

SPEAK FOR

SAFETY

# 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) gives law enforcement officers and family members a way to prevent gun violence through an expedient and civil process. If there is a strong likelihood that someone is at risk of harming themselves or others, a family or household member,\* or law enforcement may petition the local Superior Court clerk to remove firearms, ammunition, and magazines from the person to be restrained from 21 days up to one year. Only when the order expires or is terminated by a judge or petitioner may firearms, ammunition, and magazines be returned to the restrained person.

*\*Includes spouses, parents, grandparents, siblings, children, stepparents, stepchildren, domestic partners, or roommates and other household members who have lived with the subject of the petition within the last six months.*

## HOW A GVRO GETS FILED

Law enforcement can file a petition<sup>1</sup> for an emergency GVRO, a temporary GVRO, or a one-year 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 see: California Code, PEN § 18125 (emergency), § 18155 (temporary), § 18175 (one-year GVRO).

**Note:** Please visit [www.speakforsafety.org/obtain-a-gvro-law-enforcement/](http://www.speakforsafety.org/obtain-a-gvro-law-enforcement/) for more detailed instructions.

## EMERGENCY GVRO (LASTS 21 DAYS; AVAILABLE TO LAW ENFORCEMENT):

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<sup>2</sup>.
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.

<sup>1</sup>[www.courts.ca.gov/documents/gv100.pdf](http://www.courts.ca.gov/documents/gv100.pdf)

<sup>2</sup>[www.courts.ca.gov/documents/epo002.pdf](http://www.courts.ca.gov/documents/epo002.pdf)

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.

### **TEMPORARY GVRO (LASTS UP TO 21 DAYS; AVAILABLE TO LAW ENFORCEMENT, AN IMMEDIATE FAMILY MEMBER, OR A HOUSEHOLD MEMBER):**

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 one-year 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 respondent 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).

### **GVRO ISSUED AFTER A NOTICE AND HEARING (LASTS ONE YEAR; AVAILABLE TO LAW ENFORCEMENT, AN IMMEDIATE FAMILY MEMBER, OR A HOUSEHOLD MEMBER):**

1. When a temporary or emergency GVRO is issued, the court will schedule a hearing within 21 days to determine if a one-year GVRO is necessary. A one-year GVRO may also be petitioned for without seeking a temporary GVRO using a form GV-100.
2. Even if the court judge did not issue a temporary GVRO order, the court will still schedule a hearing for the one-year order to see if it is necessary.
3. During the hearing, the restrained party has the opportunity to respond to the order, and the court will review the same types of evidence used when considering the temporary order. The court may also review testimony from the petitioner and any witnesses which they produce.
4. If the order is granted, it is issued for one year from the hearing date.
5. A one-year GVRO may be renewed up to three months before it expires. The petitioner may file a request for the renewal of a GVRO with the court if the subject of the GVRO is still a risk to him or 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 subject of the GVRO the opportunity to heal or stabilize. However, if the order is violated, the subject 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 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<sup>3</sup> for more information.
- 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 should also be present at all court hearings to obtain a GVRO.

### 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 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.

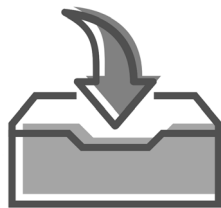


**42%** of mass shooters exhibited warning signs or concerning behavior before committing their crimes. (Everytown.)

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



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



Download our resources [SpeakForSafety.org](http://SpeakForSafety.org).



Help create a policy or procedural document for your police or sheriff's department.

<sup>1</sup> [www.courts.ca.gov/documents/dv500info.pdf](http://www.courts.ca.gov/documents/dv500info.pdf)