



## Talking Points SB23-170: Expand ERPO Petitioners Position: Support

*Legislative Action—Working for Freedom from Gun Violence*

### Background

The Extreme Risk Protection Orders (Red Flag) law provides a route for removing guns from people who are judged to be a danger to themselves or others. Currently, such petitions may be submitted to a judge only by law enforcement or those with a household relationship (primarily family members) with the potentially dangerous person. In the first three years of the law, Colorado law enforcement and citizens submitted over 380 ERPO petitions, and in nearly half the cases guns were removed for a year or more.<sup>1</sup>

### **SB23-170 would:**

- Expand the list of potential petitioners to the Attorney General and district attorneys and their designees (with Peace Officer Standard Training), and community members. For purposes of this bill, community members are defined as licensed health care professionals, mental health professionals, teachers, and school counselors, nurses, and administrators. Community members must have had a direct professional relationship with the person in crisis during the previous six months.
- Protects all petitioners from criminal or civil liability if they file or if they don't file an ERPO and the person goes on to commit an act of violence.
- Protects community members from employment discipline for choice on filing an ERPO.

### **This bill is needed because:**<sup>1</sup>

- Colorado's "red flag" cases paint a disturbing picture of the moments that may precede acts of violence – from desperate people in the grips of suicidal thoughts to would-be murderers with a plan.
- In roughly half of the ERPO cases, the respondent was accused of threatening others, either explicitly or indirectly.
- In about one third of all cases, the individual was considering suicide.
- There also were at least eleven people who reportedly discussed a "suicide by cop," in which they intended to force a police officer to kill them.

### **SB23-170 Talking Points**

- Community members are quite likely to observe that an individual is in crisis. Counselors may be the only ones to hear their deadly plans, and educators in their everyday interactions with students may learn of dangerous intents.

<sup>1</sup> <http://www.cpr.org/2023/01/30erpo-red-flag-cases-in-colorado>

<sup>2</sup> [www.giffords.org/lawcenter/gun-laws/policy-areas/who-can-have-a-gun/domestic-violence-firearms](http://www.giffords.org/lawcenter/gun-laws/policy-areas/who-can-have-a-gun/domestic-violence-firearms)

<sup>3</sup> Nicholas Kristof, "A Smarter Way to Reduce Gun Deaths," New York Times 01-29-2023.

<sup>4</sup> [www.nbcnews.com/news/us-news/teacher-shot-6-year-old-texted-dire-warning-loved-one-was-wounded-sour-rcna67290](http://www.nbcnews.com/news/us-news/teacher-shot-6-year-old-texted-dire-warning-loved-one-was-wounded-sour-rcna67290)

<sup>5</sup> [www.cnn.com/2022/11/22/us/colorado-springs-club-q-ahooting-tuescay/index.html](http://www.cnn.com/2022/11/22/us/colorado-springs-club-q-ahooting-tuescay/index.html)

- **Clearly there are those in our communities who are a danger to themselves or others.** When these people possess a firearm, the potential damage is likely to be lethal. For example, domestic violence victims are five times more likely to die if their abuser has access to a gun.<sup>2</sup>
- **Current research indicates that the laws most successful in reducing violence are those that restrict individuals who have committed or threatened violence from possessing firearms.** As Nicholas Kristof points out, gun violence is best addressed as a problem to be solved (keeping guns away from dangerous people) not a culture war to be fought.<sup>3</sup>
- **Many Coloradans are not aware that there is a tool to forestall a dangerous person.** The Boulder King Soopers shooter was a classic case of where ERPO could have prevented a mass shooting, but the shooter's family did not know of this tool. Wider education, publicity and continued use of the law will hopefully increase public awareness.
- **If more professionals such as teachers, counselors and mental health workers are offered the ability to file petitions, it is likely that more shootings could be prevented, and more lives saved.** As an example, the Virginia teacher who was shot by her 6-year-old student, had tried to alert school officials about the risk she saw first-hand.<sup>4</sup>
- **ERPO use across Colorado varies widely; the Denver Police Department has filed the most (90).** In 40 of Colorado's 64 counties, no petitions were filed.<sup>1</sup> Unfortunately, commissioners in some counties have made their own constitutional interpretation and declared their counties as "Second Amendment Sanctuaries." This is a disservice to their constituents, as the suicide rates of most of these counties are the highest in the state.
- **Perhaps if the El Paso County sheriff had not been resistant to the employment of ERPO, five lives could have been saved at the Colorado Springs Club Q shooting in November 2022.<sup>5</sup>** Expanding the categories of petitioners to include DA's could provide a route to overcome the opposition of some in law enforcement to the use of ERPO.

### Conclusion

*Even in the short time since its implementation, ERPO has saved an untold number of lives. Experience has taught us that, typically, those dangerous to themselves or others present clues of their intentions. In many instances these clues were evident to others, such as school personnel and mental health professionals, for example: the Colorado Springs Halloween street shooting (2015), the Aurora Theater, Boulder King Soopers, and the Colorado Springs nightclub. Our communities will be safer when we expand the categories of individuals who may identify those at risk and act on that information. ERPO is a life-saving tool, and we all will be safer when it is more widely used.*

<sup>1</sup> <http://www.cpr.org/2023/01/30erpo-red-flag-cases-in-colorado>

<sup>2</sup> [www.giffords.org/lawcenter/gun-laws/policy-areas/who-can-have-a-gun/domestic-violence-firearms](http://www.giffords.org/lawcenter/gun-laws/policy-areas/who-can-have-a-gun/domestic-violence-firearms)

<sup>3</sup> Nicholas Kristof, "[A Smarter Way to Reduce Gun Deaths,](https://www.nytimes.com/2023/01/29/us/politics/gun-control-erpo.html)" New York Times 01-29-2023.

<sup>4</sup> [www.nbcnews.com/news/us-news/teacher-shot-6-year-old-texted-dire-warning-loved-one-was-wounded-sour-rcna67290](https://www.nbcnews.com/news/us-news/teacher-shot-6-year-old-texted-dire-warning-loved-one-was-wounded-sour-rcna67290)

<sup>5</sup> [www.cnn.com/2022/11/22/us/colorado-springs-club-q-shooting-tuescay/index.html](https://www.cnn.com/2022/11/22/us/colorado-springs-club-q-shooting-tuescay/index.html)