

Table 11-1

**Summary of State Extreme Risk Protection Order and Risk Warrant Laws\***

	Type	Who can petition?	Standard of proof for initial order or warrant	Hearing held within	Standard of proof at hearing to continue prohibition	How long is firearm held initially?	Order MUST BE made available to the NICS	Penalty for false petition/ harassment
<b>California</b> Cal. Pen. Code § 18100	ERPO	Law enforcement (LE) officer; immediate family member	Ex parte order: Substantial likelihood that person poses a significant danger  Temporary emergency order (available to LE only): Reasonable cause that person poses immediate and present danger	21 days	Clear and convincing evidence	One year	No	Misdemeanor
<b>Connecticut</b> C.G.S.A. § 29-38c	Risk Warrant	State's Attorney; Assistant State's Attorney; or 2 LE officers	Probable cause	14 days	Clear and convincing evidence	Not more than one year	No, but must report to Dept. of Mental Health and Addiction Services	N/A
<b>Delaware</b> H.B. No. 222 (effective Dec. 27, 2019)	ERPO	LE officer, family member	Nonemergency hearing: Petition may be filed, but no ex parte order available  Emergency hearing (available to LE only): Preponderance of the evidence that respondent poses an immediate and present danger	15 days	Clear and convincing evidence	Not more than one year	No	Perjury
<b>Florida</b> Fla. Stat. § 790.401	ERPO	LE officer; LE agency	Reasonable cause	14 days	Clear and convincing evidence	Not more than one year	Yes	Third-degree felony

\* This table is not intended to provide an exhaustive account of the differing provisions of these state laws. For more detailed information, please consult the various state statutes.

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<b>Illinois</b> H.B. 2354 (effective Jan. 1, 2019)	Firearms Restraining Order	LE officer; family member	Probable cause	14 days  (30 days if petitioner requests a six-month order and not an ex parte order)	Clear and convincing evidence	Six months	No	Felony (perjury)
<b>Indiana</b> IC 35-47-14	Risk Warrant	LE officer	Probable cause	14 days	Clear and convincing evidence	At least 180 days, after which the individual may petition the court for return of firearm	No	N/A
<b>Maryland</b> Md. Code Ann., Pub. Safety § 5-601	ERPO	Physician; mental health provider; LE officer; spouse; co-habitant; relative; person with whom the individual has a child in common; current dating or intimate partner; current or former legal guardian	Reasonable grounds for initial interim ERPO (good for up to two days); probable cause for temporary ERPO (good for up to additional seven days)	A temporary ERPO hearing must be held within two business days of issuance of the interim ERPO  A final ERPO hearing must be held within seven days after service of temporary ERPO  (The parties may waive the temporary ERPO hearing and proceed directly to final hearing)	Clear and convincing evidence	Not more than one year	No	No affirmative sanction, but statute says person who files a petition in good faith is not civilly or criminally liable
<b>Massachusetts</b> H. 4670 (not yet codified)	ERPO	Family or household member; licensing authority (local police department)	Reasonable cause	10 days	Preponderance of the evidence	One year	Yes	Fines between \$2,500 and \$5,000 and/or imprisonment for not more than 2.5 years

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<b>New Jersey</b> A-1217; P.L. 2018, c. 35 (not yet codified)	ERPO	LE officer; family or household member	Good cause	10 days	Preponderance of the evidence	One year	No	N/A
<b>Oregon</b> ORS 166.525	ERPO	LE officer; family or household member	Clear and convincing evidence	Respondent has 30 days to request hearing, which must take place within 21 days of request; if the respondent does not request a hearing, the protection order is effective for one year	Clear and convincing evidence	One year	Yes	Class A misdemeanor
<b>Rhode Island</b> S. 2492 (not yet codified)	ERPO	LE agency	Probable cause	14 days	Clear and convincing evidence	One year	Yes	Felony
<b>Vermont</b> 13 V.S.A. § 4051	ERPO	State's Attorney or Office of the Attorney General	Preponderance of the evidence	14 days	Clear and convincing evidence	Up to six months	No	Imprisonment up to a year and/or fine up to \$1,000
<b>Washington</b> RCWA § 7.94.010	ERPO	Family or household member; LE officer or agency	Reasonable cause	14 days	Preponderance of the evidence	One year	Yes	Gross misdemeanor