



# MICHIGAN STATE POLICE LEGAL UPDATE

**No. 155**  
February 13, 2024

**Subscriptions:** To receive the Update via email, go to [michigan.gov/msp-legal](https://michigan.gov/msp-legal) and click on "subscribe to legal updates."

## EXTREME RISK PROTECTION ORDERS

*The Extreme Risk Protection Order Act was enacted to prohibit certain individuals from purchasing or possessing firearms and to require the surrender or seizure of firearms from those individuals.*

Public Act 38 of 2023 enacted the Extreme Risk Protection Order (ERPO) Act to authorize issuance of restraining orders to prohibit certain individuals from possessing or purchasing firearms and ordering the surrender and seizure of that individual's firearms.

### Definitions

Terms defined for purposes of the ERPO Act are detailed in [MCL 691.1803](#).

### Approved Court Forms

The following forms have been approved by the State Court Administrative Office (SCAO) for use in ERPO actions as further described below:

- Complaint for ERPO (Adult) ([CC 452](#)).
- Complaint for ERPO (Minor) ([CC 452M](#)).
- Confidential Information ([CC 450](#)).
- ERPO (Adult) ([CC 453](#)).
- ERPO (Minor) ([CC 453M](#)).
- Order Denying ERPO ([CC 456](#)).
- Immediate Emergency Ex-Parte ERPO ([CC 454](#)).
- Sworn Written Petition after Immediate Emergency Ex-Parte ERPO ([CC 455](#)). **Law enforcement only.**
- Request for Next Friend and Order ([CC 465](#))
- Proof of Personal Service / Oral Notice ([CC 457](#)). **Law enforcement only.**
- Affidavit for Anticipatory Search Warrant ERPO ([CC 458a](#)). **Law enforcement only.**
- Anticipatory Search Warrant ERPO ([CC 458](#))
- Verification of Compliance with ERPO ([CC 459](#))
- Instructions for Motion to Modify, Terminate, or Extend ERPO ([INST CC 460](#)).
- Motion to Modify, Rescind, Extend ERPO ([CC 460](#)).
- Order on Motion to Modify, Rescind, or Extend ERPO ([CC 461](#)).
- Motion to Show Cause for Violating ERPO ([CC 462](#)).

- Order Regarding Show Cause for Violating ERPO ([CC 463](#)).
- Order after Hearing on Show Cause for Violating ERPO ([CC 464](#)).

### Eligible Petitioners

The following petitioners are eligible to file a complaint for an ERPO as provided in [MCL 691.1805\(1\) & \(2\)](#):

- Spouse of the respondent
- Former spouse of the respondent
- Individual who has a child in common.
- Individual who has or had a "dating relationship" as defined in [MCL 691.1803\(b\)](#).
- Individual who resides or has resided in same household.
- "Family member" as defined in [MCL 691.1803\(d\)](#).
- "Guardian" as defined in [MCL 691.1803\(e\)](#).
- "Law enforcement officer" as defined in [MCL 691.1803\(h\)](#).
- Health care provider as defined in [MCL 691.1803\(f\)](#) if filing the complaint does not violate the [Health Insurance Portability and Accountability Act of 1996 \(HIPAA\)](#), or physician-patient confidentiality.

### Complaint – Filing Requirements

A Complaint for an ERPO ([CC 452](#) or [CC 452M](#)) must be filed in the Family Division of the Circuit Court and must state facts with particularity which show the issuance of an ERPO is necessary because:

- The respondent can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure themselves or another individual by possessing a firearm, and
- The respondent has engaged in an act or acts or made significant threats that substantially support that expectation. [MCL 691.1805\(3\)](#).

Firearm Not Required - A complaint for an ERPO may be filed regardless of whether the respondent owns or possesses a firearm. [MCL 691.1805\(4\)](#); [MCR 3.716\(A\)](#).

Respondent Employment - The petitioner must state if the respondent is one of the following, if known:

- A state or federal law enforcement officer.
- A state or federal corrections officer.
- An individual with a concealed pistol license (CPL) who is required to carry a pistol as a condition of employment. [MCL 691.1805\(5\)](#).

