

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 weapons¹ and their concealed handgun license to a law enforcement agency, gun dealer, or someone else who can lawfully hold them² 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.

WHO CAN APPLY FOR AN ERPO?

Any family member³, 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 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.

¹“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.

² Certain other orders prevent people from having or holding firearms. No person subject to a firearms prohibition may hold firearms, gun parts, or ammunition. However, that person may be able to hold other types of deadly weapons like knives or dangerous substances on behalf of a Respondent.

³“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 competent⁴ 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.**

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

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 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 a 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

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

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

Case No: _____

In the Matter of:

Respondent

**EXTREME RISK
PROTECTION ORDER
PETITION
and AFFIDAVIT IN SUPPORT**
(Ex Parte if Not Renewal)

Renewal of Order

➤ I need an interpreter: Spanish Russian Other: _____

PETITION

I am the Petitioner named in the *Affidavit*. I believe Respondent is at risk for suicide or causing harm to another person in the near future. I ask the court to grant an *Extreme Risk Protection Order* to prohibit Respondent from owning, possessing, or acquiring deadly weapons, and to order surrender of deadly weapons to a law enforcement agency.

For Renewals only:

An *Extreme Risk Protection Order* was issued for this Respondent on
(date, if known): _____ and is currently in effect. This *Petition* is to renew
the existing *Order* for one year, effective immediately upon expiration of the existing *Order*.

AFFIDAVIT

Petitioner's Information:

Name: _____

Relationship to Respondent: _____

law enforcement officer

Information about Respondent:

1. Respondent's Information:

a. Name: _____

b. Address: _____

c. Phone number: _____

d. Name and address of any hospital or other institution where Respondent is now admitted on a temporary or permanent basis, or other facility where Respondent is or is known to stay:

I believe Respondent is a risk to self or others now or in the near future because:

2. Respondent has a history of suicide threats or attempts (*explain*):

3. Respondent has a history of acts of violence against other people (*explain*):

4. Respondent has a history of use of physical force (or attempts / threats to use physical force) against another person (*explain*): _____

5. Respondent has recently used controlled substances unlawfully (*explain*): _____

6. Respondent has a history of unlawfully or recklessly using, displaying, or brandishing a deadly weapon (*explain*): _____

7. Respondent previously violated a Family Abuse Prevention Act (FAPA) Restraining Order (*explain*): _____

8. Respondent has acquired or attempted to acquire a deadly weapon within the past 180 days (*explain*): _____

9. Respondent has been convicted of the following crimes:

- a misdemeanor involving violence (ORS 166.470)
- stalking (ORS 163.732 or 163.750) or a similar offense in another jurisdiction
- domestic violence (ORS 135.230)
- driving under the influence of intoxicants (ORS 813.010 or 813.011)
- an offense involving cruelty to or abuse of animals

10. Other information: _____

I prefer to appear at the hearing by electronic video transmission (remote appearance) and I will contact the court to arrange this

Certificate of Document Preparation. Check all that apply:

- I chose this form for myself and completed it without paid help
 A legal help organization helped me choose or complete this form, but I did not pay money to anyone
 I paid (or will pay) _____ for help choosing, completing, or reviewing this form
 Guide & File selected and completed this form and I did not pay anyone to review the completed form

I hereby declare that the above statements are true to the best of my knowledge and belief. I understand they are made for use in court and I am subject to penalty for perjury.

I want to testify directly to the judge instead of notarizing this *Petition*

Date

Signature

Name (printed)

Address

City, State, ZIP

Phone

State of _____, County of _____

Signed and sworn to (or affirmed) before me on (date) _____ by
(name) _____

Signature of notarial officer

My commission expires: _____

Title (and rank, if military officer)

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH
1021 SW 4TH AVENUE, PORTLAND, OREGON 97204

In the Matter of:

Case No: _____

**EXTREME RISK
PROTECTION ORDER**

Respondent

Hearing Date: _____

Parties appearing:

- Petitioner Petitioner's Attorney: _____
 Respondent Respondent's Attorney: _____

Appearing by telephone or video: Petitioner Respondent

The court considered the following types of evidence:

- Testimony by Petitioner Respondent Other: _____
 Written affidavits, including the *Extreme Risk Protection Order Petition and Affidavit in Support*
 Other evidence: _____

FINDINGS:

The court:

- finds** clear and convincing evidence that Respondent presents a risk of suicide and/or causing physical injury to another person in the immediate or near future
 does not find clear and convincing evidence that Respondent presents a risk of suicide and/or causing physical injury to another person in the immediate or near future

Other: _____

ORDERS:

The Petition is:

- DENIED**
 Petitioner did not appear at the time set for the ex parte hearing on the petition
 Other specific reason for denial:

GRANTED

Respondent must not own, purchase, receive, or have (or attempt to have) in Respondent's custody or control any deadly weapon

