

# **FILING FOR AN EXTREME RISK PROTECTION ORDER (ERPO)**



## **WHAT IS AN EXTREME RISK PROTECTION ORDER?**

An *Extreme Risk Protection Order* (ERPO) is a court order that prevents a person who is at risk of hurting another person or of committing suicide from having or getting deadly weapons, including firearms.

Respondents who are subject to these orders must give all of their deadly weapons<sup>1</sup> and their concealed handgun license to a law enforcement agency, gun dealer, or someone else who can lawfully hold them<sup>2</sup> within 24 hours. Respondents are not allowed to possess weapons until the order expires or is cancelled (“terminated” or “dismissed”) by a judge. The court will tell Respondents how to surrender their weapons if the order is granted.

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## **WHO CAN APPLY FOR AN ERPO?**

Any family member<sup>3</sup>, household member, or intimate partner can apply for an ERPO. Law enforcement officers can also apply.

## **WHERE DO I FILE FOR AN ERPO?**

File in the county where Respondent lives. File at the Circuit Court courthouse. Go to [www.courts.oregon.gov/courts/Pages/default.aspx](http://www.courts.oregon.gov/courts/Pages/default.aspx) to find court contact information.

**NOTE:** Respondent may be closer to a court in a different county, and some towns may be in 2 counties. Call the court or talk to a lawyer if you are not sure where to file.

There is no cost to file for an *Extreme Risk Protection Order*

## **HOW DO I APPLY?**

Fill out the *Extreme Risk Protection Order Petition and Affidavit in Support* to the best of your knowledge. Answer truthfully and completely. Some questions may not apply – only answer questions that apply in your situation.

**DO NOT SIGN THE PETITION NOW!** The Affidavit section needs to be notarized, which means your signature has to be witnessed. You can have that done anywhere that notarizes documents, or you can bring the unsigned document to the court with proper identification. Court staff can witness your signature when you file. If you don't have the Affidavit notarized, you must testify to the judge.

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<sup>1</sup> “Deadly weapon” means any instrument, article, or substance specifically designed for and presently capable of causing death or serious physical injury, or a firearm, whether loaded or unloaded.

<sup>2</sup> No person subject to a firearms prohibition may possess firearms, gun parts, or ammunition.

<sup>3</sup> “Family member” is limited to spouse, parent, child, or sibling

The judge will decide if Respondent is at risk in the near future of committing suicide or harming another person. The judge will consider any information that is reliable, including a statement by Respondent if the judge receives one. Some specific things the judge may consider are:

- history of suicide threats or attempts
- history of actual or threatened violence against other people
- prior convictions for assault, strangulation, menacing, reckless endangerment, stalking, intimidation, domestic violence offenses, driving under the influence, or any offense involving abuse or cruelty to animals
- recent unlawful use of controlled substances
- history of displaying or brandishing a deadly weapon
- prior violation of a restraining order or stalking order
- whether Respondent acquired or attempted to acquire a deadly weapon within the past 180 days

### **WHAT HAPPENS AFTER I FILL OUT THE PAPERS?**

When you file your *Petition*, the clerk will tell you when and where to go for your hearing. Your hearing will either be the day you file or the next day that the court is open. The judge will look over your papers and may ask you questions. If you do not appear at the hearing, the *Order* will not be issued.

If the court issues an *Extreme Protection Order*, you will need to have one copy of the *Order* personally delivered (“served”) to Respondent. Service must also include the *Notice to Respondent and Request for Hearing* form. You can have a sheriff’s officer (for no fee), a private process server, or any competent<sup>4</sup> adult serve the *Order*, as long as the server lives in the state where the papers are served. **You cannot serve the papers yourself.**

The server must complete a certificate of service. The certificate must be filed with the court. A copy must go to the sheriff’s office where the *Order* was issued. A *Certificate of Service* form is in the packet, but some servers use their own form. Talk to the court clerk about ways to get the respondent served. The *Order* cannot be enforced until after service.

Respondent has **30 days** from the date of service to request a hearing objecting to (“contesting”) the *Order*. If Respondent does not request a hearing, the order will stay in effect for 1 year after the date it was issued.

### **WHAT IF THE RESPONDENT REQUESTS A HEARING?**

If Respondent requests a hearing, it will usually be held within **21 days** after the request is received by the court. The court will send you notice of the time and date of the hearing and a copy of Respondent’s request. **Be sure the court always has your current contact address and contact phone number so you get notice of any hearing.**

You must go to all scheduled hearings or the *Order* may be dismissed. You can testify at the hearing, present evidence to the judge, and bring witnesses. If you cannot go to a hearing

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<sup>4</sup> “Competent” means a person who can understand, remember, and tell others about an event

due to an emergency, call the court clerk right away. It may be helpful to have a lawyer represent you at the hearing, but it is not required.

### **HOW LONG DOES A PROTECTION ORDER LAST?**

The *Order* lasts for 1 year from the date it was issued, unless it is terminated (dismissed) by the court.

Orders can be renewed for 1 year at a time if the judge believes Respondent is still at risk. Renewal can be requested by anyone qualified to file a *Petition*. To renew the order, you must file a new *Petition* within 90 days *before* the order ends. Forms to renew an *Extreme Risk Protection Order* are available at the court or online (*see below*). Mark that the *Petition* is a renewal and complete all of the information that is relevant at the time.

### **WHAT CAN I DO IF THE RESPONDENT VIOLATES (DOES NOT FOLLOW) THE PROTECTION ORDER AFTER SERVICE?**

You can call the police or the sheriff (**call 911**)

### **WHAT IF I WANT TO DROP THE ORDER?**

You can file papers at the courthouse to ask the judge to terminate (dismiss) the *Order*. You and Respondent can each file for termination ONE time during each 1-year effective period. The *Order* remains in effect until the judge dismisses it. It may take a few days for law enforcement to get notice of the dismissal.

### **DO I NEED A LAWYER?**

If you have questions about how the law works or what it means, you may need to talk to a lawyer. If you need help finding a lawyer, call the Oregon State Bar's Lawyer Referral Service at 503.684.3763 or 800.452.7636.

### **WHAT IF I NEED AN ACCOMMODATION OR AN INTERPRETER?**

If you have a disability and need an accommodation, or you are unable to speak English and need a foreign language interpreter, tell the court as soon as possible. Tell the clerk that you have a disability and what type of assistance you need or prefer, or which language you speak.

### **COURT FORMS**

Forms that can be used in all Oregon courts are available here:

[www.courts.oregon.gov/forms](http://www.courts.oregon.gov/forms)

NOTE: Filing a *Petition* for harassment purposes or based on false statements may lead to criminal charges against a Petitioner