

Instructions

For Respondent When Required to Transfer Firearms from an Extreme Risk Protection Order (ERPO)

Important Notices and Resources

The Court has forms and instructions, for some types of cases, as a general guide to the court process. These instructions explain the steps in more detail and answer common questions, but are not a full guide to the law. Court employees may be able to give general information on court rules and procedures, but they cannot give legal advice.

Have questions about court forms or instructions?

- Visit www.MNCourts.gov/SelfHelp
- Call the Statewide Self-Help Center at 651-435-6535

Not sure what to do about a legal issue or need advice?

- Talk with a lawyer
- Visit www.MNCourts.gov/Find-a-Lawyer.aspx
- Helpful materials may be found at your public county law library. For a directory, see <http://mn.gov/law-library/research-links/county-law-libraries.jsp>. For more information, contact court administration or call the Minnesota State Law Library at 651-297-7651.

Forms You MAY Need and covered in these Instructions:

- *Declaration of No Ownership or Possession of Firearms* (ERP205);
- *Respondent's Declaration of Transfer of Firearms* (ERP206);
- *Proof of Transfer* (ERP207);
- *Affidavit of Transfer of Antique Firearms to Relative* (ERP208); and
- *Cover Sheet for Non-Public Documents (Form 11.2)* (CON112).

The Extreme Risk Protection Order forms are available online at www.mncourts.gov/forms under the "Firearms" category.

General Information about the Extreme Risk Protection Process

What is an ERPO?

An Extreme Risk Protection Order, or “ERPO,” is a court order stating that someone cannot have or buy firearms. Courts will only issue an ERPO after finding that someone poses a significant danger of bodily harm to others and/or is at significant risk of suicide if they have a firearm.

Who can apply for an ERPO?

The person applying for an ERPO is the **Petitioner**. The person whose firearm rights are being affected is the **Respondent**. Only certain people are legally allowed to be Petitioners in ERPO cases.

In order to apply for an ERPO, the Petitioner must be a:

- Chief Law Enforcement Officer/Agency;
- City or County Attorney;
- Guardian of the Respondent, as defined by [Minn. Stat. § 524.1-201](#) ; or
- Family/Household member of the Respondent defined as:
 - Spouse
 - Former Spouse
 - Parent/Child
 - Anyone currently living with the Respondent, or
 - A person involved in a significant romantic or sexual relationship with the Respondent.

How long does an ERPO last?

An Emergency ERPO lasts for up to 14 days. An Emergency ERPO can be issued “ex parte,” which means after hearing from only one side. An Emergency ERPO is granted or denied based on documents submitted by the Petitioner, without a hearing.

A long-term ERPO is in effect for at least 6 months and no longer than one year. A long-term ERPO can only be issued after a hearing.

The Petitioner can ask for an Emergency ERPO, a long-term ERPO, or both in the *Petition*.

How do I get notice of an ERPO?

Respondents get notice of ERPO cases through service. Service is the word used for legally valid notice of legal proceedings. In ERPO cases, service can happen by law enforcement personally giving you copies of documents (personal service), by first class mail, or by publication.

Personal service must always be attempted in ERPO cases. However, if law enforcement is not able to personally serve you with the required ERPO documents, the Petitioner can request “alternate service.” Alternate service in ERPO cases means service by first class mail or by publication.

If a judicial officer orders alternate service by first class mail or publication, the law says the service is complete 14 days after mailing or publication. That means that 14 days after ERPO documents are either sent by first class mail or published, you will have legally valid notice of the ERPO proceedings, whether or not you actually open the mail or read the published court notice.

What happens after being served with an ERPO?

