



The Hon. Sen. Lisa Baker
Chair, Senate Judiciary Committee
State Capitol
North Office Building, Hearing Room 1
401 North Street
Harrisburg, PA, 17120

September 25, 2019

Re: Senate Judiciary Committee Hearings Regarding Behavioral Health, Second Amendment Rights, and Other Gun-Related Issues.

Dear Chair Baker:

We are grateful for the opportunity to appear before you today on behalf of Everytown for Gun Safety and Moms Demand Action for Gun Sense in America. We are honored to speak on behalf of the thousands of Moms Demand Action volunteers across the Commonwealth of Pennsylvania and to stand alongside our partners in the gun violence prevention movement to urge you to enact policies that will help prevent gun violence in Pennsylvania.

We will focus our remarks before the committee on two evidence-based, common sense policies, Red Flag, or Extreme Risk Protection Order (“ERPO”) laws, and comprehensive background checks. These policies can help save the lives of Pennsylvanians by providing a tool that can help prevent gun violence tragedies before they happen and by ensuring that no firearms, including rifles and shotguns, end up in the wrong hands.

Extreme Risk Laws

On average, gun violence claims the lives of 1,503 Pennsylvanians each year. Of those 1,503 gun deaths, 943 are firearm suicides. Firearm suicides account for 63% of gun deaths in Pennsylvania, whereas firearm homicides account for 36% of gun deaths in the Commonwealth. On average, every 9 hours, someone in Pennsylvania will die by firearm suicide. While cities like Philadelphia struggle with the toll of

daily gun violence, rural communities are being devastated by firearm suicide. Across the state, Elk County has the highest rate of firearm suicide, followed by Wayne, Susquehanna, Schuylkill and Clarion counties.

Under current Pennsylvania law, a person is only prohibited from possessing firearms if they fall into one of several categories, such as those who have been convicted of certain crimes, adjudicated as mentally ill or involuntarily committed to admission for psychiatric treatment, or who are subject to a contested final domestic restraining order. Federal law contains substantially similar prohibitions. A person who displays warning signs that they are considering suicide or committing a violent act, but is not prohibited under current law, is still able to legally purchase and possess guns. ERPO laws help to fill this gap and protect public safety by temporarily restricting firearm access by those who pose a serious risk of harming themselves or others.

Extreme Risk laws empower family and household members and law enforcement officers -- the people who are most likely to observe warning signs of danger-- to intervene in order to temporarily prevent someone in crisis from accessing firearms. These laws can help de-escalate emergency situations and are a proven way to intercede and avert gun violence tragedies, such as firearm suicide and mass shootings.

Following the February 2018 mass shooting in Parkland, Florida, both students and teachers reported that the shooter had displayed threatening behavior in the months leading up to that tragedy, his mother contacted law enforcement on multiple occasions regarding his behavior, and he was known to possess firearms. In response to that tragedy, Florida passed its own Extreme Risk law. Since its passage, the Florida law has been invoked numerous times in cases of potential school violence. Some examples of these successful interventions include a student who was accused of stalking an ex-girlfriend, and also threatened to kill himself, and another potential school shooter who said that killing people would be "addicting."

California's Red Flag law was similarly born out of a tragedy that might have been prevented had the law already been in place. Prior to the 2014 shooting in Isla Vista, California, the shooter displayed numerous warning signs, including homicidal and suicidal threats. His parents similarly tried to get him help, and also alerted law enforcement about their concerns. Because the shooter did not meet the

criteria for emergency mental health commitment, he was able to keep his guns, which were used in the killing spree three-weeks later.

California passed an Extreme Risk law in the wake of that tragedy, which created a Gun Violence Restraining Order (“GVRO”). Since the law’s passage, the GVRO process has been effectively utilized several times. For example, a car-dealership employee threatened to shoot his supervisor and other employees if he was fired. Consequently, a manager at the dealership informed the police, and a GVRO was obtained the following day. In addition to that example, a new study in California details 21 cases where GVROs were obtained in an effort to prevent mass shootings. In more than 20 cases closely analyzed in the study, it was found that no mass shootings, homicides or suicides were committed by those who were subject to the GVRO.¹

In addition to ensuring public safety and affording opportunities for people in crisis to seek help, Extreme Risk laws provide robust due process protections to safeguard the rights of all parties involved.² Only limited groups of people, with direct knowledge of the circumstances of the person in crisis, may request an Extreme Risk order from a court. In many states, the only individuals who may request the order are law enforcement or family and/or household members. A limited group of petitioners makes certain that only people who are very close to the person at risk of harming themselves or others, or law enforcement officers, who are trained to identify and respond to such risks, can make such requests. No matter which entity or individual makes the request, the petitioner is required to present relevant, reliable and sworn evidence for the court to consider in making its determination. Existing Extreme Risk laws provide criminal penalties for those who knowingly file false petitions or maliciously seek an ERPO with the intent to harass the respondent.

In situations where there is imminent danger, a temporary order can be issued before a full hearing is held. These orders can only be issued in cases where the petitioner presents sufficient evidence demonstrating that the individual poses an immediate risk of harm to themselves or others. In such cases, the temporary order goes into effect immediately, prohibiting the respondent from purchasing and

¹ See Wintemute, G, “*Extreme Risk Protection Orders Intended to Prevent Mass Shootings: A Case Series*,” *Annals of Internal Medicine*, August 2019, available at: <https://annals.org/aim/fullarticle/2748711/extreme-risk-protection-orders-intended-prevent-mass-shootings-case-series>.

² Attached to this testimony is a summary of the various due process protections contained in two Extreme Risk laws currently before the General Assembly (Senate Bill 90 and House Bill 1075).

possessing firearms and requiring them to temporarily relinquish any firearms already in their possession. These orders typically remain in effect for a few days or weeks. A final order, which generally lasts up to a year, can only be issued after a full hearing is held, at which all parties have a right to be present and to present evidence. During this temporary order period, the court must give the respondent notice of the order and firearm prohibitions, and also inform the respondent of the scheduled date of the hearing.

