

INSTRUCTIONS FOR FILING A PETITION FOR AN EXTREME RISK FIREARM PROTECTION ORDER UNDER THE EXTREME RISK FIREARM PROTECTION ORDER ACT

Who may file a petition for an Extreme Risk Firearm Protection Order (ERFPO)?

Under the Extreme Risk Firearm Protection Order Act, this petition must be filed by a law enforcement officer (*a public official or public officer vested by law with the power to maintain order, to make arrests for crime or to detain persons suspected of committing a crime and includes an attorney employed by a district attorney or the attorney general*) who is called the “*Petitioner*”.

The Petitioner must receive credible information from a “*Reporting Party*” that gives the Petitioner probable cause to believe that a person (the “*Respondent*”) poses a significant danger of causing imminent personal injury to themselves or others by having a firearm in their custody or control or by purchasing, possessing, or receiving a firearm. The law requires the Reporting Party to be an individual who fits one of the following relationships with the *Respondent*:

- spouse
- former spouse
- parent
- present or former step-parent
- present or former parent-in-law
- grandparent
- grandparent-in-law
- co-parent of a child
- child
- person with whom a Respondent has or had a continuing personal relationship
- employer
- school administrator

The law requires the Petitioner to obtain a sworn affidavit from the Reporting Party that includes specific facts to support issuing a temporary Extreme Risk Firearm Protection Order.

When should this petition be used?

This petition should be used in situations when there is credible information that a person (the “*Respondent*”) poses a significant danger of causing imminent personal injury to themselves or others by having a firearm in their custody or control or by purchasing, possessing, or receiving a firearm.

The Petitioner may use this form to request that the court issue a temporary extreme risk firearm protection order. Under the law, a temporary extreme risk firearm protection order may be issued upon a showing that the Respondent poses a significant danger of causing imminent personal injury to themselves or others by having a firearm in their custody or control or by purchasing, possessing or receiving a firearm *before notice can be served and a judge holds a hearing*. Such an order is in effect only until a hearing is held. The hearing must take place within ten (10)

business days of the temporary extreme risk firearm protection order being issued at which time the Respondent will have received notice and an opportunity to participate in this hearing.

If issued, a temporary extreme risk firearm protection order will temporarily prohibit the Respondent from purchasing, receiving, or attempting to purchase or receive a firearm while the order is in effect. A temporary extreme risk firearm protection order will also require the Respondent to relinquish (surrender) all firearms in the Respondent's possession, custody, or control to either a law enforcement officer, a law enforcement agency or a federal firearms licensee within forty-eight (48) hours of service of the temporary extreme risk firearm protection order.

Where should this petition be filed?

Under the law, this petition must be filed in the district court in the county where the Respondent resides.

What must be shown?

The law requires that the petition and accompanying affidavit from the reporting party state specific statements, actions or facts that support the belief that the Respondent poses a significant danger of causing imminent personal injury to themselves or others by having a firearm in their custody, control, or possession. The burden of proof necessary for a temporary extreme risk firearm protection order is "probable cause." The burden of proof for a one-year extreme risk firearm protection order is "preponderance of the evidence."

What are the legal requirements to file a petition for an extreme risk firearm protection order?

- Petitioner must be a law enforcement officer.
- Reporting Party must fit one of the defined relationships under this law, and as identified above.
- Name and address of Reporting Party.
- Name and address of Respondent.
- Reporting Party must fill out an affidavit with specific statement, actions or facts that support a belief that the Respondent poses a significant danger of causing imminent personal injury to themselves or others by having a firearm in their custody, control, or possession.
- Petition must include the quantities, types and locations of all firearms and ammunition the Petitioner believes to be in the Respondent's ownership, possession, custody, or control.
- Description of any lawsuit, complaint, petition, restraining order, injunction or other legal action between the Reporting Party and the Respondent.