



California's Gun Violence Restraining Order:

A PREVENTION TOOL FOR LAW ENFORCEMENT

"A local man has threatened his neighbors with his guns. Although he has not harmed anyone or committed a crime, the situation has reached a boiling point, and we know from arrest records that he has been violent in the past. What is our best option for keeping those around him safe?"

"Family members came to us because their father has been showing signs of dementia and has loaded guns around his house. They are worried for their mother and want to know what options they can take to remove guns from the home."

CALIFORNIA'S GUN VIOLENCE RESTRAINING ORDER

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.

HOW A GVRO GETS FILED

Law enforcement can file a petition for an emergency GVRO, a temporary 21-day GVRO, or a final GVRO issued after a notice and hearing. Each type of GVRO has different standards of evidence and different forms and processes for petitioning. For more information on these standards click here: [California Code, PEN § 18125](#) (emergency), [§ 18150](#) (temporary), [§ 18175](#) (final GVRO).

EMERGENCY GVRO

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

1. To obtain an emergency GVRO a law enforcement officer must make a verbal request to the local Superior Court judge or judicial officer handling emergency orders even if it is not during normal court hours. Normally an emergency GVRO is requested by law enforcement at the scene of the emergency and issued to the law enforcement officer orally by the judicial officer (generally over the phone). The officer will then memorialize

the order on [form EPO-002](#).

2. The petitioning law enforcement officer must explain to a judicial officer why reasonable grounds for the issuance of an emergency GVRO exist and ask for oral or written approval of the emergency GVRO.
3. When serving the order, law enforcement must request the subject relinquish his or her firearms, ammunition, and magazines immediately (see “Serving a GVRO” below).
4. Memorialize the order of the court on the form EPO-002. If the order was obtained orally, the judicial officer will have to sign the form later on.
5. After serving the order the law enforcement officer must submit Proof of Personal Service (GV-200) to the Records Bureau Manager for prompt entry into the California Restraining and Protective Order System (Penal Code § 18115).

TEMPORARY GVRO

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

1. [A petition](#) for a temporary GVRO may only be filed during normal court hours and is filed with the Superior Court clerk in the county in which the subject resides.
2. The petitioner must file a [form GV-100](#) and a [form GV-110](#) to get a temporary GVRO (otherwise no temporary order will be issued and the petitioner will only have the option of obtaining a final order after a hearing).
3. A judicial officer must find that the subject poses a “significant danger, in the near future” of injury to self or others by having a firearm in his or her possession ([Penal Code § 18150](#)).
4. After an order is issued, the subject should be served with the order as soon as is reasonably possible (see “Serving a GVRO” below).
5. A hearing will be scheduled within 21 days from the date on the order. At the hearing, the subject of the GVRO will have the opportunity to appear to respond to the order (see GVRO Issued After Notice and A Hearing).

FINAL GVRO ISSUED AFTER A NOTICE AND HEARING

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

1. When a temporary or emergency GVRO is issued, the court will schedule a hearing within 21 days to determine if a final GVRO, lasting between one and five years, is necessary.
2. Once a GVRO petition is filed using form GV-100, there are two paths: 1) voluntary relinquishment or 2) proceed with hearing.
3. **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 indicates that the subject is not contesting

the petition and the GVRO will be issued for a period of time between one and five years as designated by the judge. A GVRO can still be renewed even if the subject voluntarily surrendered their firearms.

4. **Hearing:** If the subject chooses to challenge the petition, the court will move forward with scheduling a hearing. At the hearing, the petitioner can provide evidence and ask for a final GVRO, and the judge may grant it. During the hearing, the respondent has the opportunity to respond to the order, and the petitioner must prove by clear and convincing evidence that the respondent poses a “significant danger” of injury to self or others by having a firearm in his or her possession, that the order is necessary to prevent injury, and that less restrictive alternatives are ineffective or inadequate.
5. A petitioner may ask for a final one-year GVRO without seeking a temporary GVRO by using a [form GV-100](#). If this is done, the respondent of the order must still be notified of the hearing and the petition. Also, if the petitioner did seek a temporary GVRO order, but it was not issued, the court will still set a hearing.
6. If the judge decides that a GVRO is needed, he or she will issue a final GVRO for up to five years. 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.
7. California law requires that a sheriff or marshall must serve the order free of charge. When law enforcement serves the order, the respondent must immediately surrender his or her firearms, ammunition, and magazines to the law enforcement officer.
8. Within the three months before the expiration of the GVRO, the petitioner may file to request the renewal of the GVRO with the court if the respondent is still a risk to him/herself or others.

SERVING A GVRO

When serving a GVRO an officer must verbally ask the restrained person (the respondent) if he or she has any firearms, ammunition, or magazines in his or her possession or under his or her custody or control. The subject must then immediately surrender all firearms, ammunition, and magazines in his or her possession to law enforcement. The respondent must be served the order at least 5 days before the court date (the hearing) scheduled after the order is granted. The Judicial Council of California suggests that law enforcement always serve orders and remove the firearms. For more information on this review form [GV-800](#).

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.

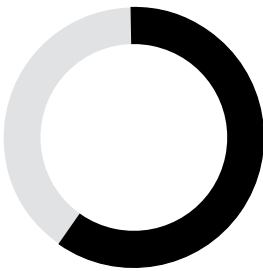
IMPORTANT FACTS ABOUT CALIFORNIA’S GVRO

- If a final order is obtained, within three months of expiration, law enforcement, teachers, school employees, co-workers, employers, immediate family members, or household members may petition for

the renewal of a GVRO with the court if the respondent of the GVRO is still a risk to him or herself or others.

- If someone is being threatened directly by a spouse, partner, or someone in their family or household, they may petition for a Domestic Violence Restraining Order (DVRO). See Form [DV-500-INFO](#) for more information.
- If someone is being threatened directly by an employee or co-worker, the employer can file for a Workplace Violence Restraining Order on the behalf of themselves or an employee, under California Code, Code of Civil Procedure - CCP § 527.8. [Visit this website for more information.](#)
- If someone is being stalked, harassed, sexually assaulted, or threatened with violence you can seek a Civil Harassment Restraining Order. See [Form CH-100-INFO \(Can a Civil Harassment Restraining Order Help Me?\)](#)
- The issuing court must electronically notify the California Department of Justice and local district attorney within one court day of issuing a GVRO.
- The petitioner of a GVRO must be present at the court hearing to obtain a final GVRO; learn more at: www.speakforsafety.org/howtofile
- 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?

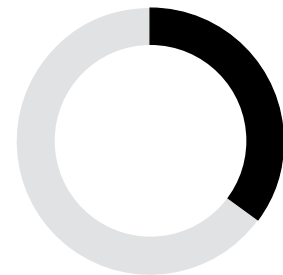


More than half of all gun deaths in California are suicides.

Four out of every ten suicides in California involve guns.



A recent study out of Duke University examined the results of a similar law in Connecticut and estimated that for every 10-20 risk-warrants issued, **at least one suicide was prevented.**



In a poll by Aging Life Care Association **over one-third** of professionals surveyed said they either frequently or sometimes found guns in their elder clients' homes

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.

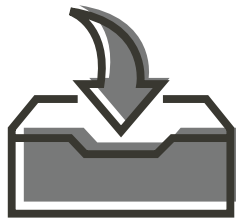
MORE ABOUT GVROs AS A TOOL TO PREVENT GUN VIOLENCE

- [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.