

SPEAK FOR SAFETY

ILLINOIS

# Firearm Restraining Orders

EMPOWERING FAMILIES AND LAW ENFORCEMENT  
TO PREVENT GUN TRAGEDIES

## WHAT IS A FIREARM RESTRAINING ORDER?

A Firearm Restraining Order is a civil court order issued by a judge that temporarily prohibits a person in crisis from possessing or purchasing firearms. Firearm Restraining Orders provide families and law enforcement officers with a formal legal process to temporarily reduce an individual's access to firearms if they pose a danger to themselves or others.

In many high profile shootings, the family members of the shooters saw their loved ones engage in dangerous behaviors and grew concerned about their risk of harming themselves or others—even before any violence occurred. In fact, family members are often the first to know when loved ones are in crisis in the many incidents of interpersonal violence and suicide that take place across this country every day. However, a gap in most states' laws makes it hard for families and law enforcement to intervene. A Firearm Restraining Order fills this gap by creating a mechanism for family and household members to work with law enforcement to temporarily remove guns and prevent the purchase of new guns by individuals who pose an elevated risk of endangering themselves or others. This law will save lives while ensuring critical legal protections for respondents, just as it has in states that have already taken this responsible step.

## HOW DOES A FIREARM RESTRAINING ORDER WORK?

The Firearm Restraining Order is based on the long-standing infrastructure and procedure of domestic violence protection orders (in place in all 50 states) and involves both a court hearing and clearly defined due process protections. A qualifying petitioner (generally a family member or law enforcement) would petition the circuit court in their jurisdiction for a Firearm Restraining Order. Based on the evidence they present through a written application and at a hearing before a judge, an order may be issued. This process does not involve a criminal complaint. Specifically, the court process would include:

**Stage 1:** A petition must be filled out by a family or household member, or law enforcement. A hearing will be held, where a judge will consider the information in the petition and assess whether the person is at risk of harming themselves or someone else. It is not required that the respondent be provided with notice when seeking an emergency petition for a Firearms Restraining Order, however, it is required that an effort be made to provide notice to any intimate partner of the respondent (spouse, boyfriend/girlfriend etc.) if the petition alleges that the respondent poses an immediate danger to that intimate partner. If they do not receive notice, it is because an Emergency Order was filed, and the hearing is "ex parte."

*If issued, an ex parte or Emergency Firearm Restraining Order will be in effect until a full hearing, including all parties, is held. This hearing will be scheduled within two weeks of the issuance of the initial order. During this time, the respondent will be prohibited from purchasing or possessing a firearm and must surrender their firearms for the duration of the order.*

## DID YOU KNOW?

155,000 Americans were shot in 2016 alone—over one million in the last decade.<sup>1,2</sup>

Research estimates one death is prevented for every 10- 20 risk-warrants issued. (Connecticut's extreme risk law).<sup>3,4</sup>

60% of gun deaths are suicides.<sup>5</sup>

85% of suicide attempts with a firearm are fatal, making firearms the most lethal suicide attempt method that is commonly available. Temporarily reducing access to guns significantly increases the likelihood of surviving a suicidal crisis.<sup>6</sup>

**Stage 2:** Before the emergency order expires, a full hearing will be held to address the claim of dangerousness. For a six month order to be issued, petitioners will be required to testify and present relevant evidence in court. Respondents will have an opportunity to present evidence to show that they are not a danger to themselves or others, proving that a Firearm Restraining Order is not necessary.

*If the court determines that the respondent presents a significant danger to themselves or others, the order prohibiting the purchase and possession of firearms will be extended for six months.*

To terminate the Firearm Restraining Order before its expiration, the respondent may file a written request with the court. The respondent must provide evidence to a judge that they do not pose a significant danger. Respondents are allowed one request for termination for the duration of the order. When the order is terminated or expired, and the respondent is not otherwise prohibited from purchasing or possessing a gun, the firearms may be returned to the owner.

To extend a Firearms Restraining Order, the petitioner may file a written request with the court for the extension during the final three months before the order is scheduled to expire. For a judge to extend the order, an additional hearing will be held according to the same procedure and burden of proof as stage 2.

## ABOUT THE ILLINOIS COALITION AGAINST HANDGUN VIOLENCE

ICHV is the oldest and largest statewide organization in the U.S. working to prevent the devastation caused by firearms. ICHV works on a variety of fronts to educate, raise public awareness, and build coalitions to enact changes in laws and behavior. For over 40 years, ICHV has been a leader among state gun violence prevention groups. ICHV was instrumental in supporting the passage of the Firearm Restraining Order, 72-hour waiting period, and Gun Dealer Certification.

For more information, and for any questions, reach out to [info@spekforsafetyil.org](mailto:info@spekforsafetyil.org)  
<https://spekforsafetyil.org>



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<sup>1</sup> National Center for Injury Prevention and Control, CDC. 2007-2016, United States Firearm Deaths and Rates per 100,000. Fatal Injury Reports 1999-2016, for National, Regional, and States (RESTRICTED). Retrieved July 5, 2018, from [http://www.cdc.gov/injury/wisqars/fatal\\_injury\\_reports.html](http://www.cdc.gov/injury/wisqars/fatal_injury_reports.html)

<sup>2</sup> National Center for Injury Prevention and Control, CDC. 2007-2016, Overall Firearm Gunshot Nonfatal Injuries and Rates per 100,000. Nonfatal Injury Reports, 2001-2016. Retrieved July 5, 2018, from <http://www.cdc.gov/injury/wisqars/nonfatal.html>.

<sup>3</sup> Swanson JW, Norko MA, Lin HJ, Alanis-Hirsch K, Frisman LK, Baranoski MV, Easter MM, Robertson AG, Swartz MS, Bonnie RJ. (2017). Implementation and effectiveness of Connecticut's risk-based gun removal law: Does it prevent suicides? *Law & Contemp. Probs.* 80, 179.

<sup>4</sup> <http://efsgv.org/wp-content/uploads/2016/09/FINAL-ERPO-complete-091916-1.pdf>

<sup>5</sup> National Center for Injury Prevention and Control, CDC. 2015, United States Firearm Deaths and Rates per 100,000. Fatal Injury Reports 1999-2015, for National, Regional, and States (RESTRICTED). Retrieved January 24, 2017, from [http://www.cdc.gov/injury/wisqars/fatal\\_injury\\_reports.html](http://www.cdc.gov/injury/wisqars/fatal_injury_reports.html)

<sup>6</sup> Miller, M., Azrael, D., & Barber, C. (2012). Suicide mortality in the United States: the importance of attending to method in understanding population-level disparities in the burden of suicide. *Annual review of public health*, 33, 393-40

**Disclaimer:** This document does not provide legal advice and information is intended for general informational purposes only. If you need legal advice, please contact an attorney directly.