



## MARYLAND

# EXTREME RISK PROTECTIVE ORDER & DOMESTIC VIOLENCE PROTECTIVE 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.



## WHAT IS AN EXTREME RISK PROTECTIVE ORDER?

In Maryland, an Extreme Risk Protective Order (ERPO) is a civil order that temporarily prohibits individuals who pose a danger of injury to self or others from purchasing and possessing firearms and ammunition.

## HOW ARE ERPOS DIFFERENT?

### Petitioners

Family and household members, law enforcement officers, and health professionals may petition for an ERPO.

### Protections

ERPOs offer one type of protection: They prohibit persons at risk of injury to self or others from purchasing or possessing firearms and ammunition for the duration of the order. ERPOs require respondents to turn over firearms and ammunition to law enforcement.

## WHAT IS A DOMESTIC VIOLENCE PROTECTIVE ORDER?

In Maryland, a Domestic Violence Protective Order (DVPO) is a civil order issued by a judge that provides various forms of relief from abuse, including ordering the respondent<sup>A</sup> (the person subject to the order) to refrain from abuse and threatening abuse, prohibiting contact with the person eligible for relief<sup>B</sup>, and awarding temporary child custody.

## HOW ARE PROTECTIVE ORDERS DIFFERENT?

### Petitioners

Family and household members may petition for a DVPO on behalf of a minor or vulnerable adult.

### Protections

A DVPO 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. Temporary DVPOs may include a firearm purchase and possession prohibition; final orders must include a firearm purchase and possession prohibition.



### DIVE DEEPER

In Maryland, ERPOs serve a different purpose than DVPOs. For a more detailed description of the differences, see below.

# EXPLORE THE DIFFERENCES

## ERPO & DVPO COMPARISON CHART

### PETITIONS AND ORDERS

### EXTREME RISK PROTECTION ORDERS

### PROTECTIVE ORDERS

<b>What does an order do?</b>	Temporarily prohibits respondent from purchasing and possessing firearms and ammunition. <sup>1</sup>	The court may order relief, including but not limited to:  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 firearms for the duration of the order. <sup>2</sup>
<b>Is the order criminal or civil?</b>	Civil. <sup>3</sup> If respondent violates the order they may be charged with a crime. <sup>4</sup>	Civil. If the respondent violates the order they may be charged with a crime. <sup>5</sup>
<b>What types of orders are available?</b>	Interim ERPO. Temporary ERPO. Final ERPO.	Interim DVPO. Temporary DVPO. Final DVPO. <sup>6</sup>
<b>Who may petition for an order?</b>	Family or household member <sup>c</sup> ; law enforcement; or health professional. <sup>7 d</sup>	Family or household member <sup>e</sup> ; or person considered a vulnerable adult. <sup>8 f</sup>
<b>May the order be issued against a minor?</b>	Yes.	No. A juvenile peace order obtained through the juvenile court system may be issued against a minor. <sup>9</sup>
<b>Can the order be issued 24/7?</b>	Yes. <sup>10</sup>	Yes. <sup>11</sup>
<b>Which court hears the petition?</b>	District Court. <sup>12</sup>	District Court or Circuit Court. <sup>13</sup>
<b>What is the standard of proof?</b>	Interim Order: reasonable grounds. <sup>14</sup>  Temporary Order: reasonable grounds. <sup>15</sup>  Final Order: clear and convincing evidence. <sup>16</sup>	Interim Order: reasonable grounds. <sup>17</sup>  Temporary Order: reasonable grounds. <sup>18</sup>  Final Order: preponderance of evidence. <sup>19</sup>

