

INSTRUCTIONS

Respondent's Application to Terminate an Extreme Risk Protection Order (ERPO) issued after a Hearing

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 Need to Ask for Termination of an ERPO that was Issued After a Hearing:

- *Application to Terminate Extreme Risk Protection Order* (ERP402); and
- *Service of Process (SOP105)* (if Petitioner's address is not confidential)

Forms You MAY Also Need:

- *Cover Sheet for Non-Public Document (Form 11.2)*.

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

When to Use Application to Terminate ERPO Form (ERP402)

The *Application to Terminate Extreme Risk Protection Order* (ERP402) is used when **all** of the following statements are true:

1. There has already been a hearing and an Extreme Risk Protection Order was issued for up to a year.

AND

- The Respondent (you) no longer poses a significant danger to other persons or are not at significant risk of suicide by possessing a firearm.

Note: You can only apply for a termination of an ERPO **one** time for every 6 months that the ERPO is in effect. If the ERPO is issued for only 6 months, then you may apply for termination only once. See Minn. Stat. § 624.7173 for more information. (www.revisor.mn.gov/statutes/cite/624.7173)

Follow the steps below for filling out and filing the *Application to Terminate Extreme Risk Protection Order*.

Step 1

Fill out Application to Terminate Extreme Risk Protection Order (ERP402)

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	
Application to Terminate Extreme Risk Protection Order (ERP402) Minn. Stat. § 624.7173(b)	

- Fill out the caption of the form. Information needed to fill out the caption can be found on the Extreme Risk Protection Order. You will need to fill out:
 - The **county** where the case is located;
 - The **court file number**; and
 - 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 the *Application to Terminate*.

Next, you will fill out the rest of the form.

Application

<ol style="list-style-type: none">I am the Respondent in this case.An Extreme Risk Protection Order was issued against me in this case on _____ (date) under Minn. Stat. § 624.7172.

- You do not have to fill in anything in question 1.

- List the date the *Extreme Risk Protection Order* (ERPO) was issued. You can find this date on the Order granting the ERPO.

Reasons for Application

3. I ask that the court terminate (end) the Extreme Risk Protection Order against me.

4. I do not pose a significant danger to other persons and I am not at significant risk of suicide by possessing a firearm, because: (Explain in detail. Attach more pages if necessary.)

- There is nothing to fill out for question 3.
- Explain, in detail, why you do not pose a significant danger to other persons and are not at significant risk of suicide by possessing a firearm. Be as specific as possible. If you need more space add more pages as needed. Do not write in the margins or on the back of the paper.

Court Appearance

5. I understand that a hearing will be held on this request, and I will need to prove by clear and convincing evidence that I do not pose a significant danger to other persons and I am not at significant risk of suicide by possessing a firearm.

6. I understand that I can only apply to terminate (end) the Extreme Risk Protection Order once every 6 months that the order is in effect.

- There is nothing to fill out for question 5. It explains that you understand that a hearing is required after filing this *Application* and that you will need to prove by clear and convincing evidence that you do not pose a significant danger to other persons and that you are not at significant risk of suicide by possessing a firearm.
- You can only apply to terminate an ERPO once every 6 months that the order is in effect. See Minn. Stat. § 624.7173(b).

Signature Block

Dated: _____

Signature _____

Name _____

Address: _____

City/State/Zip: _____

Phone: _____

Email: _____

- Sign and date the *Application to Terminate Extreme Risk Protection Order*. Fill in the rest of the information.

Step 2

Fill out Cover Sheet for Non-Public Document (Form 11.2) (CON112), if needed

Use this form if you are filing any supporting documents with the *Application to Terminate* that the law allows to be non-public. Specifically, Form 11.2 is required for: (1) medical records filed by paper, and (2) any other documents that the law allows to be non-public, regardless of whether those other documents are filed electronically or by paper. **Note:** if you are filing medical records electronically, you do not need this form as long as you use the correct filing code. See Step 5 for details.

- Fill out the caption the same as the *Application* in Step 1.
- Check the box for the type of supporting document that is being submitted. For purposes of this case type if you are not submitting “medical records” you will need to explain, in detail, why you believe the document should be kept confidential and not available to the public. **Note:** Medical records will be confidential in the court file as long as they are submitted with Form 11.2 when filed by paper. The definition of medical records are documents from: medical, health care, or scientific professionals AND related to the past, present, or future physical or mental health or condition of Respondent.
- Police reports are considered public. If there is information that you do not want available to the public, you should redact (cross out) the information before filing. Even if you submit Form 11.2 with a request to keep this confidential, the court may deny your request and keep the document public.
- If you are not sure if a document should be submitted or can be kept confidential, talk with an attorney for legal advice.