During the full hearing, the petitioner has the burden of providing clear and convincing evidence that the respondent poses a significant danger of harming themselves or others with firearms. The respondent has the opportunity to be heard by the court and rebut any evidence presented, though he or she is not required to offer any evidence. The United States Supreme Court has recognized, in multiple contexts, that this process – a pre-hearing deprivation followed by a full hearing within a reasonable time frame – satisfies the due process of law required by our Constitution. Following the framework established by the Supreme Court, multiple federal and state courts have issued rulings that strongly suggest they would uphold an Extreme Risk law if challenged in court on due process grounds.

The court must evaluate all the relevant evidence in order to determine whether the circumstances necessitate the issuance of an ERPO. The court will consider multiple factors before issuing an order and temporarily restricting the respondent's access to firearms. No single factor will automatically be determinative. Rather, the critical focus of the court is whether the weight of all the relevant evidence supports a finding that the respondent presents a risk of harming themselves or others. The factors for the court's consideration are guideposts, intended to ensure a robust and fair inquiry, but no single factor is necessarily dispositive of the ultimate decision of whether an ERPO should be issued. Further, many Extreme Risk laws contain provisions which make certain that the subject of the Extreme Risk order is provided with a written decision as to how the court came to its ruling. Additionally, the subject of the Extreme Risk order is offered the opportunity to appeal the court's decision or to return to court during the term of the order to request that it be vacated, if they can present new evidence demonstrating that they no longer present a risk of harming themselves or others.

Once an ERPO has expired, all firearm prohibitions associated with the order likewise end. After the order expires, the formerly restrained person may again purchase and possess firearms, as long as they are not otherwise legally prohibited from doing so. Extreme Risk laws provide for a process which allows the subjects of expired or terminated orders to reclaim possession of any firearms they

relinquished while the order was in effect. ERPOs are civil court orders, and the issuance of an ERPO does not give the person subject to the order a criminal record (though those who violate orders are subject to criminal prosecution).

National and state databases like NICS and PICS are vitally important tools that exist to make certain that law enforcement officers and licensed firearm dealers are able to identify individuals who are currently prohibited from purchasing or possessing firearms. Red Flag laws require ERPO records to be promptly and accurately reported into all relevant databases in order to make sure that the order's prohibitions can be duly enforced across the state and across the country. Conversely, when orders expire or are terminated, they must be removed from all relevant databases.

Temporarily prohibiting people in crisis from accessing firearms can prevent gun violence tragedies before they happen. In 2018 alone, eight states passed ERPO laws, more than doubling the number of laws nationally. As of September of 2019, 17 states and DC now have Extreme Risk laws on the books. The rapid growth of this policy--which has been passed with bipartisan support and signed into law by both Republican and Democratic governors--illustrates the broad recognition that this policy can save lives. Indeed, a wide range of stakeholders from across Pennsylvania have expressed their support for a strong Extreme Risk law. A list of those stakeholders is attached to this testimony. Attached to this testimony you will also find Everytown's latest fact sheet on Extreme Risk laws, which provides further detail and information on this life-saving policy. We urge you to pass a strong Extreme Risk law and give the people of Pennsylvania a valuable new tool to help prevent gun violence across the Commonwealth.

Comprehensive Background Checks

We also urge you to enact another commonsense policy, comprehensive background checks. Due to a gap in state law, prohibited purchasers can legally purchase rifles and shotguns by buying them from unlicensed sellers, including sellers they find online or at gun shows, with no background check and no questions asked. In 2018, there were 18,669 posts on the online firearms marketplace Armslist.com for firearm sales in Pennsylvania where no background check was required.

Under current Pennsylvania law, background checks are required for all handgun sales, including unlicensed sales. The Pennsylvania legislature has already demonstrated that, with respect to handguns, it agrees with what the research shows--that background checks are associated with reduced rates of firearm homicide, suicide and firearm trafficking, and are the backbone of any comprehensive gun violence prevention policy. It is time to extend Pennsylvania's private sale background check requirement to all firearm sales.

As the recent mass shooting in Odessa tragically illustrated, it remains far too easy for prohibited purchasers to obtain deadly firearms without a background check. A private sale loophole enabled the Odessa shooter--who would have failed a background check if buying a firearm from a license dealer--to obtain the weapon he used to kill at least 7 people and injure 25 others, including 3 police officers. In order to ensure that firearms do not end up in the hands of prohibited purchasers, background checks must be required for all firearm sales.

We thank you and the committee for your time and consideration and for doing all you can to combat the epidemic of gun violence in Pennsylvania. To that end, we urge you to support the passage of these life-saving policies here in the Keystone State.

Sincerely,

Marybeth Christiansen
Pennsylvania Chapter Leader
Moms Demand Action for Gun Sense in America

Kaegan Mays-Williams
Counsel, Everytown for Gun Safety

Stakeholder Support for Pennsylvania ERPO Bills

Pennsylvania Psychiatric Society
Pennsylvania Medical Society
American Association for the Surgery of Trauma
Eastern Association for the Surgery of Trauma
National Alliance on Mental Illness (NAMI), Main Line
Coalition for the CommonHealth**
Coalition of Trauma Centers for Firearm Injury Prevention
Hospital Association of Pennsylvania
Pennsylvania Psychological Association
Children's Hospital of Philadelphia
ActionTank
Pennsylvania Fraternal Order of Police
Pennsylvania District Attorney's Association
Pennsylvania Professional Firefighter Association
Moms Demand Action for Gun Sense in America
Everytown for Gun Safety
CeasefirePA
Giffords

**The coalition includes the following members: PA Psychiatric Leadership Council, PA Association of Community Health Centers, National Assoc of Social Workers-PA, PA Academy of Family Physicians, PA Peer Support Coalition, County Commissions Assoc. of PA, PA Health Funders Collaborative, Hospital and Healthcare Assoc. of PA, Rehab and Community Providers Assoc., PA Psychiatric Society, PA Chapter, American Academy of Pediatrics, PA Assoc. for Behavioral Health, PA Psychological Assoc., PA State Nurses Assoc., PA Dental Assoc., International Pediatric Rehab Collaborative, University of Pittsburgh, Health Policy Institute, Drexel University, Center for Family Intervention Science, Thomas Jefferson University, Temple University Health System, Family Training and Advocacy Coalition, Youth Move of PA, NAMI Keystone