<b>What must be proven?</b>	Interim Order: Respondent poses an immediate and present danger of injury to self or others by possessing a firearm. <sup>20</sup>  Temporary Order: Respondent poses an immediate and present danger of injury to self or others by possessing a firearm. <sup>21</sup>  Final Order: Respondent poses a danger of injury to self or others by possessing a firearm. <sup>22</sup>	Interim Order: Respondent has abused a person eligible for relief. <sup>23</sup>  Temporary Order: Respondent has abused a person eligible for relief. <sup>24</sup>  Final Order: Alleged abuse of person eligible for relief actually occurred. <sup>25</sup>
<b>What factors may the court consider?</b>	Unlawful, reckless or negligent use, display, storage, possession, or brandishing of a firearm;  Any act or threat of violence to self or others;  Violation of a peace or protective order;  Any controlled dangerous substance or alcohol misuse. <sup>26</sup>	Abuse of a petitioner by a respondent. "Abuse" is defined to include: <ul style="list-style-type: none"> <li>· An act that causes serious bodily harm;</li> <li>· An act that places a person in fear of imminent serious bodily harm;</li> <li>· Assault;</li> <li>· Rape or sexual offense;</li> <li>· Attempted rape or sexual offense;</li> <li>· Stalking;</li> <li>· False imprisonment;</li> <li>· Revenge porn;</li> <li>· Abuse of a child;</li> <li>· Abuse of a vulnerable adult;<sup>27</sup></li> </ul>
<b>How long is the order in effect?</b>	Interim Order: Until the Temporary Order Hearing or the end of the second business day, whichever is earlier. <sup>28</sup>  Temporary Order: Until the Final Order Hearing, not more than 7 days after service. <sup>29</sup>  Final Order: Up to 1 year. <sup>30</sup>	Interim Order: Until the Temporary Order Hearing or the end of the second business day following the issuance of the order, whichever is earlier. <sup>31</sup>  Temporary Order: Until the Final Order Hearing, not more than 7 days after service. <sup>32</sup>  Final Order: Up to 1 year (up to 2 years for an act of abuse committed within 1 year of the expiration of a prior final order). <sup>33</sup>  Permanent Order: Permanent, unless terminated at the request of the victim of the abuse. <sup>34</sup>
<b>May the order be modified, terminated, or renewed?</b>	The order may be terminated or renewed. <sup>35</sup>	The order may be modified or terminated. <sup>36</sup>
<b>Are court records confidential?</b>	Yes (with a few exceptions). <sup>37</sup>	No (with a few exceptions). <sup>38</sup>

## FIREARM DISPOSSESSION

### EXTREME RISK PROTECTION ORDERS

### PROTECTIVE ORDERS

<b>What firearms must be surrendered?</b>	All firearms and ammunition in the respondent's possession. <sup>39</sup>	All firearms in the respondent's possession for a final order (may be required for a temporary order). <sup>40</sup>
<b>What is the process for firearm dispossession?</b>	The respondent must immediately surrender all firearms and ammunition in their possession to law enforcement serving the order or arrange with the designated law enforcement agency for the immediate surrender of firearms and ammunition. <sup>41</sup>	The respondent must surrender all firearms in their possession to law enforcement for a final order (may be required for a temporary order). <sup>42</sup>
<b>May a warrant to search and seize firearms be issued?</b>	A Circuit Court judge or District Court judge, with probable cause to believe the respondent has not surrendered firearms/ammunition, may issue a search warrant. <sup>43</sup>	A Circuit Court judge or District Court judge, with probable cause to believe a respondent has violated the terms of an order, may issue a search warrant. <sup>44</sup>

