



California's Gun Violence Restraining Order:

ATTORNEYS CAN SPEAK FOR SAFETY

"A client's family is concerned that their father, who has shown signs of depression and paranoia, may harm himself or their mother. There are lots of guns on the property, and they are neither locked up nor properly secured. What options do they have?"

"One of my clients is a 91-year-old man who is showing signs of dementia. He lives alone with no family nearby and I know that he keeps two loaded guns in his home. Because of his increasingly impaired judgment I am very worried that a dangerous accident could happen."

A NEW LAW CAN HELP!

California's Gun Violence Restraining Order (GVRO) is a law that allows teachers, school employees, co-workers, employers, family, household members, and law enforcement to obtain a court order to prevent an at-risk person from accessing guns, ammunition, or magazines and that temporarily prohibits that person from purchasing or obtaining any new guns, ammunition, or magazines*. The firearm removal and purchase restriction can last from 21 days to five years, depending on the type of order, and what the judge thinks is appropriate. A final GVRO, lasting between one and five years, can be renewed before it expires if the danger still exists.

**Magazines are ammunition storage and feeding devices which can often be detached from a firearm.*

As an attorney, you have an opportunity to advise or assist a client in obtaining a GVRO. A client may obtain a GVRO for a co-worker, employee, student, loved one, or household member they are concerned about by filling out a [petition](#) and filling out the necessary paperwork. A client can also contact their local sheriff or police department about a dangerous situation and ask them to obtain a GVRO. In cases of immediate danger, law enforcement may request an emergency GVRO, which can be obtained at any time of day, even if the court is closed.

HOW TO FILE A GVRO

There are three types of GVROs: (1) Emergency GVROs, which are available only to law enforcement at any time of day and last 21 days (2) Temporary GVROs, which last 21 days unless the order is terminated at the petitioner's request or at a court hearing; and (3) final GVROs obtained after the subject is notified of the petition and a court hearing has taken place. All orders prevent the restrained person from accessing guns, ammunition, and magazines, and temporarily prohibit that person from purchasing or obtaining any new guns, ammunition, or magazines*. Only when the order expires or is terminated may firearms and ammunition be returned to the restrained person.

*Magazines are ammunition storage and feeding devices which can often be detached from a firearm.

EMERGENCY GVRO

(Lasts 21 days; available to law enforcement only.)

An emergency GVRO, also known as an EPO-002, can be obtained by law enforcement if there is reasonable cause to believe that the person to be restrained poses an immediate and present danger to themselves or others. To obtain an emergency GVRO a law enforcement officer can make a verbal request to a local Superior Court judge or judicial officer handling emergency orders even if it is not during normal court hours. Emergency orders are generally requested over the phone and then memorialized on a [form EPO-002](#). If an emergency order is issued, law enforcement must request that the restrained person surrender all guns, ammunition, and magazines to the officer and the person must comply. The order must then be filed with the local superior court that issued it as soon as possible. Similar to the temporary GVRO, within 21 days a hearing will be held to determine if the emergency GVRO should be extended into a final GVRO, which can last between one and five years. For more information on these standards click here: [[California Code, Penal Code – PEN § 18125](#)].

TEMPORARY GVRO

(Lasts 21 days; available to law enforcement, family members, household members, employers, some co-workers, certain teachers/school employees .)

A temporary GVRO may be obtained by law enforcement, family members, household members, employers, some co-workers, certain teachers/school employees by petitioning the superior court in the county in which the person to be restrained resides. Temporary orders last 21 days unless terminated by the court. The petitioner must file a form [GV-100](#) as well as a form [GV-110](#) to get a temporary GVRO (otherwise no temporary order will be issued and the petitioner will have to wait until a hearing is held). It is recommended that petitioners review form [GV-100-INFO](#) before filling out their petition. When filling out the forms, the petitioner should include specific information for the judge about why a GVRO is necessary. The petitioner must explain that the person poses a danger of harming themselves or others in the near future and that other less serious alternatives that have been tried and have not worked or are too dangerous. The petitioner should also include everything they know about the guns the person to be restrained has.

FINAL GVRO ISSUED AFTER A NOTICE AND HEARING

(Lasts between one and five years; available to law enforcement, family members, household members, employers, some co-workers, certain teachers/school employees.)

A final GVRO, lasting between one and five years, may be obtained after the respondent is served a notice of the petition and temporary order (if issued), and after a hearing is held. **There are two paths following the filing of a GVRO petition using form GV-100:** 1) voluntary relinquishment or 2) proceed with a hearing.

Voluntary Relinquishment: The subject of a petition can file a form with the court to voluntarily relinquish their firearms, which they must do within 48 hours of filing. This would mean the subject is not contesting the petition and the GVRO will be issued for the period of time the judge designates. A GVRO can still be renewed even if the subject voluntarily surrendered their firearms.

