

A Better Look at ERPOs: The Question of Safety over Liberty

Law, Politics, and Society

Drake University

Joelle Webb

Abstract

Firearm violence, by means of mass shootings or death by suicide, is at an all-time high in the United States. As the rate in which gun violence impacts our country increases, it is only reasonable to question the efficacy of firearm related laws—specifically, the ones that prohibit the possession, sale, or transfer of such. The biggest concern to lawmakers is that a majority of gun-related deaths are the result of suicide, which calls into question whether there is a bigger issue here than simply possessing a firearm. Extreme Risk Protection Orders (ERPOs) were implemented at a state level, beginning with Connecticut in 1999, as an attempt to reduce firearm violence. This Article begins by explaining the history of ERPOs and other regulatory firearm provisions, then discusses the pertinent issue of mental health in our country. It then calls into question the scholarship regarding firearm regulation and mental health, and discusses various perspectives of the Second Amendment. The Article concludes by providing policy recommendations and considerations to legislators at both a state and federal level.

Introduction

On a cold evening on December 15, 1791, the Bill of Rights was ratified—the first ten

amendments of the U.S. Constitution were put into stone, declaring some of the most crucial principles and notions of liberty no nation had ever seen before. One of these amendments is the Second, and it states that “*A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.*” The reason for this amendment is as follows: if it were not for the local militiamen within the original colonies, it is likely the Continental Army would not have won the Revolutionary War. As the Founders began to draft the Constitution, they debated whether they would rely altogether on a standing army or on a militia.¹ They sought out a remedy to reconcile with this issue, and drafted the Second Amendment as a way to protect the United States from an overbearing united army that could be used by tyrants. By giving the citizens of the United States the sole authority to keep the government in check (by possession of firearms), the government would have no inclination to step out of line.

So how do we get from the Second Amendment, which provides virtually no means for regulation or statutory interpretation to suddenly regulating firearms at both a federal and state level? The first piece of firearm-related regulation came about under Franklin Delano Roosevelt’s presidency, where he unveiled the National Firearms Act (NFA) in June of 1934 as an attempt to curtail gang and mob violence that resulted in events like the St. Valentine's Day Massacre in 1929. It wasn’t until 1938 that specific regulations relating to which firearms could be purchased (and consequently, which ones could not) came into effect with the Federal Firearms Act (FFA). A landmark Supreme Court case also occurred in 1939 with *United States v. Miller*, which ruled that through the NFA, Congress had the authority to regulate interstate selling of a short-barrel shotgun, to which the Court ultimately concluded the Second

¹“Historical Background on Second Amendment .” *Constitution Annotated* , Library of Congress, constitution.congress.gov/browse/essay/amdt2-2/ALDE_00013262/. Accessed 25 Apr. 2026.

Amendment does not protect the right to possess such a firearm. Specifically, they found that such particular firearms did not have a reasonable relationship to the “well-regulated militia” clause of the Second Amendment.² The FFA was later repealed in 1968 due to some specific provisional clashes with the Constitution, and was later replaced with the Gun Control Act (GCA) in 1968. The GCA was pushed by President Lyndon B. Johnson largely as a result of the many viral assassinations that happened in years prior, which included the killings of President John F. Kennedy, Senator Robert F. Kennedy, and Martin Luther King, Jr..

In 1986, the Firearm Owner Protection Act was passed by Congress which enacted provisions that protected gun owners, sellers, and manufacturers from a national registry of dealer records, limited ATF inspections, and softened other strict firearm sale regulations. But seven years later, the Brady Handgun Violence Prevention Act essentially erased all protections for gun owners that had been outlined in previous legislation. This bill was signed into law by President Bill Clinton, and was named after the White House Press Secretary, James Brady, who suffered a permanent disability due to injury from an attempted assassination on President Reagan. Within the Brady Bill, the government instituted a variety of regulatory statutes that created things like requiring background checks on all firearm purchases and established the National Instant Criminal Background Check system (NICS), which is currently maintained by the FBI.³

Just one year later in 1994, one of the most restrictive pieces of firearm legislation went into place—and not just at a state level, but a federal level. Signed into law by President Clinton, the Violent Crime Control and Law Enforcement Act was implemented. It was a stark contrast to the bills that had been instituted in years prior. More specifically, the subsection titled

² *United States v. Miller*, 307 U.S. 174 (1939).

