satisfaction of the court <sup>15</sup>

<b>What must be proven?</b>	Respondent poses a risk of causing injury to self or others by possessing, having custody or control of, or by purchasing or otherwise acquiring any firearm, has engaged in high-risk behavior, and less restrictive options have been exhausted or are not effective <sup>16</sup>	An act of domestic violence has occurred or there exists a threat of domestic violence <sup>17</sup>
<b>What factors may the court consider?</b>	<p>The court shall consider:</p> <ul style="list-style-type: none"> <li>- The use, attempted use or threatened use of physical force against another person</li> <li>- A threat of imminent violence toward self or another</li> <li>- An act of violence directed toward self or another</li> <li>- A pattern of threats of violence or acts of violence against self or another</li> <li>- Conduct which law enforcement reasonably determines would present a serious and imminent threat to public safety</li> <li>- Conduct which presents a danger to self or another while in possession, custody or control of a firearm; or purchasing or otherwise acquiring a firearm</li> <li>- Abuse of a controlled substance or alcohol while engaging in high-risk behavior</li> <li>- The acquisition of a firearm or other deadly weapon within the immediately preceding 6 months before the person engages in high-risk behavior</li> <li>- The violation of a temporary or extended order for protection against domestic violence</li> <li>- The violation of a temporary or extended order for protection against sexual assault</li> <li>- A crime of violence punishable as a felony<sup>18</sup></li> </ul>	<p>Domestic violence occurs when a person commits one of the following acts against or upon a petitioner, or a petitioner's or respondent's minor child:</p> <ul style="list-style-type: none"> <li>- Battery</li> <li>- Assault</li> <li>- Coercion</li> <li>- Sexual assault</li> <li>- A knowing, purposeful or reckless course of conduct intended to harass the other person</li> <li>- False imprisonment</li> <li>- Pandering<sup>19</sup></li> </ul>
<b>How long is the order in effect?</b>	<p><i>Ex parte</i> order: up to 7 days, or until the extended order hearing if one is requested by the petitioner<sup>20</sup></p> <p>Extended order: up to 1 year<sup>21</sup></p>	<p>Temporary order: up to 45 days, or until the extended order hearing if one is requested by the petitioner<sup>22</sup></p> <p>Extended order: up to 2 years<sup>23</sup></p>
<b>May the order be modified, terminated, or renewed?</b>	The order may be terminated/dissolved or renewed <sup>24</sup>	The order may be modified or terminated/dissolved <sup>25</sup>
<b>Are court records confidential?</b>	No	No

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## **FIREARM DISPOSSESSION**

### **ORDER FOR PROTECTION AGAINST HIGH-RISK BEHAVIOR**

### **ORDER FOR PROTECTION AGAINST DOMESTIC VIOLENCE**

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#### **What firearms must be surrendered?**

All firearms in the respondent's possession, custody, or control<sup>26</sup>

The court may order surrender of all firearms in the respondent's possession for an extended order<sup>27</sup>

The court may include a limited exception from the prohibition to possess any firearm if the respondent establishes that: they are required to use a firearm as an integral part of their employment; they will only use or possess the firearm in the course of such employment; and the employer will provide for the storage of any such firearm during any period when the respondent is not working<sup>28</sup>

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

Immediately upon service of the order for protection, the respondent must surrender any firearm in their possession, custody, or control to law enforcement or a designated person who does not reside with the respondent<sup>29</sup>

If surrendered to law enforcement, they will provide the respondent with a receipt of each firearm surrendered which the respondent shall file with the court within 72 hours or 1 business day, whichever is later<sup>30</sup>

If surrendered to a designated person, the respondent will provide to the court and the appropriate law enforcement agency the name and address of the person and a written description of each firearm surrendered<sup>31</sup>

No later than 24 hours after service of the order the respondent shall do one of the following:

- Surrender any firearm in their possession, custody, or control to law enforcement or to a person designated by the court in the order

- Sell or transfer any firearm to a licensed firearm dealer

- File an affidavit informing the court the respondent does not possess, have custody of or control over any firearm<sup>32</sup>

If firearms are surrendered to law enforcement, they will provide the respondent with a receipt of each firearm surrendered which the respondent shall file with the court within 72 hours or 1 business day, whichever is later<sup>33</sup>

If surrendered to a designated person, the respondent will, provide to the court and the appropriate law enforcement agency the name and address of the person and a written description of each firearm surrendered<sup>34</sup>

If the adverse party sells or transfers any firearm to a licensed firearm dealer, they will provide the respondent with a receipt of each firearm sold which the respondent shall file with the court within 72 hours or 1 business day, whichever is later<sup>35</sup>

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#### **Is an order to search for and seize firearms issued in conjunction with an Order for Protection?**

No<sup>36</sup>

No<sup>37</sup>

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## ENDNOTES

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

2 NRS § 33.590(1), (2), (7).

3 NRS § 33.030(1).

4 NRS § 33.0305.

5 NRS § 33.031(1).

6 NRS § 33.670.

7 NRS § 33.100.

8 NRS §§ 33.540; 33.560(1), (2).

9 NRS § 33.018(1).

10 NRS § 33.570(5), (6).

11 NRS § 33.020(9), (10).

12 NRS § 4.370(n).

13 NRS § 33.570(1).

14 NRS § 33.580(1).

15 NRS § 33.020(1).

16 NRS §§ 33.570(1); 33.580(1).

17 NRS § 33.020(1).

18 NRS § 33.550.

19 NRS § 33.018(1).

20 NRS § 33.640(1).

21 NRS § 33.640(2).

22 NRS § 33.080(1). A temporary order may remain in effect until the second or third hearing for an extended order if the respondent has not been served and fails to appear at the extended order hearing. NRS § 33.020(5), (6).

23 NRS § 33.080(3).

24 NRS § 33.640(3), (4).

25 NRS § 33.080.

26 NRS § 33.600.

27 NRS § 33.031(1).

28 NRS § 33.031(3).

29 NRS § 33.600(1).

30 NRS § 33.600(2).

31 NRS § 33.600(3).

32 NRS § 33.033(1).

33 NRS § 33.033(2).

34 NRS § 33.033(3).

35 NRS § 33.033(4).

36 NRS § 33.600(4).

37 NRS § 33.033(5).

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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).