Hearing: If the subject did not voluntarily relinquish their firearms, a hearing will be scheduled with the court

within 21 days to determine if a final GVRO should be issued. This will occur even if a temporary GVRO petition was denied. The petitioner must attend the hearing for a final GVRO to be granted. During the scheduled hearing, the respondent will be allowed to respond to the order and petition, and the judge may ask for further evidence and testimony to determine if there are grounds to issue a final order. Final GVROs may be renewed before they expire if the judge finds the subject to be an ongoing danger to themselves or others. California Code, Penal Code – PEN § 18175

Note: Please visit [How to Get a GVRO: Information for Family and Household Members](#) for more detailed instructions.

A CIVIL ACTION

The GVRO is a civil procedure, not a criminal one. The goal is to ensure safety and allow the respondent of the GVRO the opportunity to heal or stabilize. However, if the order is violated, the respondent may be charged with a misdemeanor crime. Only when the order expires or is terminated may firearms and ammunition be returned to the restrained person.

IMPORTANT FACTS ABOUT CALIFORNIA'S GVRO

- Courts report GVROs to the California Department of Justice and local district attorney within one court day of issuing a GVRO.
- If the petitioner is under 18, a guardian would need to file on their behalf (i.e., a parent or legal guardian).
- You can contact law enforcement directly for support. If necessary, they can file for an emergency GVRO right away.
- A GVRO officially starts on the day of the hearing and the duration of the GVRO is determined based on the number of years from that date.
- As of 2019, all filing fees for petitioning for or responding to a GVRO have been eliminated, as are fees associated with serving GVROs ([via SB-1200](#)).
- GVROs and similar laws such as Washington State's "extreme risk protection order" are sometimes called "red flag laws," although we do not endorse the use of this term. See "[Why not use the term Red Flag Law?](#)" for more info.

DID YOU KNOW?

- More than half of all gun deaths in California are suicides according to the [CDC](#).
- [A 2017 study](#) examined the results of a similar law in Connecticut and estimated that for every 10 to 20 orders removing firearms issued, at least one suicide was prevented.
- [A study from the UC Davis School of Medicine](#) identified **21 cases** where researchers believe a GVRO helped prevent a potential mass shooting. The lead author of the study, Dr. Garen J. Wintemute, said "I think the evidence suggests that extreme risk protection orders have a role to play in preventing mass shootings, but also in preventing firearm suicide and homicide."

- On September 1, 2020, 4 new GVRO bills went into effect. [AB 61](#) expanded the list of eligible GVRO petitioners to include certain teachers, school employees, co-workers, and employers. [AB 1493](#) created an option for the subject of a GVRO to voluntarily surrender their firearms and not contest the GVRO. [AB 339](#) called on law enforcement departments to create official procedures for requesting and enacting a GVRO. [AB 12](#) allows judges to set the duration of a final order between one to five years.
- In a [poll by Aging Life Care Association](#) on the presence of firearms in elders' homes, over one-third of professionals surveyed said they either frequently or sometimes had guns in their clients' homes, and several respondents recounted stories of suicides by clients that took place while professional caregivers were in the home.

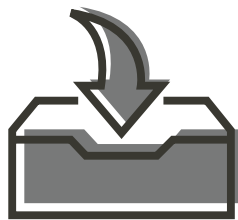
MORE ABOUT GVROs AS A TOOL TO PREVENT GUN VIOLENCE

- [Assessment of Extreme Risk Protection Order Use in California From 2016 to 2019](#) – from Journal of American Medical Association.
- [New California Study Shows ‘Red Flag’ Laws May Help Stop Mass Shootings Across the Country](#) – from TIME Magazine, Aug. 19, 2020.
- [Nearly 50 gun violence restraining orders served in San Diego since beginning of March](#) – from CBS8, Aug. 13, 2020.
- [“Red Flag” Law In California Expands To Workplaces And Schools](#) – from the Faculty Executive, Feb. 28, 2020.
- [Using California’s Red Flag Law to combat hate crimes](#) – from San Diego Downtown News, written by City Attorney, Mara W. Elliott.
- [AG Becerra Discusses Gun Violence Restraining Orders as part of Domestic Violence Awareness Month](#) – from California Department of Justice, Oct. 29, 2019.
- [How to get a gun violence restraining order](#) – from , KERO, Aug. 8, 2019.
- [Armed With Knowledge](#) – from Sactown Magazine, June-Jul 2019 Issue.
- [Men & Means: Suicide Prevention SKills Building Webinar](#) - from Each Mind Matters “Know the Signs” campaign, Aug. 8, 2017.
- [Yes, You Can: Physicians, Patients, and Firearms](#) – from Annals of Internal Medicine, Aug. 1, 2016.

HOW CAN I SPREAD THE WORD ABOUT THE GVRO TO SPEAK FOR SAFETY?



Contact your local Superior Court or VA office and ask if they have heard of the GVRO.



Download our resources
SpeakForSafety.org



Work within your agency or organization to ensure that your colleagues know about the GVRO as a tool to prevent gun violence.

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.