**Respondent Firearms** - The petitioner must state if they know or believe the respondent owns or possesses firearms, and to the extent possible, identify the firearms, their location, and any additional information that would help law enforcement find the firearms. [MCL 691.1805\(6\)](#).

**Proposed Order** - The petitioner must submit a proposed ERPO ([CC 453](#) or [CC 453M](#)) with the complaint.

**Request for Ex-Parte ERPO** - The petitioner must state if an ex parte order is being requested.

**Petitioner Address Confidentiality** – The address of the petitioner must not be disclosed in any pleading or paper or otherwise and the clerk of the court shall maintain the petitioner's address as confidential in the court file and shall use the confidential address provided on the [CC 450](#) form to send notices and court documents to petitioner. [MCL 691.1805\(7\)](#).

**Venue** - ERPO complaints may be filed as follows:

- If the respondent is an adult, any county in this state, regardless of the residency or location of any party.
- If the respondent is a minor, either the petitioner's or respondent's county of residence.
- If the respondent does not reside in this state, in the petitioner's county of residence. [MCL 691.1805\(8\)](#).

### Factors to be Considered by the Court

When considering a request, the Court must consider the factors in [MCL 691.1807\(1\)](#), including the following:

**Physical Force** – History of use, attempted use, or threatened use of physical force, regardless of whether it involved a firearm.

**Serious Mental Illness & Emotional Disturbance** - Any evidence of the respondent having a "serious mental illness" or "serious emotional disturbance" as defined in [MCL 330.1100d](#), that makes the respondent dangerous.

**Criminal Offenses** - Previous conviction, pending charge, or pending juvenile petition for the commission or attempted commission of any of the following:

- Assault and Battery ([MCL 750.81](#))
- Stalking / aggravated stalking. ([MCL 750.411h](#) and [MCL 750.411i](#))
- An offense with an element of assault.
- An offense with an element of threat to person or property.
- An offense that is a crime committed against person or property of a spouse or intimate partner as defined in [MCL 600.2950k](#).
- An offense involving cruelty or abuse of animals.
- A serious misdemeanor as defined in [MCL 780.811](#).

**Controlled Substances & Alcohol Abuse** - Any evidence of recent alcohol abuse or unlawful use of controlled substances.

**Prior ERPO or PPO Violations** - Any previous or existing ERPO or PPO violations by respondent.

**Prior Orders** – History of any of the following orders:

- An ERPO.
- A personal protection order (PPO) under [MCL 600.2950](#) and [MCL 600.2950a](#).
- A pretrial release, probation, or parole order
- Any other injunctive order.

**Deadly Weapons & Ammunition** – Any prior unlawful possession, use, display, or brandishing of a deadly weapon by respondent or evidence of an acquisition or attempted acquisition of a deadly weapon or ammunition within the previous 180 days.

**Additional Information**

- Any additional information the court finds to be reliable, including statements by the respondent or relevant information from household and family members concerning the respondent.
- Any other facts the court believes are relevant.

### ERPO - Requirements for Complaint with Notice of Hearing

The court must grant an ERPO if it determines both of the following by the *preponderance of the evidence*:

- The respondent can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure himself, herself, or another individual by possessing a firearm.
- The respondent has engaged in an act or acts or made significant threats that are substantially supportive of the expectation. [MCL 691.1807\(1\)](#).

**Notice of Hearing** - The respondent must receive notice of a hearing on the issuance of an ERPO to be held within 14 days of filing and be given an opportunity to be heard at the hearing. [MCL 691.1806\(2\)](#).

**Service of Complaint and Notice** – The petitioner is responsible for serving the respondent with the complaint and notice of hearing as provided in [MCR 2.105\(A\)](#).

**Burden of Proof** – The petitioner must attend the hearing and carries the burden of proof by a preponderance of the evidence.

**Reasons for Decision / Timing** – At the hearing, the court must consider all of the factors listed in [MCL 691.1807\(1\)](#) and must immediately state the specific reasons for issuing or refusing to issue the ERPO on the record. [MCL 691.1807\(7\)](#).

