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BLOOMBERG SCHOOL
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**Center for
Gun Violence Solutions**

**Johns Hopkins
Center for Gun Violence Solutions
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**Testimony of Kelly Roskam – Director of Law and Policy
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In Support – Extreme Risk Protection Orders
Friday, February 3, 2023**

Chair Moller, Vice Chair Feist and Members of the Committee,

As a born and raised Minnesotan and as the Director of Law and Policy at the Johns Hopkins University Center for Gun Violence Solutions I am testifying in strong support of H.F. 15 the Extreme Risk Protection Order (ERPO) bill. Currently, 19 states and the District of Columbia have enacted ERPO laws.¹ ERPOs are civil orders that allow law enforcement and family and household members to petition the court to temporarily remove firearms from persons at risk of harming themselves or someone else.

Minnesota's ERPO empowers law enforcement, family and household members, guardians and dating partners to petition a court to temporarily prohibit a person from possessing a firearm and requiring the person to surrender firearms in their possession to a law enforcement agency or a federally licensed firearms dealer. The petitioner bears the burden of proving to the court that the person is at significant risk of causing themselves or someone else bodily injury by possessing a firearm. In determining whether to issue an order, judicial officers are required to consider evidence-based risk factors such as a history of threats or acts of violence or physical force by the person directed toward another, a history of self-harm, a violation of an order of protection, a conviction for cruelty to animals, and the unlawful and reckless use, display, or brandishing of a firearm by the person. Persons subject to the ERPO are also given an opportunity to request termination of the order.

ERPO laws are narrowly tailored, respect constitutional rights, and are effective at reducing gun violence. I strongly urge this committee to support this life-saving legislation.

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Gun Violence in Minnesota

In 2021, gun deaths in the United States reached an all-time high of 48,832 people. Gun suicides accounted for 26,332 of these deaths - another record high – and represent 53.9% of all gun deaths. Like the rest of the country, Minnesota suffers from a gun violence epidemic. In Minnesota, in 2021, there were 573 gun deaths, 68.6% of which were gun suicides.ⁱⁱ

ERPOs Effectively Address Gun Violence

A growing body of research suggests that ERPO laws are valuable tools to prevent gun violence – like firearm suicide. One study of Connecticut’s ERPO law between 1999 and 2013 determined that for every 10-20 orders issued, at least one suicide was prevented.ⁱⁱⁱ Another study of Indiana’s ERPO law between 2006 and 2013 determined that in nearly 70% of cases, suicidal ideation was cited as the reason for the issuance of the order and that for every 10 orders issued one suicide was prevented.^{iv} A third study estimated that Indiana’s ERPO law was associated with a 7.5% reduction in firearm suicides, while Connecticut’s extreme risk law was associated with a 13.7% reduction in firearm suicides.^v

There is often a misconception that ERPO proceedings are all contentious, but there is growing evidence that it is not the case. In Washington state, a woman successfully petitioned for an ERPO against her boyfriend who had recently attempted suicide and wanted to purchase a firearm. At the Extreme Risk Protection Order hearing, the couple came to court together (holding hands). The respondent had no objection to the Extreme Risk Protection Order. The respondent expressed gratitude that someone cared enough to make sure that he did not have access to a gun.^{vi}

Beyond firearm suicide, ERPOs are also a promising tool in the prevention of mass shootings. A study in California examined 159 orders issued between 2016 and 2018 and found that in 21 orders, the subject showed clear signs that they intended to commit a mass shooting and after the orders were issued, no mass shootings, suicides, or homicides occurred.^{vii} A study that analyzed 6,800 cases in six states that have ERPO laws found that 662 ERPO cases involved threats of mass shootings – the most common against K-12 schools and businesses.^{viii}

In another ERPO case in California, a woman made threats to shoot a co-worker. The woman was to be fired from her employment due to a civil harassment case involving her. The woman was arrested for criminal threats and served with an ERPO.^{ix}

ERPOs Respect Constitutional Rights

ERPOs are modeled after state domestic violence orders of protection and incorporate many of the same due process protections integral to these protection orders. The due process protections afforded by the ex parte extreme risk protection order are nearly identical in substance and form