Respondent must surrender any deadly weapons currently in Respondent's possession, custody, or control, along with any concealed carry license, in accordance with the attached *Weapons Surrender Procedure (Extreme Risk Protection Order)* document

This prohibition applies to any instrument, article or substance specifically designed for and presently capable of causing death or serious physical injury, and any firearm, whether loaded or unloaded

Additional Orders: _____

NOTICE TO RESPONDENT

An extreme risk protection order has been issued by the court and is now in effect. You may not have in your custody or control, purchase, possess, receive, or attempt to purchase or receive, deadly weapons while this order is in effect. You must, within 24 hours, surrender all deadly weapons in your custody, control or possession to a local law enforcement agency, a gun dealer, or a third party who may lawfully possess the deadly weapons. You must, within 24 hours, surrender to a local law enforcement agency any concealed handgun license issued to you. If you do not request a hearing, the extreme risk protection order against you will be in effect for one year unless terminated by the court. You have the right to request one hearing to terminate this order during the 12 months that this order is in effect starting from the date of this order.

A copy of this order was given to Petitioner Respondent in court today

If you have any questions talk to a lawyer

RESPONDENT: You have the right to challenge this order by filing a Request for Hearing form with this court (attached)

If you do not request a hearing to challenge the order, the order will be in effect for one year unless terminated by the court. You have the right to request one additional hearing to terminate this order during the 12 months that this order is in effect starting from the date of this order.

Judge Signature: (date and time)

Time: _____

LEDS DATA re RESPONDENT: _____ (name)

SID#	DOB:	ODL #:
Sex:	Race:	Hair:
Height:	Weight:	
Address:		
<i>Street</i>	<i>City</i>	<i>State</i> <i>Zip</i>
Other:		

NOTICE TO RESPONDENT AND REQUEST FOR HEARING

TO RESPONDENT: A COURT HAS ISSUED AN *EXTREME RISK PROTECTION ORDER* THAT AFFECTS YOUR RIGHTS. THE ORDER IS NOW IN EFFECT FOR ONE YEAR.

You have the right to contest (oppose) the Order within **30 days** as set out below. It may be helpful to have a lawyer represent you at the hearing but it is not required.

If you oppose the Order, complete the attached “*Request for Hearing*” form. The request must be filed with the court **within 30 days** after you received the Order. You must include your address and telephone number. At the hearing, a judge will decide whether the Order should remain in effect or be dismissed. **If you do not go to the hearing, the restraining order may remain in effect.**

<p>IF YOU COMPLETE THE REQUEST FOR HEARING FORM, MAIL OR DELIVER IT TO: (<i>address of court</i>):</p>	<p>Multnomah County Circuit Court Family Law Department – Room 211 Multnomah County Courthouse 1021 SW 4th Avenue Portland, Oregon 97204</p>
---	--

- The hearing will be held within **21 days** after you file your request

If you do not request a hearing within 30 days, the Protection Order will remain in effect as issued

Effect of the protection order

Read the Order for details about what the court has ordered you to do

Violation of the Protection Order

Violation of this Order is a Class A Misdemeanor punishable by up to 364 days in jail and fines up to \$6250. You will also be prohibited from possessing, owning, receiving, or using (or attempting to) any firearms for 5 years after the Order expires.

TERMINATION OF EXTREME RISK PROTECTION ORDER

You can file a request to terminate (end) the *Order* one time during the effective period (1 year from the date the *Order* was issued). If the *Order* is renewed, you can file for termination one time during each 1-year effective period. Go to <http://www.courts.oregon.gov/forms> to get the forms to file for termination.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

In the Matter of: _____

Case No: _____

REQUEST FOR HEARING

Respondent

(*Extreme Risk Protection Order*)

➤ I need an interpreter: Spanish Russian other: _____

I am the Respondent. I request a hearing in this case. The *Extreme Risk Protection Order* was issued **less than 30 days** ago.

I will will not be represented by an attorney at the hearing

➤ Name and bar number of the attorney (if known): _____

I will need Americans with Disabilities Act accommodations at the hearing

Certificate of Document Preparation. Check all that apply:

- I chose this form for myself and completed it without paid help
- A legal help organization helped me choose or complete this form, but I did not pay money to anyone
- I paid (or will pay) _____ for help choosing, completing, or reviewing this form
- Guide & File selected and completed this form and I did not pay anyone to review the completed form

Submitted by: Respondent Attorney for Respondent

Date

Signature

Name (printed)

Address

City, State, ZIP

Phone

Attorney for Respondent:

Date

Signature

OSB#

Name (printed)

Address

City, State, ZIP

Phone

WEAPONS SURRENDER PROCEDURE
For RESPONDENTS under EXTREME RISK PROTECTION ORDERS (ERPO)
Issued in Multnomah County, Oregon,

The attached order prohibits you from possessing FIREARMS and OTHER DEADLY WEAPONS. You must surrender those items and any CONCEALED HANDGUN LICENSE you have.

