

## EXTREME RISK PROTECTION ORDER

### What is it?

An Extreme Risk Protection Order (ERPO) empowers families members and law enforcement officers to temporarily remove a person's access to firearms when they are believed to be likely to harm themselves or others.

### Intervening in Suicide Attempts

ERPO allows for the temporary removal of the most lethal means of suicide from the situation, saving lives of those deemed at risk by a civil judge. Research on Connecticut's ERPO found that the populations served are at an elevated risk of dying by suicide.

### Preventing Mass Shootings

People who may be at high risk of dangerous behaviors may have access to firearms. ERPOs allow for family and concerned law enforcement to take action to prevent tragedy. In 2018, the Parkland, FL shooter had been visited by local police multiple times and posted on social media about planning a school shooting, but law enforcement agents did not have the legal tools to prevent him from accessing firearms.

### Empower Families and Law Enforcement

Often family members may observe warning signs of someone at risk for harming themselves or others but they do not have the legal tools to take action. ERPO gives families and law enforcement the opportunity to intervene and to protect the lives of loved ones and those in their community.

- There are approximately 900 firearm suicides every year in Pennsylvania
- Up to 80% of people considering suicide give some sign of their intentions
- An FBI study of pre-attack behaviors of active shooters found that the average shooter displayed four to five observable and concerning behaviors over time
- Following the passage of ERPO in Indiana in 2005, there were 7.5% fewer firearms related suicides over the next decade
- Overall in Connecticut, suicides declined by 13.7% once ERPO was fully implemented

**Who has it?** CA, CO, CT, DE, FL, HI, IL, IN, MA, MD, NJ, NM, NV, NY, OR, RI, VT, VA, and D.C.

# DUE PROCESS IN ERPO

Pennsylvania's current Extreme Risk Protection Order bills (HB1075, SB90) have several key due process protections built in, both to ensure that the process is used appropriately and to protect the rights of individuals against whom an ERPO petition is filed. These bills have taken the best parts of other jurisdictions' ERPO procedures, and added new due process protections in, as well.

<h2>The Subject</h2>	<h2>The Court</h2>	<h2>The ERPO</h2>
<p><u>Can</u></p> <ul style="list-style-type: none"><li>• Testify during the hearing</li><li>• Present evidence</li><li>• Cross-examine other witnesses</li><li>• Be represented by counsel</li><li>• Have counsel appointed if they cannot afford counsel</li><li>• Petition for early termination of the ERPO</li><li>• Bear a lower burden of proof (preponderance of the evidence) when petitioning for early termination of the order</li><li>• Have their firearm rights automatically restored when the order expires</li><li>• Will have ERPO information removed from state and federal background check systems when the order expires</li><li>• Retrieve their firearms when the order expires</li></ul> <p><u>Cannot</u></p> <ul style="list-style-type: none"><li>• Purchase or possess a firearm during the period the order is in effect</li></ul>	<p><u>Can</u></p> <ul style="list-style-type: none"><li>• Use a civil procedure to determine whether or not to issue an ERPO</li><li>• Only issue an ERPO if there is evidence that the behavior or events being presented have occurred in the last 12 months</li><li>• Rule that the subject presents a substantial and imminent risk of violence to themselves or others and can temporarily suspend firearm access following an ex parte hearing but only for a limited time (5 days for hearing officers/ 10 days for judge) until a full hearing can be held</li><li>• Only issue an order based on behaviors and events, <u>not labels</u></li></ul> <p><u>Cannot</u></p> <ul style="list-style-type: none"><li>• Order an ERPO in the absence of behaviors or events having occurred within the past 12 months</li><li>• Issue an ERPO based only on a diagnosis</li></ul>	<p><u>Can</u></p> <ul style="list-style-type: none"><li>• Designate the subject as a prohibited firearms purchaser in the federal and state background check systems during the period of issuance</li><li>• Require the subject to turn over their firearms to law enforcement within 24 hours if an order is granted</li><li>• Only last for one year</li><li>• Be renewed if there is a petition for renewal and it is determined by clear and convincing evidence that the risk of the subject harming themselves or others still exists</li></ul> <p><u>Cannot</u></p> <ul style="list-style-type: none"><li>• Be filed maliciously or with the intent to harass the subject. It would be a crime to file a false petition</li></ul>