## **ERPO – Requirements for Complaint Requesting Ex Parte ERPO without Notice of Hearing**

To grant an ex parte ERPO, the court must first determine both of the following by the *preponderance of the evidence*:

- The respondent can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure himself, herself, or another individual by possessing a firearm.
- The respondent has engaged in an act or acts or made significant threats that are substantially supportive of the expectation. [MCL 691.1807\(1\)](#).

If the above finding is made, the court may issue an ex parte ERPO if it determines either of the following by *clear and convincing evidence*:

- That immediate and irreparable injury, loss, or damage will result from the delay required to effectuate notice.
- That the notice will itself precipitate adverse action before an ERPO can be issued. [MCL 691.1807\(2\)](#).

Timing of Decision – The court must rule on a request for an ex parte ERPO within one (1) business day. [MCL 691.1807\(2\)](#).

Reasons for Decision – The court must immediately state in writing the specific reasons for issuing of refusing to issue the ERPO. If the court refuses to issue the ERPO, it must advise the petitioner of the right to request a hearing and if no hearing is requested within 21 days, the Order Denying the ERPO ([CC 456](#)) is final.

## **ERPO – Requirements for Immediate Emergency Ex Parte ERPO upon Verbal Telephone Request by Law Enforcement Officer**

A petitioner who is a law enforcement officer may verbally request by telephone that a judge or magistrate on duty within that jurisdiction immediately issue an emergency ex parte ERPO if both of the following exist:

- The officer is responding to a complaint involving the respondent.
- The respondent can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure the respondent or another individual by possessing a firearm. [MCL 691.1807\(4\)](#).

Availability – In each county, the Circuit Court must have an SCAO approved plan to have an available judge or magistrate on duty at all times to review and rule on verbal ERPO requests made by law enforcement.

Timing of Decision – The judge or magistrate must immediately rule on a verbal request. [MCR 3.718\(B\)\(1\)](#).

Law Enforcement Responsibilities – If an immediate emergency ex parte ERPO is issued, the law enforcement officer must:

- Notify the respondent of the order and advise where they can obtain a copy.
- Within one (1) business day, file a Sworn Written Petition after Immediate Emergency Ex-Parte ERPO ([CC 455](#)) detailing the facts and circumstances presented verbally to the court; also file a Confidential Information ([CC 450](#)); and if the respondent was verbally given notice of the ERPO, the specific conduct enjoined, the penalties for violating the order, and where they may obtain a copy of the ERPO, a Proof of Service ([CC 457](#)).

Failure to File Sworn Written Petition – If the officer does not file the [CC 455](#) form, then unless good cause is shown, the court must do all of the following:

- Terminate the immediate emergency ex parte order.
- Order that the respondent may reclaim seized firearms subject to [MCL 691.1815](#).
- Dismiss the case.

## **ERPO – Required Provisions**

The required provisions in every ERPO are detailed in [MCL 691.1809\(1\)](#), and include the following:

Firearms Surrender – The restrained individual must surrender firearms in their “possession or control” within 24 hours, or immediately, as determined by the court.

- "Possession or control" - includes, but is not limited to, actual possession or constructive possession by which the individual has the right to control the firearm, even though the firearm is in a different location than the individual. “Possession or control” does not require the individual own the firearm. [MCL 691.1803\(g\)](#).

Purchase or Possession of Firearms - The restrained individual must not purchase or possess a firearm and must surrender any unused License to Purchase (LTP) that is not yet void.

Concealed Pistol License (CPL) - The restrained individual shall not apply for a CPL and any existing CPL will be suspended or revoked under [MCL 28.428](#) once the ERPO is entered into the Law Enforcement Information Network (LEIN), and they must surrender the CPL as required under [MCL 28.428](#).

Firearm Description - A specific description of the firearms to be surrendered or seized if identified by the petitioner under [MCL 691.1805\(6\)](#).

Right to Request Hearing - Ex Parte ERPO - If an ex parte ERPO is issued, a statement that the restrained individual has a right to request a hearing.