.....
You must do one of the following within 24 hours of receiving these papers.

1. Surrender them to a law enforcement officer or agency.

A law enforcement officer delivering these papers to you will ask you to immediately surrender any deadly weapons and any Oregon concealed gun license. The officer will take those weapons and license and give you a receipt.

If you want a gun dealer or 3rd party to have them instead, you will need to identify that person to the officer.

2. Surrender them to a licensed Oregon gun dealer

You can find a licensed dealer online or in the Yellow Pages. It is your responsibility to ask to see the dealer's license.

3. Have an eligible Third Party take possession of them.

This 3rd party must be someone who may lawfully possess firearms. If you have questions about whether a particular person qualifies, you can contact an Oregon gun dealer to get a firearms background check on that person. A fee applies.

FAILURE TO COMPLY WITH COURT-ORDERED TERMS ABOUT DEADLY WEAPONS AND CONCEALED HANDGUN
LICENSES MAY SUBJECT YOU TO A CONTEMPT OF COURT CHARGE.
IN SOME SITUATIONS, CRIMINAL CHARGES CAN APPLY.

.....
SURRENDER TO LAW ENFORCEMENT

The Portland Police Bureau and the Multnomah County Sheriff's Office will accept unloaded firearms, ammunition, and deadly weapons from individuals under restraining orders, *regardless of the location of the respondent's residence.*

Portland Police Bureau
Central Precinct
1111 SW 2nd Ave.
Portland, Oregon 97204
Hours: 24 hours/7 days a week
503/823-0097

Portland Police Bureau
Property & Evidence Division
2619 NW Industrial Way
Portland, Oregon 97210
Hours: 9-12; 1-4 M-F
503/823-2179

Multnomah County Sheriff's Office
234 SW Kendall Ct
Troutdale, OR 97060
Mon-Thurs 8- 4PM; Friday 8- 3PM
Call 503-988-7300, option #5 to
schedule

.....
RETURN of weapons or a license to you by law enforcement is subject to their background check. 12/17

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

In the Matter of:

Case No: _____

Respondent

**CERTIFICATE OF
SERVICE**

Extreme Risk Protection Order

I, (name) _____, declare that I am a resident of the state of _____
_____. I am a competent person 18 years of age or older. I am not a party to or
a lawyer in this case. I am not the employee of a party.

I certify that on (date) _____ at (time) _____ (am/pm),
I served the Respondent named above by delivering the following documents in person to the Respondent
at (address or location of service) _____

I served true copies of the original *Extreme Risk Protection Order with the Notice to Respondent /
Request for Hearing*

Other (name all forms or documents served) _____

Certificate of Document Preparation. Check all that apply:

- I chose this form for myself and completed it without paid help
 A legal help organization helped me choose or complete this form, but I did not pay money to anyone
 I paid (or will pay) _____ for help choosing, completing, or reviewing this form

**I hereby declare that the above statements are true to the best of my knowledge and belief.
I understand they are made for use as evidence in court and I am subject to penalty for
perjury.**

Date

Signature of Server

Print Name

If person serving is NOT a sheriff or sheriff's deputy, address and phone number of server:

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH
1021 SW 4TH AVENUE, PORTLAND, OREGON 97204

In the Matter of:

Case No: _____

Respondent

**EXTREME RISK
PROTECTION ORDER**

(After Hearing)

Hearing Date: _____

Hearing Type: Challenge Renewal

Parties appearing:

- Petitioner Petitioner's Attorney: _____
 Respondent Respondent's Attorney: _____

Appearing by telephone or video: Petitioner Respondent

FINDINGS: _____

(Renewals only) an *Extreme Risk Protection Order* is currently in effect and will expire within 90 days of the date the renewal *Petition* was filed

The court:

finds clear and convincing evidence that Respondent presents a risk of suicide and/or causing physical injury to another person in the immediate or near future

does not find clear and convincing evidence that Respondent presents a risk of suicide and/or causing physical injury to another person in the immediate or near future

Other: _____

THE COURT ORDERS:

- The *Extreme Risk Protection Order* issued on _____ (date) is:
 Dismissed
 Continued
 Renewed - Order expires on (date/time): _____ at midnight
 Modified as follows: _____

EXCEPT AS MODIFIED ABOVE, ALL PORTIONS OF THE RESTRAINING ORDER REMAIN IN EFFECT. RESPONDENT IS ORDERED TO SURRENDER ALL DEADLY WEAPONS AND ANY CONCEALED CARRY LICENSE ACCORDING TO THE *EXTREME RISK PROTECTION ORDER ISSUED ON* _____ (date).

A copy of this order was given to Petitioner Respondent in court today.

Judge Date & Signature: _____