PENNSYLVANIA ERPO BILLS' DUE PROCESS PROTECTIONS

The current drafts of two bills that would create an ERPO process for Pennsylvania--SB 90 and HB 1075--include numerous due process safeguards, including:

- limiting those who may request an ERPO to parents; children; current or former spouses, intimate partners or those with whom one lived as a spouse; those with whom one had a child, a relative by blood, marriage or adoption; and law enforcement;
- permitting an ex parte, interim ERPO only following a judicial determination that (1) there is an **imminent** risk of suicide or death or serious bodily injury to another **and** (2) there are **no** other circumstances that make it safe to wait and conduct a full hearing before issuing an ERPO. In cases where an interim order is issued, a full hearing — at which all parties have an opportunity to appear and to be heard — must be held within 10 days. **The United States Supreme Court has recognized, in multiple contexts, that this process — a pre-hearing deprivation followed by a full hearing within a reasonable time frame — satisfies the due process of law required by our Constitution;**¹
- requiring that the subject of the ERPO receive a copy of the petition so they are aware of the facts alleged in support of the request for an ERPO;
- guaranteeing a full hearing on the ERPO petition at which all parties may be present and present evidence.
- providing an attorney for the respondent to an ERPO petition if he or she cannot afford an attorney;
- permitting a continuance of the ERPO hearing to give the respondent sufficient time to prepare;
- guaranteeing the right to appear at a hearing to challenge the ERPO petition and to present any relevant evidence against issuing an ERPO;
- requiring that the Court issue an ERPO following a hearing only if the petitioner has met their burden of presenting “clear and convincing evidence” that the respondent poses a risk of harming themselves or others;
- requiring that the Court consider the recency of the facts alleged in the ERPO petition;
- identifying specific factors that the Court must consider before issuing an ERPO;
- requiring that the Court consider whether firearm possession is a condition of the subject’s job;
- entitling any person made subject to an ERPO to an early termination hearing, at which they can present evidence as to why they no longer pose a risk to themselves or others;
- limiting the length of an ERPO to 12 months;
- including both criminal and civil penalties for petitioners who make false statements in an ERPO petition, or who file a petition with an intent to harass the subject;
- requiring that firearms be returned no later than 24 hours after the ERPO expires, provided the respondent is not otherwise prohibited by law from possessing them; and
- creating only *temporary* restrictions on a restrained person’s firearms rights. Unlike felony convictions and involuntary mental health commitments, no ERPO results in *permanent* firearm ban. The prohibitions remain in effect only as long as the ERPO does.

¹ See *Matthews v. Eldrige*, 96 S. Ct. 893 (1976). See also: *Mackey v. Montrym*, 443 U.S. 1 (1979); *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 434, 436 (1982).

EXTREME RISK LAWS SAVE LIVES

When a person is in crisis and considering harming themselves or others, family members and law enforcement are often the first people to see the warning signs. Extreme Risk laws, sometimes referred to as “Red Flag” laws, empower loved ones or law enforcement to intervene in order to temporarily prevent someone in crisis from accessing firearms. These laws can help de-escalate emergency situations and are a proven way to intervene before gun violence such as a firearm suicide or mass shooting takes more American lives. States around the country are increasingly turning to Extreme Risk laws as a common-sense way to help reduce gun violence.

INTRODUCTION

In many instances of gun violence, there were clear warning signs that the shooter posed a serious threat before the shooting. Extreme Risk laws give key members of the community a way to intervene before warning signs escalate into tragedies. These laws permit immediate family members and law enforcement to petition a court for an order, often known as an extreme risk protection order (ERPO),¹ to temporarily remove guns from dangerous situations. Following due process in court, if it is found that a person poses a serious risk of injuring themselves or others with a firearm, that person is temporarily prohibited from purchasing and possessing guns; guns they already own are held by law enforcement or another authorized party while the time-limited order is in effect.

Under current federal law, a person is barred from having guns only if they fall into one of several categories of prohibited persons—such as those who have been convicted of certain crimes, adjudicated as mentally ill or involuntarily committed to a psychiatric hospital, or who are subject to a final domestic violence restraining order.² A person who displays warning signs that they’re considering suicide or engaging in a violent act, but who is not prohibited under current law, would still be legally able to buy and possess guns. Extreme Risk laws help to fill this gap, protecting public safety and allowing people in crisis the chance to obtain the help they need.

Following the school shooting in Parkland, lawmakers across the country have sought to close this gap in their states. Since the beginning of 2018, 12 states and Washington DC have passed Extreme Risk laws, bringing the total number of states with these laws to 17. Despite these laws being relatively new, a thorough Everytown analysis of Extreme Risk orders found that at least **3,900 order petitions were filed between January 2018 and August 2019.**³ These laws are being used all across the states where they are present; extreme risk protection order petitions have been filed in nearly three-quarters of all counties.⁴ Further, data collected from the states with more than two full years of reporting (California, Connecticut, and Washington), shows that the uptake is increasing over time; in California, for example, the number of order petitions increased by over 330 percent between 2016 and 2018.⁵

SEVENTEEN STATES AND DC HAVE ENACTED EXTREME RISK LAWS.⁶

CALIFORNIA
COLORADO
CONNECTICUT
DELAWARE
DC
FLORIDA
HAWAII
ILLINOIS
INDIANA
MARYLAND
MASSACHUSETTS
NEVADA
NEW JERSEY
NEW YORK
OREGON
RHODE ISLAND
VERMONT
AND WASHINGTON

EXTREME RISK ORDER PETITIONS FILED BY STATE AND YEAR

State (Year law went into effect)	Pre-2016 (Cumulative)	2016	2017	2018	2019 ⁷	Total Extreme Risk Order Petitions Filed (All Years)	Counties Reporting at Least One Extreme Risk Order Petition Filed (%), 2018-2019
California (2016)		76	99	331	Unavailable	506	66%
Connecticut (1999)	1221	161	178	268	119	1947	Unavailable
Delaware (2018) ⁸					36	36	Unavailable
Florida (2018)				1169	896	2065	87%
Maryland (2018)				303	412	715	92%
Massachusetts (2018)				10	10	20	Unavailable
Oregon (2018)				74	49	123	58%
Rhode Island (2018)				10	11	21	80%
Vermont (2018)				18	9	27	71%
Washington (2016) ⁹			38	120	72	230	62%
Total	1221	237	315	2303	1614	5690	72%

KEY FINDINGS

Evidence shows that temporarily removing guns from people in crisis can reduce the risk of firearm suicide.

