

Extreme Risk Firearm Protection Orders in New Mexico

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

- Law enforcement officers may file an ERFPO petition.
 - A family member, employer, or school administrator may serve as a “reporting party” and request that law enforcement file an ERFPO petition.
 - An officer may also file an ERFPO petition based on credible information collected while carrying out their official duties.
- An ERFPO will require an individual to temporarily surrender any guns in their possession and prohibit them from purchasing guns.
- An ERFPO may be issued for one year.

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

ERFPOs 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 credible information either from a reporting party or collected by the officer while carrying out their official duties that an individual “poses a significant danger of causing imminent personal injury to self or others” by possessing firearms, consider filing a petition for an ERFPO.

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

An officer may also request that a **temporary ERFPO** be issued immediately without prior notice to the individual if there is probable cause to believe that the individual poses a significant danger of harm to self or others before notice can be served and a hearing held. A temporary order may only last for up to 10 days until the hearing is held.

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

- Any recent act or threat of violence against self or others (regardless of whether the act or threat involved a firearm)
- A pattern of acts or threats of violence within the past twelve months, including acts or threats of violence against self or others
- The individual's mental health history
- Abuse of controlled substances or alcohol
- Previous violations of any court order
- Previous ERFPOs issued against the individual
- The individual's criminal history, including arrests and convictions for violent felony offenses, violent misdemeanor offenses, crimes involving domestic violence or stalking
- History of use, attempted use or threatened use of physical violence against another person; of stalking another person; or of cruelty to animals
- Any recent acquisition or attempts at acquisition of a firearm

A law enforcement officer serving an ERFPO should request that all firearms be immediately surrendered to the officer.

To effectuate safe service of ERFPOs 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 ERFPO, including what the individual must do to comply and that noncompliance is a crime.
- Provide a receipt for any guns surrendered.