



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 for a GVRO that can last from 21 days up to one year. Only when the order expires or is terminated by a judge or petitioner may firearms and ammunition 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.*

***Includes sheriff's departments, police departments, and other law enforcement agencies.*

HOW A GVRO GETS FILED

Law enforcement can file a petition¹ for a temporary emergency GVRO, an ex parte 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 (Temporary Emergency), § 18155 (ex parte), § 18175 (one-year GVRO).

Note: Please visit www.speakforsafety.org/obtain-a-gvro-law-enforcement/ for more detailed instructions.

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

1. To obtain a Temporary Emergency GVRO, submit a written petition² or make a verbal request to a local Superior Court judicial officer at any time, day or night. An officer must show through testimony or documented evidence that there is "reasonable cause" that the subject poses a danger to themselves or others.
2. A judicial officer may issue a GVRO once he or she finds that the subject of the GVRO poses an "immediate and present danger" of injury to self or others by having a firearm in his or her possession. If necessary, the judicial officer may also issue a

¹ www.courts.ca.gov/documents/gv100.pdf

² www.courts.ca.gov/documents/epo002.pdf

search warrant authorizing and instructing a law enforcement officer to perform a search for firearms or ammunition belonging to the subject of the order, if the subject has not already relinquished their guns and ammunition.

3. Once the GVRO is served, the subject must immediately surrender all firearms and ammunition in his or her possession to law enforcement. The subject may also choose to sell their firearms to, or have them stored with, a federally licensed firearms dealer within 24 hours of being served the order. If the subject chooses to do so, they must submit a receipt to law enforcement proving payment of the sale or storage within 48 hours of the order being issued.

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

1. A petition for an ex parte 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. 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.
3. After an order is issued, the subject should be served with the order as soon as is reasonably possible.
4. If the petitioner arranges to have the order served by a law enforcement officer, the subject of the petition must immediately relinquish all firearms to the officer. If the petitioner has a process server serve the order, the subject would then have 24 hours to turn their firearms and ammunition in to a local law enforcement agency.
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 below).

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

1. When an ex parte GVRO is issued, the court will schedule a hearing within 21 days to determine if a one-year GVRO is necessary. One-year GVROs may also be petitioned for separately from an ex parte or Temporary Emergency GVRO using a form GV-100.
2. Even if the court judge did not issue an ex parte GVRO order, the court will still schedule a hearing for the one-year order.
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 it used when considering the ex parte 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. If the subject of the order is at the hearing they will be served with a copy of the order at the hearing. If not, the petitioner must arrange to have the subject served with a copy of the order as soon as possible, at which time the subject has 24 hours to surrender their firearms and ammunition to law enforcement or a federally licensed firearms dealer see form GV-800-INFO.
6. If the subject must be located, then law enforcement should serve the order and remove all firearms and ammunition immediately, unless the subject chooses to store or sell their firearms with a federally licensed firearms dealer.
7. 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. A GVRO may not be renewed after it expires.

Note: The California Department of Justice Bureau of Firearms can assist or provide guidance for local law enforcement in recovering or removing firearms from a subject.

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-INFO³ 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.

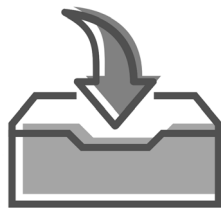


42% of mass shooters exhibited warning signs or concerning behavior before committing their crimes. (Everytown.)

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.



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

³ www.courts.ca.gov/documents/dv500info.pdf

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.