Firearm suicide is a significant public health crisis in the US.¹⁰ Every year, over 22,000 Americans die by firearm suicide, including over 1,000 children and teens.¹¹ Nearly two-thirds of all gun deaths in the US are suicides, an average of 61 deaths a day.¹²

A review and analysis of 14 scientific studies combined revealed that having access to a firearm triples one's risk of death by suicide. This elevated risk applies not only to the gun owner but also to everyone in the household.¹³

Among commonly used methods of self-harm, firearms are by far the most lethal, with a fatality rate of approximately 85 percent.¹⁴ Conversely, less than 5 percent of people who attempt suicide using other methods die,¹⁵ and the vast majority of all those who survive do not go on to die by suicide.¹⁶

EXTREME RISK LAWS HAVE BEEN SHOWN TO REDUCE FIREARM SUICIDES.

CONNECTICUT SAW A 14% REDUCTION IN THE FIREARM SUICIDE RATE

INDIANA SAW A 7.5% REDUCTION IN THE FIREARM SUICIDE RATE

Following **Connecticut's** increased enforcement of its Extreme Risk law,¹⁷ one study found the law to be associated with a 14 percent reduction in the state's firearm suicide rate.¹⁸ While it is always hard to measure events that "didn't happen," an important study in Connecticut found that one suicide was averted for approximately every 11 gun removals carried out under the law.¹⁹

In **Indiana**, in the 10 years after the state passed its Extreme Risk law in 2005,²⁰ the state's firearm suicide rate decreased by 7.5 percent.²¹ Like Connecticut, another study estimated that Indiana's Extreme Risk law averted one suicide for approximately every 10 gun removals.²²

Perpetrators of mass shootings and school shootings often display warning signs before committing violent acts.

An Everytown original analysis of mass shootings from 2009 to 2017 revealed that in 51 percent of incidents the shooter exhibited warning signs that they posed a risk to themselves or others before the shooting.²³ These warning signs are even more apparent among perpetrators of school violence.²⁴ The United States Secret Service and the United States Department of Education studied targeted school violence incidents and found behavioral warning signs that caused others to be concerned in 93 percent of cases. They also found that in 81 percent of incidents, other people, most often the shooter's peers, had some type of knowledge about the shooter's plans.²⁵

For example, students and teachers reported that the mass shooter in the February 2018 **Parkland, FL**, tragedy displayed threatening behavior. His mother had contacted law enforcement on multiple occasions regarding his behavior, and he was known to possess firearms.²⁶ In response to that tragedy, Florida passed its own Extreme Risk law.²⁷

Likewise, the shooter in the May 2014 **Isla Vista, CA**, shooting displayed numerous warning signs, including homicidal and suicidal threats. His parents had alerted law enforcement, but he did not meet the criteria for emergency mental health commitment.²⁸ As a result, he kept his guns, which he used in the killing spree three weeks later. In response to that tragic shooting, California passed its own Extreme Risk law.²⁹

Interventions in states with Extreme Risk laws have already prevented potential tragedies.

A new study in **California** details 21 cases in which a Gun Violence Restraining Order, California's name for an Extreme Risk order, was used in efforts to prevent mass shootings. This includes the case of a car-dealership employee who threatened to shoot his supervisor and other employees if he was fired.³⁰ A manager at the dealership informed the police and a GVRO was obtained the following day.³¹ Five firearms were recovered through the order.³²

In **Maryland**, a 2018 Extreme Risk law has been invoked in at least four cases involving "significant threats" against schools, according to the leaders of the Maryland Sheriffs' Association.³³

In **Florida**, an Extreme Risk law passed in 2018 has been invoked in multiple cases of potential school violence, including in the case of a student who was accused of stalking an ex-girlfriend and threatening to kill himself,³⁴ and in another in which a potential school shooter said killing people would be "addicting."³⁵

In **Seattle**, a coalition of city and county officials³⁶ launched a regional firearms enforcement unit that supports, tracks, and enforces all firearm surrender orders issued within the county. In the unit's first year, it recovered 200 firearms as a result of 48 ERPOs. According to the City Attorney's Office, the use of ERPOs has been effective in temporarily preventing access to firearms by students who threatened violence against themselves, the school, and other students.³⁷

IN 51% OF MASS SHOOTINGS, THE SHOOTER EXHIBITED DANGEROUS WARNING SIGNS BEFORE THE SHOOTING.

EXTREME RISK LAWS HAVE ROBUST DUE-PROCESS PROTECTIONS.

Extreme Risk laws are designed to defuse dangerous situations while also providing due process and a system of checks and balances. In each state with an Extreme Risk law, only limited groups of people may request an ERPO; for example, states typically limit petitioners to law enforcement officers and family or household members. These limitations mean that only people who are very close to the person at risk of harming themselves or others, or who are trained to identify and respond to such risks, can bring these cases. Many of these laws also include other strong provisions that deter people from misusing the ERPO process.

