



THE EDUCATIONAL FUND  
TO STOP GUN VIOLENCE

Testimony of Jen Pauliukonis, Director of State Affairs  
Educational Fund to Stop Gun Violence  
In Support- Extreme Risk Protection Orders  
Friday, November 22, 2019

Co-Chair Westerfield, Co-Chair Petrie, and Committee Members,

As the Director of State Affairs for the Educational Fund to Stop Gun Violence, I am testifying today in support of Extreme Risk Protection Orders (ERPO). ERPOs are civil orders that provide family and law enforcement officers the tools to petition a court to temporarily remove firearms from those suffering a life-threatening crisis to themselves or others. I urge the committee to support this life-saving legislation.

Like the rest of the country, Kentucky suffers from a gun violence epidemic. The rate of gun violence in Kentucky is 1.3 times higher than the national average. In 2017, there were 730 firearm deaths in Kentucky. Of these firearm fatalities, 228 were gun homicides and 470 were gun suicides.<sup>1</sup> Extreme risk laws have been shown to help prevent suicides, mass shootings, and other forms of interpersonal gun violence. The policy addresses those who are showing signs of high risk of violence toward themselves or others to temporarily prevent purchase and possession of firearms during the period of crisis. While a small handful of states had enacted risk protection laws prior to 2018, the shooting at Marjory Stoneman Douglas High School in Parkland, Florida was an important catalyst in Florida's bipartisan efforts to enact an extreme risk protection order. Prior to the tragedy in Parkland, the shooter's family and local law enforcement were aware of troubling warning signs and dangerous behaviors of the shooter. Regardless of the clear risk of threat, the shooter had no firearms prohibitions and law enforcement was unable to remove the firearms under the state's laws. The shooter went on to murder seventeen people and injure seventeen more at his former high school. Since that shooting, states leaders across the nation have seen the value in the life-saving law that also incorporates due process protections and second amendment concerns. In total, 17 states and the District of Columbia now have an extreme risk law.

In determining whether to issue an order, judges use evidence-based criteria to assess the individual's risk – such as recent threats or acts of violence towards self or others, domestic abuse, and unlawful or reckless use of a firearm – among others. If an order is granted, firearms are temporarily removed. ERPOs are modeled after state domestic violence protective orders and



incorporate many of the same due process protections integral to these protection orders. The due process protections afforded by the ex parte extreme risk protection order are nearly identical in substance and form to those afforded by the domestic violence ex parte or temporary protective order. Ex parte domestic violence protective orders have been routinely upheld against due process challenges.<sup>ii</sup> Florida’s appellate court recently upheld the state’s risk protection order after a constitutional court challenge.<sup>iii</sup> The court ruled that the law does not violate the respondent’s due process rights, noting the inclusion of numerous due process safeguards, including that petitioners must meet a “heightened ‘clear and convincing’ burden of proof” for the issuance of an order. This ruling supplements other courts’ decisions to uphold the protection order laws in Connecticut and Indiana after Second Amendment court challenges.<sup>iv</sup>

Not only do ERPOs not violate due process rights, research showing shows that they are very effective at preventing gun deaths. They are an especially useful in preventing firearm suicide. 90% of suicide attempts with a firearm result in a fatality<sup>v</sup> whereas only 2% of attempts by drug overdose result in death<sup>vi</sup>. Firearms make up half of all deaths by suicide in the United States. Reducing access to firearms increases the probability that an individual in crisis will survive a suicide attempt. Ninety percent of individuals who survive a suicide attempt do not go on to die by suicide<sup>vii</sup>. A study of Connecticut’s risk warrant law estimated that for every 10-20 risk warrants issued, one life was saved. Additionally, nearly one-third of risk warrant subjects receives treatment in the year following the issuance of a risk warrant<sup>viii</sup>. Not only are lives being saved, but the policy allows those suffering the crisis to seek help and treatment while the firearm(s) is temporarily removed from his or her access.

New research published by Dr. Garen Wintemute at the University of California Davis outlined 21 cases in California where an extreme risk order had been used to help prevent a mass shooting<sup>ix</sup>. This research shows the law could potentially affect many types of gun violence, including mass shootings, suicide, and homicide.