- If an Emergency Extreme Risk Protection Order has been granted, you have the right to request a hearing challenging the order. Fill out and file the *Request for Hearing on Emergency ERPO* (ERP202).
- If a hearing has been scheduled and you received notice less than 5 days before the hearing, You have the right to request a continuance of up to 14 days by using the *Request for Continuance of Extreme Risk Protection Order Hearing* (ERP203). If you do not appear at the hearing or request a continuance for when you can appear an Extreme Risk Protection Order may be granted.
- If an ERPO is granted you will be ordered to surrender your firearms to law enforcement, or (in non-emergency circumstances) you may have 24 hours to transfer your firearms to law enforcement or a federally licensed firearms dealer. Read the ERPO order carefully to understand what you were ordered to do.
- If an ERPO is granted with a finding that there is an “immediate and present danger,” you will be ordered to immediately surrender your firearms to law enforcement. If you do not voluntarily surrender your firearms to law enforcement, officers may execute a search warrant to take any firearms you possess.
- It is a crime to possess firearms in violation of an ERPO. Minnesota law also makes it a crime for someone to possess ammunition if they are the subject of an ERPO.

If you have any other questions about ERPOs, or your rights, you may want to talk with an attorney. You can also find more information on “Firearms Help Topic” on the MN Judicial Branch website at <https://www.mncourts.gov/Help-Topics/Firearms.aspx>.

An ERPO has been issued. What now?

Once an ERPO has been granted you will not be allowed to buy or possess any firearms for as long as the order is in effect. Carefully read your court order to see whether you were ordered to immediately surrender your firearms, or if you were given time to transfer them.

Minnesota Statute § [624.7175](#) is the specific law regarding transfers of firearms under ERPO laws. The statute describes some of your options and responsibilities. The statute also describes the requirements that law enforcement agencies and federally licensed firearms dealers must follow when accepting transfers of firearms because of an ERPO.

There is a lot of detailed information in that statute about firearm transfer and surrender under ERPO laws. If you have questions about firearms transfer/surrender, or your rights, you may want to talk with an attorney.

What form do I use to transfer my firearms?

If you were given 24 hours to transfer your firearms to a law enforcement agency or federally licensed firearms dealer, you may use the forms listed below.

Note: The ERPO law requires that these forms are filed with law enforcement. They are not required to be filed with the court.

- *Declaration of No Ownership or Possession of Firearms* (ERP205) – Use this form if you do not currently own or possess any firearms. This is the only form you will need.
- *Respondent’s Declaration of Transfer of Firearms* (ERP206) – Use this form if you transferred all of the firearms you own or possess to a law enforcement agency or federally licensed dealer. This form is filed with the law enforcement agency, along with the *Proof of Transfer* (ERP207) listed in your order within 2 business days of the transfer.
- *Proof of Transfer* (ERP207) – This form is filled out by either a law enforcement agency or a federally licensed firearms dealer that accepted the transfer of firearms.
- *Affidavit of Transfer of Antique Firearms to Relative* (ERP208) - Use this form if you transfer a firearm that is considered an antique (as defined by United States Code, title 18 § 921 (a) (16)) or a curio or relic (as defined in the Code of Federal Regulations, title 27 § 478.11) to a relative who is legally allowed to possess a firearm.

Declaration of No Ownership or Possession of Firearms (ERP205)

Use this form if you do not currently own or possess any firearms. This includes any antiques, curios, or relics as laid out by federal law.

Step 1: Fill out the form

The Caption:

This document is not required to be filed with the Court. If filed with the Court, this document shall be sealed. The *Cover Sheet for Non-Public Documents* (Form 11.2) must be used if filing this document in paper form with the Court.

See Instructions (ERP204) for help in filling out this form.

State of Minnesota **District Court**

County of: _____ Court File Number: _____

Judicial District: _____ Case Type: Extreme Risk Protection Order

Petitioner

VS

Respondent

Declaration of No Ownership or Possession of Firearms (ERP205)
Minn. Stat. § 624.7175(c)(1)

- Fill out the caption of the form. Information needed to fill out the caption can be found on any of the court documents you received, including the order granting the ERPO. You will need to fill out:
 - The **county** where the case is located;
 - The **court file** number;
 - The **judicial district** number; and
 - The full name of each party as it appears on the Order. You will always be the Respondent, even when you are filing with the court.

Signature Block:

Dated: _____	_____
	Signature
	Name _____
	Address: _____
	City/State/Zip: _____
	Phone: _____
	Email: _____

- Read the statements in the *Declaration of No Ownership or Possession of Firearms* form.
- If everything is true, sign and date the *Declaration*. Fill in the rest of the information.

