

## Maine's Extreme Risk Protection Order: A Vital Tool for Safety

An extreme risk protection order is a measure designed to help an individual in crisis, and the people around them, to stay safe from gun violence.

An extreme risk protection order, also called an ERPO, is a court order that temporarily restricts a person's access to guns. It is designed to help prosecutors and concerned family members intervene quickly in dangerous situations.

*\* Maine has another version of an extreme risk protection order that is sometimes referred to as a "yellow flag" law. Under this law, law enforcement officers can ask a court to restrict a person's access to guns, but only after the individual has been taken into protective custody and assessed by a medical professional. The yellow flag process is distinct from the extreme risk protection order process discussed below.*

### FAQs

#### **How do I request an extreme risk protection order?**

To seek an extreme risk protection order, if you fall into one of the categories listed above, you can file the application directly with the district court in the county where the individual lives or where the events that give rise to the petition occurred.

#### **Who can request an extreme risk protection order in Maine?**

Under Maine law, a law enforcement officer or family or household members may file a petition for an extreme risk protection order.

Family or household members include:

- A current or former spouse or domestic partner;
- A parent or adult child of the individual;
- An adult sibling of the individual;
- A parent of a child of the individual; or
- A person currently or formerly living with the individual as a spouse
- An adult presently living with the individual

## **What happens after the request for an extreme risk protection order has been filed?**

Once the court receives a request (called a “petition”) for an extreme risk protection order, the court will notify the person (called the “respondent”) and schedule a court hearing within 14 days to determine whether the order should be issued.

If, at the hearing, a court finds that the person poses a significant danger of causing physical injury to themselves or another person by purchasing, possessing, or receiving a dangerous weapon or by having or attempting to have custody or control of a dangerous weapon, the court will issue an ERPO. Significant danger may be shown by establishing that: (i) the respondent has inflicted or attempted to inflict physical injury on another person; (ii) the respondent has placed another person in reasonable fear of physical injury through their threats or actions; (iii) the respondent has presented a danger to another person in their care through their actions or inactions; or (iv) the respondent has threatened or attempted suicide or serious bodily injury.

The respondent will not be required to turn over any guns in their possession to law enforcement and will not be able to purchase new firearms while the order is in effect.

## **I’m afraid to wait until a court hearing is scheduled. What if the person is in immediate danger of harming themselves or someone else?**

Concern for the safety of the person, or of the public, may demand that action be taken before the scheduled hearing date, to prevent immediate danger.

To protect a person or public safety during this time, a person may request, and a judge may issue, an emergency extreme risk protection order that restricts a person’s access to firearms before the person has been notified of the petition, and before a full hearing. An emergency ERPO may be issued if the individual poses an immediate and significant danger of causing physical injury to themselves or another person by purchasing, possessing, or receiving a dangerous weapon.

## **How long does an emergency extreme risk protection order last?**

In Maine, an emergency extreme risk protection order lasts until the hearing is held by the court, within 14 days of the petition being filed.

## **How long does a final extreme risk protection order last?**

A final extreme risk protection order can last up to one year. A petitioner may file a motion with the court to renew the extreme risk protection order for an additional period of up to one year, and must be filed not more than 30 days and not less than 14 days before the expiration of the original extreme risk protection order. Another hearing will be held within 14 days of the motion to renew.

## **Will an extreme risk protection order go on someone's criminal record?**

No. An extreme risk protection order is a civil court order. Its sole purpose is to remove firearms from a person who is at high risk of causing harm to themselves or to others. The court's decision to issue the order does not cause the person to have a criminal record.

## **What if I am not able to request an extreme risk protection order myself? Is there anything I can do?**

Even if you don't fall into any of the categories mentioned above, you can still take action in moments of crisis. If you are worried about someone who is showing warning signs of being at risk of self-harm or harming someone else, you can contact a law enforcement officer and ask that they seek an extreme risk protection order.

## **What about Maine's "yellow flag" law?**

Maine's "yellow flag" law, which was passed in 2019, allows law enforcement officers to take someone into protective custody to obtain an evaluation from a medical practitioner as to whether they are a threat to themselves or others. If the medical practitioner finds that there is a substantial risk in the foreseeable future of serious physical harm to self or others, law enforcement can seek an order from a judge to temporarily remove firearms from their possession and prevent future firearms purchases for a limited amount of time. The restriction on firearm possession and purchase lasts a minimum of 30 days and can be extended for up to one year.

This process differs from the ERPO process in a few key ways. Only law enforcement can initiate the yellow flag process, and a medical practitioner must conduct an evaluation prior to the removal of firearms. The yellow flag law also requires the person to be taken into protective custody, which requires probable cause that the person presents a risk of harm, recent suicidal behavior, or recent acts of violence or threats of violence causing others to reasonably fear serious physical harm.

If you or someone you know is in crisis, **text or call 988** for 24/7 connection to free, confidential support. If you have immediate safety concerns, **call 911**.