Here are some examples of individuals who have been issued ERPOs around the country:

- A man who posed with a semi-automatic rifle and had spoken openly about planning a school shooting
- A veteran who threatened to gun down people at his own church
- A man who sought to return to work and to shoot the boss who’d just fired him
- A young person who threatened a school shooting



### Suicide

- “A 34-year old Goleta, California woman who was in a temporary crisis and had made suicidal statements.”<sup>x</sup>

### Dementia

- “An 81-year old man from Carmel Mountain who threatened to shoot his 75-year old wife and a neighbor because he believed they were having an affair. His wife escaped the house, barefoot, by climbing a fence and running through cactus. His family reported him to be in the early stages of dementia.”<sup>xi</sup>

### Work Place Shooting

- A 54-year old man from Pasadena, Maryland who threatened his coworkers with a mass shooting. He stated he would shoot up his place of business and proceeded to list the coworkers he would shoot and kill. Law enforcement found and removed 146 firearms at his home.<sup>xii</sup>

Temporarily removing firearms from those at a high risk of committing violence will save lives and make communities safer. If enacted, Extreme Risk Protection Orders will fill a gap in Kentucky state law by providing families and law enforcement with an evidence-based tool to prevent tragedies. I urge the committee to enact an extreme risk law to protect the residents of Kentucky from gun violence.

Thank you,

Jenifer Pauliukonis  
Director of State Affairs  
Educational Fund to Stop Gun Violence

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<sup>i</sup> Centers for Disease Control and Prevention, National Center for Health Statistics. Underlying Cause of Death 1999-2017 on CDC WONDER Online Database, released December, 2018. Data are from the Multiple Cause of Death Files, 1999-2017, as compiled from data provided by the 57 vital statistics jurisdictions through the Vital Statistics Cooperative Program. Accessed at <http://wonder.cdc.gov/ucd-icd10.html> on Sep 20, 2019.



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<sup>ii</sup> See e.g., *Blazel v. Bradley*, 698 F. Supp. 756 (W.D. Wis. 1988); *Nollet v. Justices of Trial Court of Com. of Mass.*, 83 F. Supp. 2d 204 (D. Mass. 2000) *aff'd sub nom. Nollet v. Justices of Trial Court of Com. of Massachusetts*, 248 F.3d 1127 (1st Cir. 2000); *Pendleton v. Minichino*, 506673, 1992 WL 75920 (Conn. Super. Ct. Apr. 3, 1992); *Hamilton ex rel. Lethem v. Lethem*, 126 Haw. 294, 270 P.3d 1024 (2012) (judgment vacated on other grounds); *State v. Poole*, 745 S.E.2d 26 (N.C. Ct. App.) writ denied, review denied, appeal dismissed, 749 S.E.2d 885 (N.C. 2013)

<sup>iii</sup> *Davis v. Gilchrist Cty. Sheriff's Office*, No. 1D18-3938, 2019 WL 4656070 (Fla. Dist. Ct. App. Sept. 25, 2019)

<sup>iv</sup> *Hope v. State*, 163 Conn. App. 36, 133 A.3d 519 (2016); *Redington v. State*, 992 N.E.2d 823 (Ind. Ct. App. 2013)

<sup>v</sup> Azrael D, & Miller M. (2016). [Reducing suicide without affecting underlying mental health: Theoretical underpinnings and a review of the evidence base linking the availability of lethal means and suicide](#). *The International Handbook of Suicide Prevention*.

<sup>vi</sup> Harvard Means Matters. [Lethality of Suicide Methods](#).

<sup>vii</sup> Owens, D., Horrocks, J., & House, A. (2002). Fatal and non-fatal repetition of self-harm: Systematic review. *The British Journal of Psychiatry*, 181 (3), 193-199.

<sup>viii</sup> Swanson, JW, Norko, M, Lin, HJ, Alanis-Hirsch, K, Frisman, L, Baranoski, M, Easter, M, Gilbert, A, Swartz, M, & Bonnie, RJ. Implementation and Effectiveness of Connecticut's Risk-Based Gun Removal Law: Does it Prevent Suicides? (August 24, 2016). Law and Contemporary Problems. Available at SSRN: <http://ssrn.com/abstract=2828847>

<sup>ix</sup> Wintemute G. et al. (2019). Extreme Risk Orders Intended to Prevent Mass Shootings. *Annals of Internal Medicine*.

<sup>x</sup> Press Release. September 29, 2016. "Santa Barbara Sheriff's GVRO (Firearms Emergency Protective Orders)." Office of the Sheriff, Santa Barbara County.

<sup>xi</sup> Press Release. September 29, 2016. "Santa Barbara Sheriff's GVRO (Firearms Emergency Protective Orders)." Office of the Sheriff, Santa Barbara County.

<sup>xii</sup> "This is How Maryland's Mass Violence Threat and Red Flag Law Should Work". *The Capital Gazette*, 7 Sept. 2019.