Law enforcement agencies may also complete internal review processes before filing an application. In **Florida**, for example, the Broward County Sheriff's Office has instituted a review process for all petitions so that when a Broward County sheriff's deputy identifies a case as requiring an ERPO, it must be approved by their superiors and then reviewed by attorneys before the case can be filed in court.³⁸

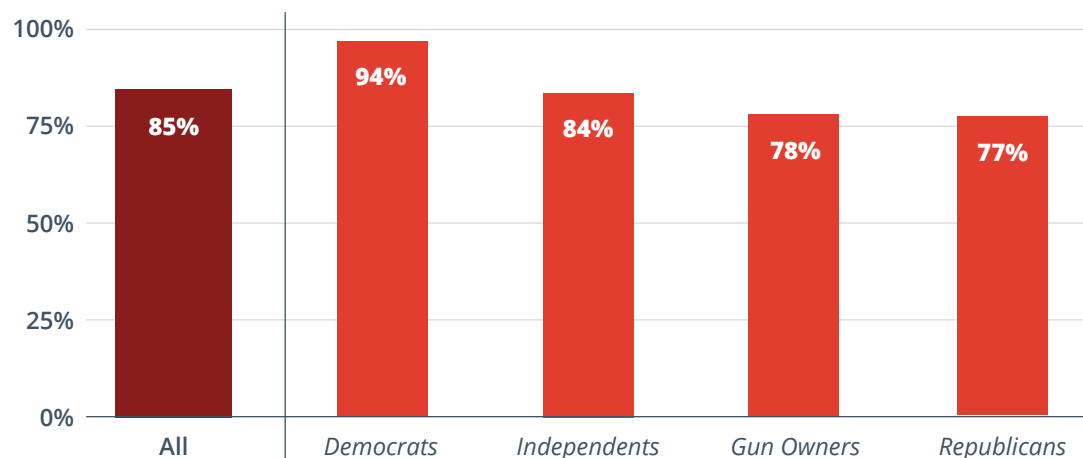
The final ERPO, generally lasting up to one year, can be issued only following a hearing of which the person is given notice and during which they have an opportunity to be heard and respond to evidence. When an ERPO case is filed in court, the petitioner requesting the ERPO must present evidence to a judge demonstrating that the person poses a significant danger of harming themselves or others with a firearm. That person then has the opportunity to respond to any evidence presented, and present their own evidence. Many states' laws include penalties for presenting false evidence. State laws typically specify the types of evidence that a judge is permitted to consider in an ERPO case, such as recent acts and threats of violence or recent unlawful or reckless use of a firearm.

In a crisis situation where there is clear evidence that someone poses an immediate risk, a judge can issue an emergency ERPO that immediately suspends firearms access until a full hearing can be held, usually within 7 to 21 days. The United States Supreme Court has recognized, in multiple contexts, that this process—a pre-hearing deprivation followed by a full hearing within a reasonable time frame—satisfies the due process of law required by our Constitution. Following the framework established by the Supreme Court, multiple federal and state courts have issued rulings that strongly suggest they would uphold Extreme Risk law if challenged in court on due process grounds.

A case in **Washington illustrates the due process provided under these laws.** Law enforcement filed a petition for an ERPO after a man who recently fired a gun in a public place called 911, threatened to "start shooting," then attempted to draw a gun when police arrived. Before filing the request for an ERPO, the law enforcement officers interviewed the man's family members and people who witnessed the incidents. The court granted an emergency ERPO and the man was able to attend a court hearing 14 days later, where he was represented by an attorney and agreed to extend the ERPO for two months pending further evaluation of his case.³⁹

An overwhelming majority of Americans favor Extreme Risk laws.

In a recent survey of 2,500 likely voters, 85 percent of respondents favored Congress passing an Extreme Risk law, as well as 78 percent of gun owners.⁴⁰



Source: Global Strategy Group, September 2019

CONCLUSION

The emerging body of research shows that Extreme Risk laws work to prevent firearm suicide, and they can also help prevent would-be mass shooters from committing violence. An overwhelming majority of Americans on both sides of the aisle support Extreme Risk laws. In a recent survey, 85 percent of likely voters favored Congress passing an Extreme Risk law (see graphic).

If you or someone you know is in crisis, please contact the National Suicide Prevention Lifeline, a national network of local crisis centers that provides free and confidential emotional support to people in suicidal crisis or emotional distress 24/7. **1-800-273-TALK (8255) [suicidepreventionlifeline.org](https://www.suicidepreventionlifeline.org)**

You may also contact the Crisis Text Line, which provides trained crisis counseling services over text 24/7. Text **HOME** to **741741** for free from anywhere in the US **[crisistextline.org](https://www.crisistextline.org)**.

SEE APPENDIX A: EXTREME RISK STORIES

See appendix below of stories that illustrate the importance of Extreme Risk legislation in removing firearms from dangerous situations.

SEE APPENDIX B: EXTREME RISK LAWS BY STATE

See appendix below of the various permutations of Extreme Risk laws and procedures by state.