**Motion to Modify or Rescind** - A statement that the restrained individual may file a motion to modify or rescind the order as allowed under the ERPO Act and that SCAO motion forms and filing instructions are available from the court clerk.

**Immediately Effective and Enforceable** – An ERPO is effective when signed and may be immediately enforced anywhere in this state by a law enforcement agency that receives a true copy of the order, is shown a copy of it, or has verified its existence in LEIN or in an information network maintained by the FBI.

**Law Enforcement Designation** - A designation of the “law enforcement agency” that is responsible for forwarding the order to the Federal Bureau of Investigation (FBI) under [MCL 691.1815\(1\)](#). The designated “law enforcement agency” must be an agency within whose jurisdiction the restrained individual resides.

- “Law enforcement agency” - includes the following:
  - A sheriff's department.
  - A police department of a township, village, or incorporated city.
  - The Department of State Police.
  - The public safety department of an institution of higher education described in [Article VIII](#) of the State Constitution of 1963.
  - The public safety department of a community or junior college.
  - The public safety department or office of a private college. [MCL 691.1803\(g\)](#).

**ERPO Violations** - A statement that violation of the ERPO will subject the restrained individual to immediate arrest, contempt of court, an automatic extension of the ERPO, and criminal penalties.

**Right to Attorney** - A statement that the restrained individual has the right to seek the advice of an attorney.

**Expiration Date** - An expiration date that is 1 year after the date of issuance.

### **Duties of Law Enforcement Agency – LEIN / NCIC Entries**

A law enforcement agency designated in an ERPO under [MCL 691.1809\(1\)\(g\)](#) that receives a true copy of the order shall, *immediately* and without requiring proof of service, do both of the following:

- Unless a local entering authority is designated under [MCL 691.1809\(1\)\(h\)](#), enter the ERPO into LEIN. [MCL 691.1815\(1\)\(a\)](#).
- Report the entry for Purposes of the National Crime Information Center (NCIC). [MCL 691.1815\(1\)\(b\)](#)

A law enforcement agency receiving information from the court that the restrained individual was served, or

that the ERPO was rescinded, modified, extended, or expired without being extended, shall enter the information into LEIN / NCIC. [MCL 691.1815\(2\)](#).

### **Service of ERPO – No Immediate Surrender Ordered**

If the court does *not* order the immediate surrender of the restrained individual's firearms, the *petitioner* must serve the ERPO as provided in MCR 2.105(A) and file the proof of service ([CC 457](#)) with the court within 1 business day. [MCL 691.1813\(1\)](#); MCR 3.719(B)(3).

**Surrender** - If ordered by the court, the respondent must surrender any firearms in their possession or control to the designated law enforcement agency within 24-hours. If authorized by the court, surrender may occur to a licensed firearms dealer on the list prepared under [MCL 691.1818](#).

24-hour surrender of firearms is the presumed option if the petitioner is not a law enforcement officer or health care provider.

### **Service of ERPO – Immediate Surrender Ordered**

If the court orders the immediate surrender of the restrained individual's firearms, a *law enforcement officer* must personally serve the ERPO. If the restrained individual has not been served, a law enforcement officer who knows the order exists may do either the following:

- Serve the restrained individual with a true copy of the order.
- Advise the restrained individual of the existence of the order, the specific conduct enjoined, the penalties for violating the order, and where the restrained individual may obtain a copy of the order. [MCL 691.1813\(2\)](#).

A law enforcement officer who personally serves an ERPO or advises the restrained individual of the existence of the ERPO must file a Proof of Personal Service / Oral Notice ([CC 457](#)) with the court within 1 business day. [MCL 691.1813\(1\)](#); MCR 3.719(B)(3).

**Surrender** - If ordered by the court, the respondent must immediately surrender any firearms in their possession or control to the law enforcement agency designated under [MCL 691.1809\(g\)](#).

**Seizure** - If immediate surrender is required, the designated law enforcement agency must seize the restrained individual's firearms after giving the restrained individual an opportunity to surrender them.