Step 3

Make Copies and Serve the Other Party

Make one copy of the following documents for yourself, and for the Petitioner:

- *Application to Terminate Extreme Risk Protection Order* (ERP402); and
- Supporting documents, if using.

You must arrange for the other party to receive copies of the *Application to Terminate Extreme Risk Protection Order* and any supporting documents you are filing with the *Application*. This is called “service of process.” Look at the *Petition* for Petitioner’s address. If the address is confidential skip to the “To serve the papers if Petitioner’s address is confidential:” section below.

You or a third party who is at least 18 must serve the documents. The paperwork can be served personally (handed to the Petitioner) or by mail. The person who personally serves or mails the documents is called “the server.”

Note: If the Petitioner is represented by an attorney, serve the Petitioner’s attorney, instead of the Petitioner directly.

Note: Papers **cannot** be served on a legal holiday as defined in [Minn. Stat. § 645.44, subd. 5](#) (revisor.mn.gov/statutes/cite/645.44).

To serve the papers personally, follow these instructions:

The server hands the Petitioner (or the Petitioner’s attorney, if there is one) a copy of the *Application to Terminate Extreme Risk Protection Order* (and any supporting documents).

To serve the papers by mail, follow these instructions:

Put your address as the return address in the upper left-hand corner of the envelope. The server places a copy of the *Application to Terminate Extreme Risk Protection Order* (and any supporting documents) in an envelope addressed to the Petitioner (or the Petitioner’s attorney, if there is one). The Petitioner’s address or their attorney’s address is included in the Petition.

The server should mail the envelope to the Petitioner using first class mail. You may want to take the envelope to the post office to be weighed to make sure the envelope includes the right amount of postage.

To serve the papers if Petitioner’s address is confidential:

Give a copy of the completed paperwork to court administration in the county where the case is filed. This can be done while filing as explained in Step 5. Explain to court staff that service cannot be completed because Petitioner’s address is confidential. Skip Step 4, an *Affidavit of Service* will not be filed.

Step 4

Fill out the Affidavit of Service (SOP105)

The [Affidavit of Service](#) (SOP105) is available in the packet with your *Application to Terminate* forms but also online at www.mncourts.gov/forms under the “Service of Process” category of forms. This form is not used if Petitioner’s address is confidential.

Important: Do NOT fill out the *Affidavit of Service* until AFTER the other party is served.

Instructions for the person who serves the papers:

- Fill in the caption the same as it is written on the other forms.
- Fill in your name and date of birth.
- Fill in the date the paperwork was served.
- Fill in the other party’s name.
- Check how service was done (“Personal Service” or “Mail Service”).
- If service was done personally, fill in the name of the person who was served and the location (where) the server handed the papers to the other party.
- If service was done by mail, fill in the other party’s name (or attorney’s name, if there is one), the address to which the papers were mailed, and the city and state the server was in when they mailed the envelope.
- Fill in your name, address, and telephone number. Sign and date the form.
- Return completed *Affidavit of Service* form back to Respondent, if needed.

After the server signs the *Affidavit of Service*, make one copy for your records. The original is filed with the Court as part of Step 5.

Step 5

File with Court Administration

File the following documents with court administration:

- *Application to Terminate Extreme Risk Protection Order* (ERP402);
- *Supporting documents, if using;*
- *Affidavit of Service* (SOP105), if needed; and
- *Cover Sheet for Non-Public Document* (Form 11.2) with supporting documents, if needed (see Step 2, above).

How to File

At the Courthouse – for Self-Represented Litigants (SRLs)

- 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.
- There is no fee to file an *Application to Terminate Extreme Risk Protection Order*.
- **Note** – If filing “Medical Records” or any other supporting documents to support the *Petition* that qualify under court rule to be kept confidential, they will only be confidential **if** they are attached to a *Cover Sheet for Non-Public Document* (Form 11.2) explained in Step 2.

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.
- There is no fee to file an *Application to Terminate Extreme Risk Protection Order*.
- 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/). Government agencies and attorneys are always required to eFile.
- **Note** - If filing medical records to support the *Application to Terminate* they will only be confidential **if** they are submitted with the filing code of “Medical Report” or “Medical Record.”

What to Expect Next...

Once the *Application to Terminate Extreme Risk Protection Order* is filed, the court will schedule a hearing. Check to see whether the hearing will be virtual (remote) or in-person. Whether a hearing is virtual or in-person, you **must** appear at the hearing. If you do not attend the hearing, the ERPO will remain in effect until the expiration date listed in the Order.

At the hearing you must prove by clear and convincing evidence that you do not pose a significant danger to other persons or that you are not at significant risk of suicide by possessing a firearm. You may provide documents (exhibits) or testimony.

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.

You must provide any evidence or information you want the Court to have when deciding whether or not to terminate the ERPO. If you think there is someone who has relevant information, you'll need to have them appear as a witness. 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>.