1. These orders are sometimes also known as gun violence restraining orders (GVROs).
2. 18 U.S.C. § 922(d), (g).
3. Analysis includes all available data from the ten states with Extreme Risk laws in effect as of January 2019 (California, Connecticut, Delaware, Florida, Maryland, Massachusetts, Oregon, Rhode Island, Vermont, and Washington). Data was collected from state agencies through public records requests. When public records were not available, data was obtained from advocacy organizations, researchers, and/or media sources. No data from Indiana and Illinois was available at the time of collection and data from California was unavailable for 2019. Where possible, the analysis includes only temporary and emergency orders and excludes final orders.
4. Analysis includes all years of data from the seven states (California, Florida, Maryland, Oregon, Rhode Island, Vermont, and Washington) where county-level reporting was available.
5. Analysis includes data from the three states (California, Connecticut, and Washington) where more than two full years of data was available. In California, where full years of data were available in 2016, 2017, and 2018, the number of order petitions filed increased from 76 in 2016 to 331 in 2018.
6. Cal. Penal Code § 18100, et. seq.; CRS § 13-14.5-101, et seq.; Conn. Gen. Stat. § 29-38c; 10 Del. C. § 7701, et seq.; DC Code § 7-2510.01, et seq.; Fla. Stat. § 790.401; Hawaii Senate Bill 1466 (2019); 430 ILCS § 67/1, et seq.; Ind. Code § 35-47-14-1, et. seq.; Md. Public Safety Code § 5-601, et seq.; Mass. Gen. Laws ch. 140, §§ 121, 129B(C), 131(C), 131R-Z; Nevada Assembly Bill 291 (2019); NY CLS CPLR § 6340, et seq.; N.J. Stat. § 2C:58-20, et seq.; ORS § 166.525, et seq.; RI Gen. Laws 8-8.3-1, et seq.; 13 VSA 4051, et seq.; ARCW § 7.94.010, et seq.
7. Due to the date of publication, the table represents approximately half a year of data in 2019: January through June or July, depending on the state's reporting schedule.
8. Data is not available for the first year because the law went into effect in December 2018.
9. Data is not available for the first year because the law went into effect in December of 2016. Data is limited to Superior Court filings and does not include orders reported in lower courts at this time.
10. For more information on firearm suicide, see: everytownresearch.org/disrupting-access.
11. Centers for Disease Control and Prevention. National Center for Injury Prevention and Control, Web-based Injury Statistics Query and Reporting System (WISQARS) Fatal Injury Reports. A yearly average was developed using five years of most recent available data: 2013 to 2017. Children and teens are defined as ages 0 to 19.
12. Ibid. Firearm suicide to total suicide ratio and daily average developed using five years of most recent available data: 2013 to 2017.
13. Anglemyer A, Horvath T, Rutherford G. The accessibility of firearms and risk for suicide and homicide victimization among household members: a systematic review and meta-analysis. *Annals of Internal Medicine*. 2014; 160: 101-110.
14. Miller M, Azrael D, Barber C. Suicide mortality in the United States: the importance of attending to method in understanding population-level disparities in the burden of suicide. *Annual Review of Public Health*. 2012; 33: 393-408.
15. Miller M, Azrael D, Barber C. Suicide mortality in the United States: the importance of attending to method in understanding population-level disparities in the burden of suicide. *Annual Review of Public Health*. 2012; 33: 393-408.
16. Owens D, Horrocks J, House A. Fatal and non-fatal repetition of self-harm: systematic review. *British Journal of Psychiatry*. 2002; 181: 193-199.
17. Conn. Gen. Stat. § 29-38c.
18. Kivisto AJ, Phalen PL. Effects of risk-based firearm seizure laws in Connecticut and Indiana on suicide rates, 1981-2015. *Psychiatric Services*. 2018; 69(8): 855-862.
19. Swanson JW, Norko M, Lin H, et al. Implementation and effectiveness of Connecticut's risk-based gun removal law: does it prevent suicides? *Law and Contemporary Problems*. 2017; 80: 179-208.
20. Ind. Code § 35-47-14-1, et seq.
21. Kivisto AJ, Phalen PL. Effects of risk-based firearm seizure laws in Connecticut and Indiana on suicide rates, 1981-2015. *Psychiatric Services*. 2018; 69(8): 855-862.
22. Swanson JW, Easter MM, Alanis Hirsch K, et al. Criminal justice and suicide outcomes with Indiana's risk-based gun seizure law. *Journal of the American Academy of Psychiatry and the Law*. 2019 Apr 15. pii: JAAPL.003835-19.
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APPENDIX A: EXTREME RISK LAW STORIES

The following stories provide a few illustrations of Extreme Risk laws—sometimes referred to as “Red Flag” laws or gun violence restraining orders (GVROs)—being used to temporarily remove firearms from dangerous situations. When a person is in crisis and considering harming themselves or others, family members and law enforcement are often the first people to see the warning signs. These laws are designed to provide a tool to defuse dangerous situations while also providing due process and a system of checks and balances.

The stories are presented by intent and by timing, including both month and year, when known. Everytown compiled these stories from media reports and publicly available databases. While they do not cover every case where an order was issued under an Extreme Risk law, these stories provide important examples of the vital role of Extreme Risk laws in preventing people in crisis from accessing firearms.

Learn more about Extreme Risk laws at <https://everytownresearch.org/extreme-risk-laws/>

DANGER OF HARMING OTHERS

JULY 2016 • CAMPBELL, CA

A woman contacted the Campbell Police Department after her husband sent her a threatening text referencing a recent sniper attack in Dallas, TX, then loaded his guns into his car and departed. After an order was issued, police removed seven weapons, including a scoped rifle, from the man’s place of work.¹

MAY 2018 • BROWARD COUNTY, FL

Courthouse employees grew concerned after a Broward County bailiff simulated shooting people from the fifth-floor atrium, calling them “easy prey.” A judge ordered 67 firearms, including an AR-15, to be removed from the bailiff’s home for a year following a hearing.²

2018 • PENDLETON, OR

After a man was fired from his job, police reported that he was planning to return to his previous place of work to shoot his boss. His sister confronted him outside of his home, at which point he threatened to kill her as well if she did not let him leave. The confrontation resulted in the man not leaving and hiding his gun in a storage shed. A judge issued an order to have the firearms removed.³

2018 • MIAMI-DADE, FL

In Miami-Dade, a man frequently used a gun to threaten his mother, and had said that “the boy did a good job,” referring to the school shooting at Marjory Stoneman Douglas High School. He was previously convicted of using a firearm under the influence and had been taken to a mental health facility in the past. Miami-Dade Police obtained an order for the 29-year-old man who began shooting a gun inside and outside his house and removed two assault rifles, two handguns, and ammunition.⁴

2018 • SAN DIEGO, CA

A 79-year-old man allegedly shot a city worker and was placed in custody. Police were concerned about the man having access to firearms if he were to be released out on bail and they requested and received an order. Police removed an AR-15 with a 200-round drum magazine, 34 other rifles, and 21 handguns.⁵

2018 • MONROE, WA

A man posted a stream of hateful comments online about killing Jews in a synagogue and kids in a school. In one post, he reportedly wrote that he was "shooting for 30 Jews," and in another posted about replicating the actions of the white supremacist who killed nine people at the Emanuel AME Church in Charleston, SC. The Snohomish County Sheriff's office was granted an order and 12 guns were removed. The man was then sentenced to one year in prison after pleading guilty to two counts of threats to bomb or injure property.⁶