### **Anticipatory Search Warrants**

If immediate surrender of firearms is ordered, the law enforcement agency serving the ERPO may file an

Affidavit for Anticipatory Search Warrant ([CC 458a](#)) with the court requesting an anticipatory search warrant to search where the firearms/CPL are believed to be and to seize them. The affidavit may include affirmative allegations contained in the complaint. MCR 3.718(C).

Contingent on Refusal to Comply - Issuance of the anticipatory search warrant is subject to and contingent on the respondent's failure or refusal to comply.

Probable Cause Required - The court must issue the Anticipatory Search Warrant ([CC 458](#)) if the affidavit establishes probable cause to believe that if the respondent refuses to immediately comply with the ERPO, there is a fair probability their firearms or CPL will be found in the locations to be searched.

### **Service of ERPO - Responding Law Enforcement Agency or Responding Law Enforcement Officer**

If an officer arrives at the scene of a call and the restrained individual has not been served the ERPO, the law enforcement agency or officer responding to a call alleging a violation of the ERPO shall:

- Serve the restrained individual with a true copy of the order or advise the restrained individual of the existence of the order, the specific conduct enjoined, the penalties for violating the order, and where the restrained individual may obtain a copy of the order. [MCL 691.1815\(3\)](#).
- If the restrained individual has not received prior notice of the ERPO, the law enforcement officer shall give the individual an opportunity to comply with the ERPO before the officer makes a custodial arrest for violation of the order, however failure to comply with the ERPO after notice is grounds for an immediate custodial arrest. This provision does not preclude other warrantless arrests under [MCL 764.15](#) and [MCL 764.15a](#). [MCL 691.1815\(4\)](#).
- Subject to [MCL 691.1815\(4\)](#), the law enforcement officer shall enforce the order and immediately enter or cause to be entered into LEIN that the restrained individual has actual notice of the order. [MCL 691.1815\(3\)](#).
- File proof of service or proof of oral notice with the clerk of court issuing the ERPO. [MCL 691.1813\(3\)](#).

### **Restrained Individual – Duty to Verify Surrender or Seizure of Firearms within 1 Business Day**

Within 24 hours after being served or having actual notice of the ERPO, the restrained individual shall file the Verification of Compliance ([CC 459](#)) form or other documents with the court to verify either of the following:

Had Firearms or CPL – The restrained individual had firearms or a CPL in their possession or control and that:

- All firearms previously in their possession or control were surrendered to or seized by the local law enforcement agency designated on the ERPO (or a licensed firearms dealer if permitted by the court).
- Any CPL was surrendered to or seized by the local law enforcement agency designated on the ERPO, or the county clerk as required by the ERPO and [MCL 28.428](#).
- The individual does not have any firearms or concealed pistol license in their possession or control. [MCL 691.1810\(1\)\(a\)](#).

Did Not Have Firearms or CPL – The restrained individual did not have firearms or a CPL in their possession or control and that:

- At the time of the verification, the individual does not have a firearm or CPL in their possession or control. [MCL 691.1810\(1\)\(b\)](#).

Court Closed – If the court is closed when the 24-hour period expires, the respondent must complete the required filing no later than the next business day.

### **Restrained Individual – Failure to Verify Surrender or Seizure of Firearms within 1 Business Day**

If the restrained individual fails to verify the surrender, seizure, or non-existence of a CPL or firearms in their possession or control within 1 business day after the ERPO was served or the individual received actual notice of the order, the court shall notify the designated law enforcement agency of that fact. [MCL 691.1810\(2\)](#).

### **Local Law Enforcement Agency – Notification of Failure to Verify Surrender or Seizure of Firearms**

A local law enforcement agency receiving notification from the court that the restrained individual failed to verify under [MCL 691.1810\(2\)](#) shall make a good-faith effort to determine if there is evidence the restrained individual failed to surrender a firearm or CPL in their possession or control as required. [MCL 691.1810\(3\)](#).

