

Extreme Risk Protection Orders in Michigan

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 Extreme Risk Protection Order (ERPO), which is a civil court order that temporarily prohibits a person from possessing or purchasing firearms.

- Law enforcement officers, family and household members, individuals in a dating relationship or who have a child in common, and healthcare providers may file an ERPO petition.
- An ERPO 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 ERPO may be sought or issued.
- An ERPO may be issued for up to one year.

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

ERPOs 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

If there is evidence that an individual can “reasonably be expected within the near future to intentionally or unintentionally seriously physically injure himself, herself, or another individual by possessing a firearm, and has engaged in an act or acts or made significant threats that are substantially supportive or the expectation,” consider filing a petition for an ERPO.

When the petition is filed the court will schedule a hearing and require notice to the respondent.

An officer may also request that an **immediate emergency ERPO** be issued prior to notice being served on the individual if there is also evidence that immediate and irreparable injury will result from the delay required to effectuate service or that notice itself may cause an adverse action.

The court will consider any of the following in determining whether to issue an ERPO:

- History of use, attempted use, or threatened use of physical force
- Evidence of a serious mental illness or serious emotional disturbance
- Previous protection orders issued against the individual and any violations of those orders
- Previous charges or convictions for a misdemeanor violation for assault or assault and battery, stalking, an offense that has assault as an element, an offense that has a threat to person or property as an element, a crime committed against a spouse or intimate partner, an offense involving cruelty to animals, or a serious misdemeanor
- Evidence of recent unlawful use of controlled substances or recent abuse of alcohol
- Previous unlawful possession, use, display, or brandishing of a deadly weapon
- Evidence of an acquisition or attempted acquisition within the previous 180 days of a deadly weapon or ammunition

The court will determine whether firearms must be surrendered immediately or within 24 hours.

To effectuate safe service of ERPOs 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 ERPO, including what the individual must do to comply and that noncompliance is a crime.
- Request that firearms be surrendered in accordance with the terms of the court's order.
- Provide a receipt for any guns surrendered.

Warrants:

If the court orders immediate surrender, officers may file an affidavit requesting an anticipatory search warrant to search the location(s) where the individual's firearms are believed to be and to seize any firearm discovered during the search.

The warrant may only be executed if the individual fails or refuses to immediately comply with the order and surrender firearms.