2018 • SAN DIEGO, CA

Employees at a car sales lot became concerned after their coworker allegedly praised the perpetrator of the Route 91 Festival shooting in Las Vegas and said he thought about committing a similar act at a church or synagogue. The man also told his coworkers he would kill them all if he were ever fired. Police requested an order, which was granted, allowing them to remove the man's two handguns, two shotguns, and an AR-15.⁷

c. 2016-2018 • CALIFORNIA

A 24-year-old man threatened to shoot or bomb the employees of the family business, his family, and himself the following day. He reportedly made these types of threats previously. The man's uncle reported this incident to the police and his mother petitioned for an order three days later. A temporary ex-parte order was granted and 26 firearms, including two assault-style rifles and 18 semiautomatic pistols were relinquished. A one-year order was subsequently issued after a hearing.⁸

c. 2016-2018 • CALIFORNIA

The California Department of Justice was warned about a 21-year-old man who, after he was terminated, threatened to shoot coworkers. It was discovered that he recently purchased a shotgun, but due to California's 10-day waiting period, the sale had not yet been completed. A temporary order was granted which ultimately blocked the sale and police found 400 rounds of shotgun ammunition in his home. The man contested the order, but a judge determined a final one-year order should be issued.⁹

2019 • EVANSVILLE, IN

A family member contacted police saying that a man was in possession of multiple firearms and made numerous comments about getting into a confrontation with law enforcement at his home. The next day, the same man called police saying he had tied up his wife and was holding her at gunpoint. He gave the dispatcher specific instructions for law enforcement and if those instructions were not followed, he said "it would result in a bloodbath." Police were able to verify his wife's safety and then safely detain the man. Police later utilized the law, at family members request, to remove 10 firearms, including multiple shotguns and rifles, as well as more than 200 rounds of ammunition.¹⁰

DANGER OF GUNFIRE IN SCHOOLS**MAY 2018 • OSCEOLA COUNTY, FL**

A janitor threatened to bring a gun to school, and was reported to police by a teacher at Parkway Middle School. He told the teacher his only regret would be that his targets would "run for their lives before [he] could get to them." After an order was issued, deputies removed a handgun from the man.¹¹

MAY 2018 • ESCAMBIA COUNTY, FL

A high school student was stalking his ex-girlfriend after she broke up with him. At one point he attempted to punch a boy who was with her. The student also threatened to post private photos of the girl on social media, said he would kill himself if she didn't get back together with him, and posted photos of an AR-15 online. Two resource officers submitted affidavits for a petition against him and all the firearms were removed from his home.¹²

2018 • MIDDLEBURY, VT

Two students at Middlebury Union Middle School were planning to shoot another student on campus and "anyone else." Another student overheard this conversation and notified the school principal who then called the police. One of the students was planning to get the guns from a relative. Prosecutors obtained an order and removed 10 weapons, mainly handguns and hunting rifles, from the relative's home.¹³

2018 • PORTLAND, OR

A judge granted a petition for a man who posed for photos with a semi-automatic rifle and had spoken openly about planning a school shooting.¹⁴

c. 2016-2018 • CALIFORNIA

A 21-year-old man posted statements online threatening his former high school. Two different acquaintances reported these posts to police, with one person reporting a post that appeared to show the man holding an AR-type rifle. The school was closed the following day. A temporary ex-parte order was obtained and a full order was issued after a hearing.¹⁵

DOMESTIC VIOLENCE**APRIL 2018 • SUNRISE, FL**

A man admitted his plans to kill his estranged wife, her sister, and their pastor to his church congregation. Police filed a petition and a judge ultimately ordered to have both his handgun and concealed-weapons license removed.¹⁶

2018 • MID-CITY, CA

A man locked his wife in a car with him and began to threaten her with a loaded firearm. Police searched the car and found two loaded firearms that did not belong to him. An order was issued and two handguns were removed.¹⁷

2018 • LA JOLLA, CA

A 40-year-old man told his fiancée in a text message that he wanted to shoot her in the head. He then threatened her ex-boyfriend while holding a knife behind his back. An order was issued, and a handgun and an assault rifle were removed from his possession.¹⁸

2018 • BROOKINGS, OR

After going home with a newly-purchased handgun and consuming alcohol, a man argued with his wife. He then took out his gun as the argument escalated. His wife made a phone call to another man to let him know her husband would not let her leave and her husband began threatening to kill the other man. Police arrived minutes later. A judge issued an order to remove his gun and the man relinquished his handgun.¹⁹

2018 • CARLTON, OR

A man threatened to kill his dog and then himself and texted his girlfriend, "OK, murder suicide it is." After his girlfriend tried to call 911, the man retrieved a loaded pistol and cornered her in the bathroom in order to get her phone. The girlfriend sustained a few bruises while struggling to keep her phone and was able to get away. Later that night, the man shot their TV with a shotgun. Police officers arrived at his home the next day and removed 10 guns for safekeeping. Days later, police filed a petition and a judge ultimately issued an order to prevent the return of the guns to the man.²⁰

DANGER OF SELF-HARM**MAY 2018 • ROSEVILLE, CA**

The Roseville Police Department responded to a relative's call about a man armed with a handgun and threatening suicide inside his home. When the officers could not convince him to come out of the house after several hours, they returned later with a gun violence restraining order and removed his firearms.²¹

2018 • MISSION VALLEY, CA

The girlfriend of a 28-year-old man tried to call for help after her boyfriend grabbed a gun case and threatened suicide. The man threw his girlfriend to the ground to prevent her from doing so. An issue was ordered and police removed five firearms.²²

OTHER**2018 • ESCAMBIA COUNTY, FL**

A 42-year-old man had been experiencing substance abuse and mental health issues since the death of his son two years prior. He faced manslaughter charges in connection with the unintentional shooting of his son, alleging he had improperly stored firearms in the home. The charges were never prosecuted. Police removed 54 weapons from his home after the temporary ex-parte order was granted.²³

2018 • GRIFFITH, IN

A woman called 911 on her husband after he locked himself in a bathroom. He was on psychiatric medications for mental illness and was having delusions that people were hiding in the attic. Police arrived at the home and calmed the man down. The next morning, police arrived at the home again responding to a similar disturbance and removed the firearms after an order was granted.²⁴

2018 • LAKE COUNTY, IN

Griffith police removed the weapons from the home of a man who was suffering from dementia-like symptoms and was displaying erratic and dangerous behavior.²⁵