Step 2: File with Law Enforcement

The *Declaration of No Ownership or Possession of Firearms* form must be filed with the law enforcement agency that is named in the Order within 2 business days. This form is not required to be filed with the court. If you decide to file a paper copy with the court, be sure to use the *Cover Sheet for Non-Public Documents Form 11.2 (CON112)*.

Respondent’s Declaration of Transfer of Firearms (ERP206)

Use this form if you transferred all of the firearms you own or possess to a law enforcement agency or federally licensed dealer. This form is filed with the law enforcement agency, along with the *Proof of Transfer (ERP207)* listed in your order within 2 business days of the transfer.

Step 1: Fill out the form

The Caption

This document is not required to be filed with the Court. If filed with the Court, this document shall be sealed. The *Cover Sheet for Non-Public Documents* (Form 11.2) must be used if filing this document in paper form with the Court.

See Instructions (ERP204) for help in filling out this form.

State of Minnesota	District Court
County of: _____	Court File Number: _____
Judicial District: _____	Case Type: <u>Extreme Risk Protection Order</u>
_____ Petitioner	
VS	
_____ Respondent	

Respondent's Declaration of Transfer of Firearms (ERP206)
Minn. Stat. § 624.7175

- Fill out the caption of the form. Information needed to fill out the caption can be found on any of the court documents you received, including the order granting the ERPO. You will need to fill out:
 - The **county** where the case is located;
 - The **court file** number;
 - The **judicial district** number; and
 - The full name of each party as it appears on the Order. You will always be the Respondent, even when you are filing with the court.

Declaration

1. I am the Respondent in this case.
2. I was ordered to transfer all firearms I own or possess within 24 hours of an Extreme Risk Protection Order issued on _____ (date).
3. I have transferred all firearms I owned or possessed at the time of the Extreme Risk Protection Order, as required by Minn. Stat. § 624.7175. The make, model, and caliber of all firearms transferred are listed in the attached *Proof of Transfer of Firearms* (ERP207) and/or *Affidavit of Transfer of Antique Firearms to Relative* (ERP208).
4. After transferring the firearms, I no longer own or possess any firearms.
5. I understand that I must file this Declaration with the law enforcement agency within 2 business days of transferring the firearms.

- Read the statements included in Respondent's Declaration. Fill in the date the Extreme Risk Protection Order was issued.

Signature Block

- Sign and date the *Declaration*. Fill in the rest of the information.

Step 2: File with Law Enforcement

Respondent's Declaration of Transfer of Firearms form must be filed with the law enforcement agency that is named in the Order within 2 business days of the transfer. This form is not required to be filed with the court. If you decide to file a paper copy with the court, be sure to use the *Cover Sheet for Non-Public Documents Form 11.2 (CON112)*.

Proof of Transfer (ERP207)

This form is filled out by either a law enforcement agency or a federally licensed firearms dealer that accepted the transfer of firearms. Any law enforcement agency or federally licensed firearms dealer that accepts your firearms due to an ERPO is required to provide you with a proof of transfer document. They do not have to use the specific *Proof of Transfer (ERP207)* form, but they must provide you with a proof of transfer document that includes all the information required in the ERPO law.

Affidavit of Transfer of Antique Firearms to Relative (ERP208)

Use this form if you own or have a firearm that is considered an antique (as defined by United States Code, title 18 § 921 (a) (16)) or a curio or relic (as defined in the Code of Federal Regulations, title 27 § 478.11) and you have transferred it to a relative who is legally allowed to own or possess firearms.

This form is completed by the relative that is accepting the antique firearm from you and must be signed in front of a notary public.

Step 1: Fill out the form

The Caption

This document is not required to be filed with the Court. If filed with the Court, this document shall be sealed. The *Cover Sheet for Non-Public Documents (Form 11.2)* must be used if filing this document in paper form with the Court.

See Instructions (ERP204) for help in filling out this form.