### **Compliance Hearing to be Held Within 5 Days**

A compliance hearing with the court must be scheduled to be held no later than 5 days after the restrained individual is served or has actual notice of the ERPO. The court may cancel the hearing if the restrained individual has satisfied the surrender verification requirements before the hearing. If the restrained individual has failed to satisfy the surrender verification requirements, or fails to appear at the hearing, the court shall issue a bench warrant and issue a search warrant to seize any firearms and may hold the restrained individual in contempt. [MCL 691.1810\(4\)](#).

## Seizure of Firearms and Tabulation

The law enforcement agency ordered to seize a firearm under this act shall do all the following:

- Seize a firearm identified in the ERPO from any place or from any individual who has possession or control of the firearm as otherwise authorized by law. [MCL 691.1815\(5\)\(a\)](#).
- Seize any other firearms discovered that are owned, possessed, or controlled by the restrained individual or if allowed under other applicable law. [MCL 691.1815\(5\)\(b\)](#).

A law enforcement officer who seizes a firearm under this act shall give a tabulation of firearms seized to the individual from whom the firearms were taken as required under [MCL 780.655](#). If no individual is present at the time of seizure, the officer shall leave the tabulation in the place where the officer found the firearms that were seized. [MCL 691.1815\(6\)](#).

## Law Enforcement Agency – Storage of Firearms

The law enforcement agency that seizes a firearm pursuant to an ERPO shall retain and store the firearm subject to further order of the court that issued the ERPO. [MCL 691.1815\(7\)](#)

Liability - A law enforcement agency that seizes and stores a firearm is not liable for damage to or a change in condition of the firearm unless the damage or change in condition resulted from a failure to exercise reasonable care in the seizure, transportation, or storage of the firearm. [MCL 691.1815\(9\)](#).

## Restrained Individual – Reclaiming Firearm or Transfer to Federal Firearms Licensed (FFL) Dealer

The court shall order the restrained individual may reclaim the firearm(s) when the ERPO expires or is terminated. [MCL 691.1815\(7\)](#).

If the restrained individual is prohibited for another reason from owning or possessing a firearm, the court shall order the firearm be transferred to an FFL dealer if the restrained individual sells or transfers ownership of the firearm to the dealer. [MCL 691.1815\(7\)](#).

Before a restrained individual may reclaim a firearm, the law enforcement agency shall conduct a verification under LEIN and the National Instant Criminal Background Check System (NICS) in the same manner as required under [MCL 28.425b](#). [MCL 691.1815\(7\)](#).

If reclaimed, the law enforcement agency shall enter LEIN and notify the FBI of the court ordered return upon expiration of the ERPO. [MCL 691.1815\(8\)](#).

## Restrained Individual – Failure to Reclaim Firearm

If a restrained individual fails to reclaim a firearm under [MCL 691.1815\(7\)](#) within 90 days after the ERPO expires or is terminated, the law enforcement agency storing the firearm shall do either of the following:

- Proceed as if it is a firearm subject to disposal under [MCL 750.239](#) and [MCL 750.239a](#) of the Firearms Chapter of the Michigan Penal Code.
- Follow the procedures under the [Lost Property Act](#), [MCL 434.21](#) to [434.29](#). [MCL 691.1815\(10\)](#).

## Seized Firearms – Claims by Lawful Owners

Subject to [MCL 691.1815\(7\)](#) or [MCL 691.1815\(8\)](#), if any individual other than the restrained individual claims title to a firearm seized under this act, the firearm must be returned to the claimant if the court determines that the claimant is the lawful owner. [MCL 691.1815\(11\)](#).

## Motions to Modify or Terminate ERPO

Petitioner – The petitioner may file a motion to modify or Terminate the ERPO ([CC 460](#)) and request a hearing at any time after the ERPO is issued. [MCL 3.720\(A\)\(1\)\(a\)](#).

Respondent - A restrained individual may file one (1) motion to modify or terminate an ERPO ([CC 460](#)) during the first six months and one motion to modify or terminate during the second six months. If the ERPO is extended, the restrained individual may file two additional motions during each of the respective six (6) month periods. [MCL 3.720\(A\)\(1\)\(a\)](#).