2018 • DEERFIELD BEACH, FL

A court ordered a man not to have access to guns when he was released on bond after being arrested for shooting at a friend whom he had recently had an argument. Law enforcement requested an order to ensure he could not access firearms. After the man refused to voluntarily surrender his firearms, law enforcement obtained a search warrant and found multiple firearms and hundreds of rounds of ammunition.²⁶

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APPENDIX B: EXTREME RISK LAWS BY STATE

State	Policy Name	Effective Date ¹	Who May Ask for an Extreme Risk Order		Maximum Duration of the Ex-Parte Order (Emergency Order, if applicable) ²	Duration of the Final Order	Renewal Lasts for
			Law Enforcement	Family Member ³			
California Cal. Penal Code § 18100, et. seq.	Gun Violence Restraining Order	January 1, 2016	X	X ⁴	21 days (21 days)	1 year	1 year
Colorado CRS § 13-14.5-101, et seq.	Extreme Risk Protection Order	April 12, 2019	X	X	14 days	364 days	Up to 1 year
Connecticut⁵ Conn. Gen. Stat. § 29-38c	Firearm Safety Warrant	October 1, 1999	X ⁶		14 days ⁷	Up to 1 year	Law is silent
Delaware 10 Del. C. § 7701, et seq.	Lethal Violence Protective Order	December 27, 2018	X	X ⁸	15 days	Up to 1 year	Up to 1 year
District of Columbia DC Code § 7-2510.01, et seq.	Extreme Risk Protection Order	January 30, 2019 ⁹	X	X ¹⁰	14 days	1 year	1 year

State	Policy Name	Effective Date ¹	Who May Ask for an Extreme Risk Order		Maximum Duration of the Ex-Parte Order (Emergency Order, if applicable) ²	Duration of the Final Order	Renewal Lasts for
			Law Enforcement	Family Member ³			
Hawaii 2019 HI Senate Bill 1466	Gun Violence Protective Order	January 1, 2020	X	X ¹¹	14 days	1 year	1 year
Illinois 430 ILCS § 67/1, et seq.	Firearms Restraining Order	January 1, 2019	X	X	14 days	6 months	6 months
Indiana ¹² Ind Code § 35-47-14-1, et seq.	Seizure and Retention of Firearms	July 1, 2005	X		14 days (14 days) ¹³	Until terminated by the court ¹⁴	N/A
Maryland Md Public Safety Code § 5-601, et seq.	Extreme Risk Protective Order	October 1, 2018	X	X ¹⁵	7 days (Earlier of ex-parte hearing or end of the second court day after issuance)	Up to 1 year	6 months
Massachusetts Mass. Gen. Laws ch. 140, §§ 121, 129B(C), 131(C), 131R-Z	Extreme Risk Protection Order	August 17, 2018	X	X	10 days (Earlier of ex-parte hearing or end of the next court day after issuance)	Up to 1 year	Up to 1 year

State	Policy Name	Effective Date ¹	Who May Ask for an Extreme Risk Order		Maximum Duration of the Ex-Parte Order (Emergency Order, if applicable) ²	Duration of the Final Order	Renewal Lasts for
			Law Enforcement	Family Member ³			
New Jersey N.J. Stat. § 2C:58-20, et seq.	Extreme Risk Protective Order	September 1, 2019	X	X	10 days	Until terminated by the court ¹⁶	N/A
New York NY CLS CPLR § 6340, et seq.	Extreme Risk Protection Order	August 24, 2019	X	X ¹⁷	6 days ¹⁸	Up to 1 year	Up to 1 year
Oregon ORS § 166.525, et seq.	Extreme Risk Protection Order	January 1, 2018	X	X	Up to a year unless a hearing is requested, which then must be held within 21 days ¹⁹	1 year	Up to 1 year
Rhode Island RI Gen Laws § 8-8.3-1, et seq.	Extreme Risk Protection Order	June 1, 2018	X		14 days	1 year	1 year
Vermont 13 VSA § 4051, et seq.	Extreme Risk Protection Order	April 11, 2018	X ²⁰		14 days	Up to 6 months	Up to 6 months
Washington ARCW § 7.94.010, et seq.	Extreme Risk Protection Order	December 8, 2016	X	X	14 days	1 year	1 year

1. The effective date is the date the law first took effect in the state. The law may have been subsequently amended.
2. In California, a judicial officer may issue a temporary emergency gun violence restraining order pursuant to specific request by a law enforcement officer. In Indiana, a law enforcement officer may seize a firearm without a warrant in certain circumstances. In Maryland, a court commissioner may issue an interim extreme risk protective order when the court is closed. In Massachusetts, a justice of the court may issue an emergency extreme risk protection order when the court is closed.
3. Or household member.
4. While law enforcement and family or household members may petition for an ex-parte or final order, only law enforcement may petition for a temporary emergency order.
5. Law is structured as a firearm removal by law enforcement.
6. State's attorney or assistant state's attorney; any two police officers.
7. 14 days after the execution of the search warrant.
8. While law enforcement and family or household members may petition for a final order, only law enforcement may petition for an ex-parte order.
9. Effective date of initial emergency law.
10. Certain mental health professionals can also file a petition.
11. Certain medical professionals, educators, and colleagues may also file a petition.
12. Law is structured as a firearm removal by law enforcement.
13. If law enforcement seizes a firearm without a warrant, the officer must, within 48 hours, file an affidavit with the basis for the officer's belief that the individual is dangerous, which the court must review as soon as possible. The court must hold a hearing within 14 days of the filing. If law enforcement seizes a firearm pursuant to a warrant, the court must hold a hearing within 14 days of the filing of the search warrant return.
14. Lasts until terminated by the court after a petition and a hearing; petition may be made no earlier than 180 days after the final order.
15. Certain health professionals can also file a petition.
16. Lasts until terminated by the court after a petition and a hearing.
17. School administrators can also file a petition.
18. Business days.
19. After an ex-parte order is issued, the respondent has 30 days to request a court hearing. If a hearing is requested, it must be held within 21 days. If a hearing is not requested within 30 days, the order will be confirmed and become the final order.
20. State's Attorney or the Office of the Attorney General.