

A dark blue map of Virginia is in the background, with white outlines of the state's counties and major water bodies.

Emergency Substantial Risk Orders in Virginia

When a person with access to firearms is making threats or behaving in a manner that creates a risk of harm to self or others, consider filing for an Emergency Substantial Risk Order (ESRO), which is a civil court order that temporarily prohibits a person from possessing or purchasing firearms.

- Law enforcement officers and Commonwealth Attorneys may file an ESRO petition.
- An ESRO will require an individual to temporarily surrender any guns in their possession and prohibit them from purchasing guns.
- It is not required that the individual currently own firearms before an ESRO may be sought or issued.
- Before filing a petition, **law enforcement must conduct an independent investigation** to determine that grounds for the petition exist.

ESROs are a civil process distinct from arrests and prosecutions, mental health commitments, and other civil or criminal restraining orders. An ESRO may be requested on its own or alongside another type of intervention.

ESROs may be an appropriate intervention in the following circumstances:

- Threats of self harm/suicide
- Threats of harm to others, including domestic/family violence
- Threats of mass harm, including school shootings

The court will consider any relevant evidence in determining whether to issue an ESRO including any recent acts of violence, force, or threats by the individual directed toward self or others.

The court will grant an *ex parte* ESRO upon a finding that there is “**probable cause to believe that the person poses a substantial risk of personal injury to himself or others in the near future by such person’s possession or acquisition of a firearm.**”

- An *ex parte* ESRO will last for up to 14 days until a hearing is held. The respondent must be given notice of the hearing.
- An ESRO will advise the respondent that they are prohibited from purchasing, possessing, or transporting a firearm while the order is in effect.
- **When serving an ESRO, law enforcement must give the individual the opportunity to voluntarily surrender any firearms in their possession.**

Following the hearing, the court may issue a longer-term Substantial Risk Order (SRO) for up to 180 days if there is clear and convincing evidence that the person poses a substantial risk of personal injury to self or others in the near future by having access to firearms.

- Law enforcement may request subsequent 180 day extensions of the SRO if there is clear and convincing evidence that the individual continues to pose a substantial risk of personal injury to self or others.

To effectuate safe service of ESROs and relinquishment of firearms:

- Conduct a threat assessment prior to service, including coordinating with the individual’s family/friends when appropriate to identify the safest options for service.
- Clearly explain the terms of the SRO, including what the individual must do to comply and that noncompliance is a crime.
- Provide a receipt for any guns surrendered.

Law enforcement may seek a search warrant if there is reason to believe that the individual has not relinquished all firearms in their possession.