# ENDNOTES

- 1 Md. Code Ann. Pub. Safety §§ 5-603(a)(3), 5-604(a)(3), 5-605(c)(3).
  - 2 Md. Code Ann. Fam. Law §§ 4-504.1, 4-505, 4-506.
  - 3 Md. Code Ann. Pub. Safety § 5-601(c).
  - 4 Md. Code Ann. Pub. Safety § 5-609(a).
  - 5 Md. Code Ann. Fam. Law §§ 4-508, 4-509(a).
  - 6 Under certain circumstances an interim, temporary, or final protective order may last indefinitely. See Md. Code Ann. Fam. Law § 4-506(k).
  - 7 Md. Code Ann. Pub. Safety § 5-601(e).
  - 8 Md. Code Ann. Fam. Law § 4-501(m), (o)(2).
  - 9 Maryland Courts, Frequently Asked Questions – Juvenile, <https://www.courts.state.md.us/clerks/calvert/faqsjuvenile>.
  - 10 Md. Code Ann. Pub. Safety § 5-602(b).
  - 11 Md. Code Ann. Fam. Law § 4-504.1(a).
  - 12 Md. Code Ann. Pub. Safety § 5-602(b).
  - 13 Md. Code Ann. Fam. Law § 4-501(f).
  - 14 Md. Code Ann. Pub. Safety § 5-603(a)(1).
  - 15 Md. Code Ann. Pub. Safety § 5-604(a)(1).
  - 16 Md. Code Ann. Pub. Safety § 5-605(c)(1)(i).
  - 17 Md. Code Ann. Fam. Law § 4-504.1(b).
  - 18 Md. Code Ann. Fam. Law § 4-505(a).
  - 19 Md. Code Ann. Fam. Law § 4-506(c)(1)(ii).
  - 20 Md. Code Ann. Pub. Safety § 5-603(a)(1).
  - 21 Md. Code Ann. Pub. Safety § 5-604(a)(1).
  - 22 Md. Code Ann. Pub. Safety § 5-605(c)(1)(ii).
  - 23 Md. Code Ann. Fam. Law § 4-504.1(b).
  - 24 Md. Code Ann. Fam. Law § 4-505(a)(1).
  - 25 Md. Code Ann. Fam. Law § 4-506(c)(1)(ii).
  - 26 Md. Code Ann. Pub. Safety § 5-602(a)(1)(vi).
  - 27 Md. Code Ann. Fam. Law § 4-501(b)(1), 4-504(a).
  - 28 Md. Code Ann. Pub. Safety § 5-603(e)(1).
  - 29 Md. Code Ann. Pub. Safety § 5-604(c)(1).
  - 30 Md. Code Ann. Pub. Safety § 5-605(f)(1).
  - 31 Md. Code Ann. Fam. Law § 4-504.1(h)(1).
  - 32 Md. Code Ann. Fam. Law § 4-505(c).
  - 33 Md. Code Ann. Fam. Law § 4-506(j)(1), (2).
  - 34 Md. Code Ann. Fam. Law § 4-506(k)(3).
  - 35 Md. Code Ann. Pub. Safety § 5-606.
  - 36 Md. Code Ann. Fam. Law § 4-507(a).
  - 37 Md. Code Ann. Pub. Safety § 5-602(c).
  - 38 Md. Code Ann. Fam. Law § 4-512.
  - 39 Md. Code Ann. Pub. Safety §§ 5-603(a)(3)(i), 5-604(a)(3)(i), 5-605(c)(3)(i).
  - 40 Md. Code Ann. Fam. Law § 4-506(f).
  - 41 Maryland Courts, District Court of Maryland, Extreme Risk Protective Orders, <https://mdcourts.gov/district/ERPO#surrender>.
  - 42 Md. Code Ann. Fam. Law § 4-506.1(c).
  - 43 Md. Code Ann. Pub. Safety § 5-607; Md. Code Ann. Crim. Pro. § 1-203(a)(1)(i).
  - 44 Md. Code Ann. Fam. Law § 4-509(a); Md. Code Ann. Crim. Pro. § 1-203(a)(1)(i).
- A A “respondent” is a person subject to an order – ERPO or Order for Protection.
- B A “person eligible for relief” includes: Spouses or former spouses; Persons who reside in the same household; Persons “related to the respondent by blood, marriage, or adoption;” A person who is “a parent, stepparent, child, or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within 1 year before the filing of the petition;” Persons who are considered a “vulnerable adult;” Persons who have a child in common; and Persons who have had a sexual relationship within 1 year before filing the petition. (Md. Code Ann. Fam. Law § 4-501(m))
- C “Family or household member” includes spouse; cohabitant; relative by blood, marriage, or adoption; person with child(ren) in common; current dating or intimate partner; and current or former legal guardian.
- D “Health professional” includes a physician, psychologist, clinical social worker, licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, licensed clinical marriage or family therapist, or health officer or designee of a health officer who has examined the respondent.
- E “Family or household member” includes current or former spouse; intimate partner who has resided with the respondent for at least 90 days within the last year; relative by blood, marriage, adoption; person with child(ren) in common; person who has had a sexual relationship with the respondent within 1 year before filing petition; and parent, step-parent, child, or step-child of a person eligible for relief or the respondent who resides or resided with the person eligible for relief or the respondent for at least 90 days within the last year.
- F A “vulnerable adult” is an adult who lacks the physical or mental capacity to provide for the adult’s daily needs. (Md. Code Ann. Fam. Law § 14-101(q).)

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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 May 2019, six years since the Consortium released its report, 13 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).