



Fact Sheet

SB23-170: Expand ERPO Petitioners

[Colorado Revised Statutes 13-14.5](#)

Signed into law April 28, 2023

For more information, please contact

Patricia Smith | Mobile 303.807.7086

Colorado Ceasefire Communications

Director

pbsmith@coloradoceasefire.org

Background

The Extreme Risk Protection Orders (Red Flag) law provides a means for removing access to firearms 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 more than 380 ERPO petitions, and in nearly half the cases guns were removed for one or more years.¹

SB23-170:

- Expands 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.
- Does not impose criminal or civil liability on potential petitioners for acts or omissions made in good faith related to an ERPO.
- Protects community members from employment discipline for choice on filing an ERPO.

Why is ERPO Expansion needed?¹

- 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.

1. <http://www.cpr.org/2023/01/30erpo-red-flag-cases-in-colorado>
2. www.giffords.org/lawcenter/gun-laws/policy-areas/who-can-have-a-gun/domestic-violence-firearms
3. Nicholas Kristof, "A Smarter Way to Reduce Gun Deaths," New York Times 01-29-2023.
4. www.nbcnews.com/news/us-news/teacher-shot-6-year-old-texted-dire-warning-loved-one-was-wounded-sour-rcna67290
5. www.cnn.com/2022/11/22/us/colorado-springs-club-q-shooting-tuesdays/index.html

ERPO Expansion Scenarios

- **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 intentions.
- **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.²
- **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.³
- **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 an 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.
- **With additional petitioners such as teachers, counselors and mental health workers, 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.⁴
- **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.¹ Unfortunately, commissioners in 39 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.
- **Unfortunately, the El Paso County sheriff had been resistant to the employment of ERPO.** Five people were killed in the November 2022 Club Q massacre, and previous activities and arrest of the shooter fit ERPO criteria.⁵ By expanding the categories of petitioners to include District Attorneys and the expanded list of petitioners, this could 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 Aurora Theater shooting (2012), Boulder King Soopers shooting (2021), the Colorado Springs Halloween street shooting (2015), and the Club Q shooting in Colorado Springs (2022). 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.

Sources: ERPO Expansion SB23-170 Fact Sheet | Developed by Colorado Ceasefire and CFCU

1. <http://www.cpr.org/2023/01/30erpo-red-flag-cases-in-colorado>
2. www.giffords.org/lawcenter/gun-laws/policy-areas/who-can-have-a-gun/domestic-violence-firearms
3. Nicholas Kristof, "A Smarter Way to Reduce Gun Deaths," New York Times 01-29-2023.
4. www.nbcnews.com/news/us-news/teacher-shot-6-year-old-texted-dire-warning-loved-one-was-wounded-sour-rcna67290
5. www.cnn.com/2022/11/22/us/colorado-springs-club-q-shooting-tuesdays/index.html