

VERMONT PROTECTIVE ORDERS

Vermont law provides for several types of protective orders that can temporarily restrict a person from having firearms if they have threatened to harm themselves or others.

The most common methods of asking for firearms relief are Relief From Abuse orders (RFAs) and Extreme Risk Protection Orders (ERPOs). Information about the types of orders available can be found here: <https://www.vermontjudiciary.org/self-help/protective-orders>.

RFAs and ERPOs are requested through the Family Division of the Vermont Superior Court. Asking for an order is free. RFAs and ERPOs are civil orders, which means that the person who is ordered by the court to surrender firearms is not charged with a crime. If the person violates the protective order, however, they can be arrested and charged with a crime.

WHAT ARE RFAs?

Relief From Abuse orders (RFAs) are orders that protect family or household members from further abuse. An RFA may require the named person (called the “defendant”) to abide by many conditions to protect the harmed person, including surrendering all firearms and not having any firearms in their possession. If ordered to surrender firearms, the defendant must turn in all firearms as soon as they are served with the RFA order.

There are two types of RFA orders:

1. A Temporary RFA order is an emergency order that can be issued by a judge at any time, including evenings, weekends, or holidays. The order is issued based on paperwork submitted by the person requesting the order (called the “plaintiff”) without a hearing. It generally lasts for up to 14 days. The order does not take effect, however, until it is served by law enforcement on the defendant.

The terms of a temporary RFA can provide many types of protection and it **may include** prohibiting the defendant from possessing, controlling, or buying firearms as long as the order is in effect. It **may also** require the defendant to immediately surrender any firearms they own, possess, or control to the law enforcement agency serving the order.

2. A Final RFA order can be requested even if no emergency order is needed or if the emergency order is denied. It can be issued only during court hours and requires a hearing. The defendant must have written notice of the hearing date (which is in the temporary order if one is issued). The notice of the hearing date is served by law enforcement along with the paperwork requesting the order. The defendant can appear at the hearing and speak on their behalf, but that is not required. The plaintiff **must** appear at the final hearing or the order will be dismissed.

If a Final RFA order is issued by the court, it **will** prohibit the defendant from possessing, controlling, or buying firearms as long as the order is in effect. It **will also** require the defendant to immediately surrender any firearms they own, possess, or control to the law enforcement agency serving the order or to a federally licensed firearms dealer (FFL). A Final RFA generally lasts for one year.

HOW TO ASK FOR AN RFA ORDER

To ask for an RFA, the plaintiff must show the court that the defendant is:

- a family member or a former or current household member,
- that the defendant has abused the plaintiff or their children, and
- that there is a danger of further abuse if an RFA is not issued.

To obtain a Temporary RFA order, the plaintiff must also show that the danger of further abuse is immediate.

Confidential advocates who can help you apply for an RFA are available at no cost through the Vermont Network Against Domestic and Sexual Violence hotline (1-800-228-7395).

More information about RFA filing requirements and the filing process is available here:

<https://www.vermontjudiciary.org/family/relief-abuse>.

WHAT ARE ERPOs?

Extreme Risk Protection Orders (ERPOs) are also known as Red Flag Laws. An ERPO temporarily restricts access to “dangerous weapons” (defined as explosives or firearms) for an individual (called the “respondent”) who is at a high risk of harming themselves or others.

There are two types of ERPOs:

1. A Temporary ERPO is an **emergency** order that may be issued anytime, including evenings, weekends, or holidays. The order is issued based on paperwork filed by the person seeking the order (called the “petitioner”). A temporary ERPO generally lasts for up to 14 days. The order is issued without a hearing and without notice to the respondent, but it does not take effect until it is served by law enforcement on the respondent. A temporary ERPO requires the respondent to surrender all dangerous weapons immediately to the law enforcement officer serving the order and prevents the respondent from purchasing or possessing any dangerous weapon while the order is in effect.
2. A Final ERPO can be requested even if there is no temporary ERPO or if the temporary ERPO is denied. A final ERPO requires a hearing. The respondent must be given notice of the hearing and can attend if they wish. The order generally lasts for six months. It may be renewed for an additional six months if the respondent continues to pose an extreme risk of harm.

HOW TO ASK FOR AN ERPO

A Temporary ERPO can be requested by:

- a State's Attorney,
- the Vermont Attorney General, or
- a family or household member.

The standard of proof is higher for a Temporary ERPO if it is filed by a family or household member. Standard of proof refers to the amount of evidence needed to prove something in court.

The standard of proof for a family or household member is clear and convincing evidence. If the petition is filed by a State's Attorney or the Vermont Attorney General, the standard of proof is a preponderance of evidence. In either case, the evidence must show that that the respondent poses an **imminent** and **extreme** risk of causing harm to themselves or another person.

To obtain a Final ERPO, a State's Attorney where the petition was filed is required to be the petitioner. If a family or household member obtained a temporary order, they may still be required to testify at the hearing but the State's Attorney or the Attorney General will present the case. The standard of proof for a Final ERPO is clear and convincing evidence. The evidence must show that the respondent poses an **extreme** risk of causing harm to themselves or another person.

WHAT HAPPENS AFTER AN ERPO IS GRANTED?

If a Temporary ERPO is granted, it does not take effect until served by law enforcement on the respondent. The respondent must then immediately turn over all dangerous weapons to law enforcement.

If a Final ERPO is granted, the order will take effect immediately if the respondent is present in court. If the respondent is not present in court, the order must be served by law enforcement before **it** becomes effective. The respondent will immediately be required to turn over any dangerous weapons to law enforcement, a federally licensed firearms dealer (FFL), or a third party approved by the court. The respondent may not purchase or possess any dangerous weapon for the length of the order, which is generally six months.

When the ERPO has expired, the firearms and dangerous weapons are returned to the respondent unless otherwise prohibited by law.

More details about the ERPO laws and processes in Vermont are available here:

- ERPO information on the Vermont Judiciary website – includes process information and forms: <https://www.vermontjudiciary.org/family/erpo>
- VT Dept of Public Safety [Extreme Risk Protection Order Guide](#)
- VT [Firearms Storage Program](#)
- VT Dept of Mental Health [Suicide Prevention](#)