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to those afforded by the domestic violence ex parte order of protection. Ex parte domestic violence orders of protection have been routinely upheld against due process challenges.^x In 2019, a Florida court of appeals upheld Florida's ERPO law against a due process challenge noting the inclusion of numerous due process safeguards such as the burden of proof, temporary nature of the order, opportunities for early termination, and specific factors considered while issuing an order.^{xi} The only courts to have evaluated ERPO laws have also upheld them against challenges that they violate the right to bear arms.^{xii}

Recommendations

While the Center wholeheartedly supports the ERPO bill, we recommend the following changes to make the bill even stronger and more equitable. First, we recommend that judges not be required to consider evidence of arrest when determining whether to issue an ERPO. We also recommend that upon issuance of the ERPO, persons subject to the order always be given an opportunity to surrender before a search warrant is issued. Finally, we recommend that a state agency collect data on ERPOs, submit an annual report on aggregate data related to ERPOs to the state legislature, and allow expert academic researchers to access ERPO data for study purposes.

Too many families in Minnesota have lost loved ones to gun violence. Temporarily removing firearms from those at a high risk of hurting themselves or someone else will save lives and make communities safer. By passing H.F. 15, Minnesota legislators can save lives and prevent families in the future from experiencing the same loss.

ⁱ California, Colorado, Connecticut, Delaware, Florida, Hawaii, Illinois, Indiana, Maryland, Massachusetts, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, Virginia, and Washington.

ⁱⁱ Centers for Disease Control and Prevention, National Center for Health Statistics. [About Underlying Cause of Death, 1999-2021](#)

ⁱⁱⁱ Swanson JW, et al. (2017). Implementation and effectiveness of Connecticut's risk-based gun removal law: Does it prevent suicides? *Law and Contemporary Problems*.

^{iv} Swanson JW, et al. (2019). Criminal justice and suicide outcomes with Indiana's risk-based gun seizure law. *Journal of the American Academy of Psychiatry and the Law*.

^v Kivisto AJ & Phalen PL. (2018). Effects of risk-based firearm seizure laws in Connecticut and Indiana on suicide rates, 1981–2015. *Psychiatric Services*.

^{vi} Senior Deputy Prosecuting Attorney of King County Kim Wyatt. Testimony before the Senate Judiciary Committee, March 26, 2019. Available: <https://www.judiciary.senate.gov/imo/media/doc/Wyatt%20Testimony.pdf>

^{vii} Wintemute GJ, Pear VA, Schleimer JP, Pallin R, Sohl S, Kravitz-Wirtz N, et al. (2019). Extreme risk protection orders intended to prevent mass shootings: A case series. *Annals of Internal Medicine*.

^{viii} Zeoli AM, Frattaroli S, Barnard L, Bowen A, Christy A, Easter M, Kapoor R, Knoepke C, Ma W, Molocznik A, Norko M, Omaki E, Paruk JK, Pear VA, Rowhani-Rahbar A, Schleimer JP, Swanson JW, & Wintemute GJ. (2022). Extreme risk protection orders in response to threats of multiple victim/mass shooting in six U.S. states: A descriptive study. *Preventive Medicine*.

^{ix} Press Release. September 29, 2016. “Santa Barbara Sheriff’s GVRO (Firearms Emergency Protective Orders).” Office of the Sheriff, Santa Barbara County.

^x See e.g., *Blazel v. Bradley*, 698 F. Supp. 756 (W.D. Wis. 1988); *Nollet v. Justices of Trial Court of Com. of Mass.*, 83 F. Supp. 2d 204 (D. Mass. 2000) aff’d sub nom. *Nollet v. Justices of Trial Court of Com. of Massachusetts*, 248 F.3d 1127 (1st Cir. 2000); *Pendleton v. Minichino*, 506673, 1992 WL 75920 (Conn. Super. Ct. Apr. 3, 1992); *Hamilton ex rel. Lethem v. Lethem*, 126 Haw. 294, 270 P.3d 1024 (2012) (judgment vacated on other grounds); *State v. Poole*, 745 S.E.2d 26 (N.C. Ct. App.) writ denied, review denied, appeal dismissed, 749 S.E.2d 885 (N.C. 2013)

^{xi} *Davis v. Gilchrist County Sheriff’s Office*, 280 So. 3d 524, 533 (Fla. Dist. Ct. App. 2019).

^{xii} *Hope v. State*, 163 Conn. App. 36, 43, 133 A.3d 519, 524 (2016); *Redington v. State*, 992 N.E.2d 823 (Ind. Ct. App. 2013).