State of Minnesota	District Court
County of: _____	Court File Number: _____
Judicial District: _____	Case Type: <u>Extreme Risk Protection Order</u>
_____ Petitioner	
VS	
_____ Respondent	

Affidavit of Transfer of Antique Firearms to Relative (ERP208)
Minn. Stat. § 624.7175

- Fill out the caption of the form. Information needed to fill out the caption can be found on any of the court documents you received, including the order granting the ERPO. You will need to fill out:
 - The **county** where the case is located;

- The **court file** number;
- The **judicial district** number; and
- The full name of each party as it appears on the Order. You will always be the Respondent.

Transfer Information

I, _____ state the following:

1. I am a relative of _____, the Respondent in this case.
2. I am lawfully permitted to own or possess firearms.
3. I don't live with Respondent.
4. On _____(date), Respondent permanently or temporarily transferred the firearms listed below to me. If the transfer is temporary, I agree to temporarily store Respondent's firearms until Respondent is legally permitted to possess firearms.
5. Each of the firearms listed below is considered an antique (as defined by United States Code, title 18 § 921 (a) (16)) or a curio or relic (as defined in the Code of Federal Regulations, title 27 § 478.11).
6. The name, make, model and caliber of all firearms transferred are as follows:

Firearm #1:	Firearm #2:
Firearm Name/Make: _____	Firearm Name/Make: _____
Serial Number: _____	Serial Number: _____
Model/Caliber: _____	Model/Caliber: _____

- This portion of the form should be completed by the relative accepting firearms. The relative filling out the form must fill in their name at the top and then Respondent's name.
- Fill in the date that Respondent handed over the antique firearm and check whether this is permanent or temporary while the Extreme Risk Protection Order is in effect.
- Fill in detailed information for each and every firearm transferred. There is space for 8 firearms. If there are more than 8 antique, curio, or relic firearms transferred to you, create an attachment listing the information for the rest of the firearms.

Signature Block & Notary

Dated: _____	Signature _____
	Name _____
	Address: _____
	City/State/Zip: _____
	Phone: _____
	Email: _____
Sworn/Affirmed before me this _____ day	
of _____	
In _____ County	
State of _____	

Notary Public	

- Wait to sign the *Affidavit* until you are in front of a Notary Public. When in front of a Notary, sign and date the *Affidavit*. Fill in the rest of the information below the signature. The Notary will fill in their information.

Step 2: File with Law Enforcement

The *Affidavit of Transfer of Antique Firearms to a Relative* must be filed with the law enforcement agency that is named in the Order within 2 business days of the transfer. This form is not required to be filed with the court. If you decide to file a paper copy with the court, be sure to use the *Cover Sheet for Non-Public Documents Form 11.2* (CON112).

NOTICE TO RESPONDENT

If you were ordered to surrender your firearms and you do not voluntarily surrender them to the responsible law enforcement agency listed in your order, officers may execute a search warrant to take any firearms you possess.

Possession of a firearm in violation of an ERPO is a crime under Minn. Stat. § 624.7177, subd. 2. Anyone who possesses a firearm and knows or should have known they are prohibited from doing so under Minn. Stat. § 624.7172, Minn. Stat. § 624.7174, or by an order pursuant to a substantially similar law of another state is guilty of a misdemeanor and shall be prohibited from possessing firearms for a period of 5 years.

Possession of a firearm or ammunition by anyone subject to an ERPO is also a crime under Minn. Stat. § 624.713, subd. 1 (14).

What to Expect Next...

When the ERPO expires, you may contact the law enforcement agency or federally licensed firearms dealer for return of any firearms. They will likely conduct a background check to determine whether you are allowed to possess a firearm before returning firearms to you.

Minnesota Statute § [624.7175](#) is the specific law regarding transfers of firearms under ERPO laws. The statute describes some of your options and responsibilities. The statute also describes the requirements that law enforcement agencies and federally licensed firearms dealers must follow when accepting transfers of firearms because of an ERPO.

There is a lot of detailed information in that statute about firearm transfer and surrender under ERPO laws. If you have questions about firearms transfer/surrender, or your rights, you may want to talk with an attorney.