Service – The nonmoving party must be served 7 days before the hearing. The petitioner must serve the petitioner's motion. The court clerk must serve the respondent's motion. [MCL 3.720\(A\)\(2\)](#).

Timing – The court must schedule and hold the hearing within 14 days of filing the motion. [MCL 3.720\(A\)\(3\)](#)

Burden of Proof – The moving party carries the burden of proving by a *preponderance of the evidence* that the respondent no longer poses a risk to seriously physically injure another individual or the respondent by possessing a firearm. [MCL 691.1807\(6\)](#), [MCL 3.720\(A\)\(1\)\(c\)](#).

Termination – If terminated, the court order ([CC 461](#)) must state that respondent may reclaim any seized firearms subject to [MCL 691.1815](#).

## Standard for Extension of ERPO – Duration

Upon motion of the petitioner, or on its own motion, the court may extend an ERPO effective for 1 year after the expiration of the preceding order. [MCL 691.1817](#).

The court shall only issue an extended ERPO if both of the following are determined by the *preponderance of the evidence*:

- The respondent can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure himself, herself, or another individual by possessing a firearm.
- The respondent has engaged in an act or acts or made significant threats that are substantially supportive of the expectation. [MCL 691.1817](#).

### **Allegations of Non-Compliance - Affidavit of Law Enforcement Officer or Prosecutor**

A law enforcement officer or prosecutor for the county in which the ERPO was issued may file a Motion to Show Cause ([CC 462](#)) or other affidavit with the court alleging the restrained individual has violated the ERPO.

If the court finds probable cause exists to believe the restrained individual has violated the ERPO, the court may enter an Order Regarding Motion to Show Cause ([CC 463](#)) to issue an arrest warrant or order a hearing. The court shall also issue a search warrant under the [Search Warrants Act](#) describing the firearm(s) or the CPL believed to be in the restrained individual's possession or control and authorizing a designated law enforcement agency to search the location(s) where the firearm(s) or CPL is believed to be and to seize any firearm or CPL discovered by the search. [MCL 691.1810\(5\)](#).

### **Violation – Failure to Comply with ERPO**

An individual who refuses or fails to comply with an ERPO is guilty of a felony. [MCL 691.1819\(1\)](#).

Penalties:

First offense	1-year felony
Second offense	4-year felony
Third or subsequent offense	5-year felony

If convicted, the court that issued the order shall issue an extended ERPO effective for 1 year after the expiration of the preceding order. [MCL 691.1819\(2\)](#).

### **Violation – Knowingly Placing Firearm in the Possession of a Restrained Individual**

An individual who knowingly places a firearm in the possession of an individual who is restrained under an extreme risk protection order is guilty of a felony punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both. [MCL 691.1819\(5\)](#).

### **Violation – Contempt of Court**

The Court may also enforce an ERPO by charging the restrained individual with contempt of Court under [Chapter 17 of the Revised Judicature Act of 1961](#). [MCL 691.1819\(3\)](#).

### **Violation – False Statement in Support of ERPO**

A petitioner who knowingly and intentionally makes a false statement in the complaint or in support of the complaint for an ERPO is guilty of a crime. [MCL 691.1819\(4\)](#).

Penalties:

First offense	93-day misdemeanor
Second offense	4-year felony
Third or subsequent offense	5-year felony

### **Additional Resources**

#### Michigan Legislature

- [Extreme Risk Protection Order Act](#), 2023 PA 38 (MCL 691.1801 – MCL 691.1821)
- [Legislative Analysis – ERPO Act](#) (February 9, 2024)

#### State Court Administrative Office (SCAO)

- [Extreme Risk Protection Order Manual](#) – This manual discusses the statutes and court rules relevant to the ERPO Act and outlines procedures to process ERPO actions.
- [Michigan Court Rules](#)
- [SCAO Court Forms](#)
- [SCAO Memorandum: January 5, 2024](#)
- [SCAO Memorandum: January 31, 2024](#)
- [SCAO Memorandum: February 7, 2024](#)
- [SCAO Memorandum: February 7, 2024](#)