

INSTRUCTIONS

Respondent's Request for Hearing or Continuance of an Extreme Risk Protection Order Hearing (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:

- *Request for Hearing on Emergency ERPO* (ERP202); or
- *Request for Continuance of ERPO Hearing* (ERP203);

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**. You are 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 emergency 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>.

Request for Hearing on Emergency ERPO (ERP202)

Use this form if you have been served with an Order Granting Emergency Extreme Risk Protection Order and want to have a hearing to challenge the Emergency ERPO. If you do not disagree with the Order then there is no need to file this request.

If a hearing is scheduled, the Petitioner must get 5 days notice of the hearing. **Note:** Emergency ERPOs are usually in effect for only 14 days. Check the expiration date of the Emergency Order. It could be that the order will expire sooner than a hearing could be held. You can still choose to request a hearing if the order is close to expiring, but the Court could possibly extend the order until a hearing takes place.

Follow the steps below for filling out and filing the *Request for Hearing on Emergency ERPO* form.

Step 1: Fill out the form

The Caption:

State of Minnesota	District Court
County of: _____	Court File Number: _____
Judicial District: _____	Case Type: <u>Extreme Risk Protection Order</u>
_____ Petitioner	
vs	
_____ Respondent	
Request for Hearing on Emergency Extreme Risk Protection Order (ERP202) <small>Minn. Stat. § 624.7174</small>	

- Fill out the caption of the form. Information needed to fill out the caption can be found on the Order Granting Emergency 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 making a request from the court.

Request and Signature Block:

1. I am the Respondent in this case.	
2. I received notice of an Emergency Extreme Risk Protection Order, which prohibits me from purchasing or possessing firearms.	
3. I ask the Court to hold a hearing so I can contest the issuance of the order against me. I understand that any Extreme Risk Protection Order issued by the Court shall remain in full force and effect until the date of the hearing.	
Dated: _____	Signature _____
	Name: _____
	Address: _____
	City/State/Zip: _____
	Phone: _____
	Email: _____

- Read the statements in the *Request for Hearing*. Sign and date the *Request for Hearing*. Fill in the rest of the information in the signature block.

Step 2: File with the Court

You can either file your *Request for Hearing* by paper at the courthouse or electronically by filing through eFS. There is no filing fee for Extreme Risk Protection Order cases.

At the Courthouse

- This can be done either in person at the courthouse or by mail. Addresses for courthouses are online at <https://mncourts.gov/Find-Courts.aspx>. Use the drop-down menu or map to find your county.
- It is a good idea to make a copy of each of the forms you are filing with the court for your own records.

Electronic Filing through eFS System

- The eFS System allows you to electronically file (eFile) your forms. Information on eFiling is on the MN Judicial Branch website at <https://www.mncourts.gov/eFile> under the “eFile and eServe Training” tab.

- Once you choose to eFile, you must eFile for the rest of the case. See [Minn. Gen. R. Prac. 14.01\(b\)\(5\)\(i\)](https://www.revisor.mn.gov/court_rules/gp/id/14/) (revisor.mn.gov/court_rules/gp/id/14/).

Request for Continuance of Extreme Risk Protection Order Hearing (ERP203)

Use this form if you received the *Petition*, attachments, and the *Notice of Hearing* less than 5 days before the hearing or if there is some other reason you are not able to attend the hearing date.

Step 1: Fill out the form

The Caption

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

Petitioner	
VS	

Respondent	
Request for Continuance of Extreme Risk Protection Order Hearing (ERP203)	

- Fill out the caption of the form. Information needed to fill out the caption can be found on the *Notice of Hearing* or any other court document you received. 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 making a request from the court.

Request and Signature Block

<p>1. I am the Respondent in this case.</p> <p>2. A hearing is scheduled for _____.</p> <p>3. I received notice of the hearing on ____ (date).</p> <p>4. I am requesting a continuance of ____ days (no more than 14), pursuant to Minn. Stat. § 624.7172, subd. 1 (d), because I received a <i>Notice of Hearing</i> less than 5 days before the hearing.</p> <p>OR</p> <p>I am requesting a continuance because: _____</p> <p>_____</p> <p>_____</p> <p>5. I understand that if my request is granted, any emergency order already in effect will be extended until the new hearing date.</p> <p>Dated: _____</p>	<p>Signature _____</p> <p>Name _____</p> <p>Address: _____</p> <p>City/State/Zip: _____</p> <p>Phone: _____</p> <p>Email: _____</p>
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- Fill in the date of the scheduled hearing from the *Notice of Hearing* and the date it was received.
- Fill in how many days you want to continue the hearing. This can be no more than 14 days. If you received the *Notice of Hearing* more than 5 days before the hearing you will need to explain why you are asking for a continuance.
- Sign and date the *Request for Continuance*. Fill in the rest of the information in the signature block.

Step 2: File with the Court

You can either file your *Request for Continuance* by paper at the courthouse or electronically by filing through eFS. There is no filing fee for Extreme Risk Protection Order cases.

At the Courthouse

- This can be done either in person at the courthouse or by mail. Addresses for courthouses are online at <https://mncourts.gov/Find-Courts.aspx>. Use the drop-down menu or map to find your county.
- It is a good idea to make a copy of each of the forms you are filing with the court for your own records.

Electronic Filing through eFS System

- The eFS System allows you to electronically file (eFile) your forms. Information on eFiling is on the MN Judicial Branch website at <https://www.mncourts.gov/eFile> under the “eFile and eServe Training” tab. **Note** – ERPOs are a “Civil-Other” case type.
- Once you choose to eFile, you must eFile for the rest of the case. See [Minn. Gen. R. Prac. 14.01\(b\)\(5\)\(i\)](#) (revisor.mn.gov/court_rules/gp/id/14/).

What to Expect Next...

If a hearing is scheduled, you **must** attend the hearing, as ordered, either in person or virtually (remotely). If you do not attend the hearing, the Court may grant Petitioner's request for an Extreme Risk Protection Order.

For a hearing on a long-term ERPO, the Petitioner must prove by clear and convincing evidence that the Respondent (you) poses a significant danger to other persons or is at significant risk of suicide by possessing a firearm. They may provide documents (exhibits) or testimony. The Court can also consider testimony from officers, or others, who have interacted with you.

There are Rules of Evidence that say what kind of evidence courts can consider. The Court will not consider evidence that does not meet the requirements in the rules.

If you want the Court to consider any evidence or information, you must provide it. Judicial officers are not allowed to independently investigate cases, including looking at outside court records.

If you are not sure what to say in court, it is a good idea to talk to an attorney before the hearing. For more information about going to court, visit the "Going to Court" Help Topic at <https://mncourts.gov/Help-Topics/Going-to-Court.aspx>.

What happens if an Extreme Risk Protection Order is granted? Carefully read the Order for details about surrendering or transferring any firearms you own or possess. If you were given 24 hours to transfer your firearms, instructions are available to explain that process and the forms you may need: *Instructions For Respondent When Required to Transfer Firearms from an Extreme Risk Protection Order* (ERP204). The Extreme Risk Protection Order forms are available online at www.mncourts.gov/forms under the "Firearms" category.