³ Gray, Sarah. *Here's a Timeline of the Major Gun Control Laws in America*, TIME, 21 Feb. 2018, time.com/5169210/us-gun-control-laws-history-timeline/.

“Public Safety and Recreational Firearms Use Protection Act,” was signed into place, making the first ban on a particular grade of weapon since the *Miller* case in 1939. The Public Safety and Recreational Firearms Use Protection Act, better known as the “assault weapon ban,” outlawed the ability to manufacture, sell, transfer, or possess a semiautomatic assault weapon, most notably AR-15s, TEC-9s, and MAC-10s. It also banned the sale, transfer, manufacture, or possession of high capacity magazines, which held more than 10 rounds of ammunition. This bill remained in effect until September of 2004, with many states seeking to reimplement the bill on a state (and even federal) level. As firearm violence began to increase throughout the ‘90s (for a variety of reasons, such as the accessibility of cheap firearms and the crack epidemic), legislators began to scramble for any sort of policy that would reduce the newly prevalent issue of firearm violence.^{4 5}

Introducing Extreme Risk Protection Orders (ERPOs)

In 1999, following a workplace shooting at the Connecticut Lottery Corporations Headquarters the year prior, Connecticut became the first state to pass a risk warrant law, which eventually became the Extreme Risk Protection Order law we know in Connecticut today. As of early 2025, there are 22 states, including the District of Columbia, that have ERPO laws, also sometimes dubbed “red flag gun laws.”⁶ They allow certain individuals to petition to a court for the removal of a firearm if the individual who possesses the firearm is deemed a threat to

⁴ “Firearms Are the Leading Cause of Death for Children and Teens in the US.” *Everytown Research & Policy*, 16 Jan. 2026, everytownresearch.org/graph/firearms-are-the-leading-cause-of-death-for-american-children-and-teens/.

⁵ “Gun Violence in the United States .” *Section I: Gun Violence in the United States*, Office of Juvenile Justice and Delinquency Prevention , ojjdp.ojp.gov/sites/g/files/xyckuh176/files/pubs/gun_violence/sect01.html. Accessed 21 Mar. 2026.

⁶ “Mental Illness.” National Institute of Mental Health, U.S. Department of Health and Human Services, Sept. 2024, www.nimh.nih.gov/health/statistics/mental-illness.

themselves and/or others.⁷ Republicans initially railed against these provisions, claiming it was a blatant attack on Second Amendment rights and the due process clause. Democrats took a more pragmatic approach, claiming this sort of provisional measure was essential to protect the health and well-being of American citizens.

In March of 2013, a group of researchers, scholars, advocates, and clinicians gathered at a conference in Baltimore to discuss the relationship between mental health and firearm violence. Following this conference, the group concluded that they ought to commit themselves to developing policy recommendations based on the available evidence. Months later in November, the group, now named the Consortium for Risk-Based Firearm Policy, released reports with three policy recommendations and support for each of them. The third recommendation is the most important, as it called on states to enact a new civil court order known as the Gun Violence Restraining Order (GVRO), which formally authorized courts to (temporarily) prohibit firearm purchase and possession when someone is behaving dangerously and is at the risk of committing violence, including suicide. GVROs were seen as an expansion of the scope of Domestic Violence Restraining Orders (DVROs), which was a previously established tool to protect people who experienced violence from their partner. Generally, DVROs were already available in all 50 states. The GVRO would simply branch off the scope in which the courts were allowed to get involved in matters pertaining to DVROs. Andrew Willinger and Shannon Frattaroli write in their article, “Extreme-Risk Protection Orders in the Post-*Bruen* Age: Weighing Evidence, Scholarship, and Rights for a Promising Gun Violence Prevention Tool,” that “the GVRO recommendations expanded the DVRO model by including imminent risk of all violence, not only partner violence.”⁸ In addition to this, both Connecticut and Indiana enacted risk protection

⁷ It varies based on specific state legislation as to who can petition a risk protection order to the court. Generally, it is family members, law enforcement, and/or medical professionals.

⁸ Andrew Willinger and Shannon Frattaroli, *Extreme Risk Protection Orders in the Post-Bruen Age: Weighing Evidence, Scholarship, and Rights for a Promising Gun Violence Prevention Tool*, 51 *FORDHAM URB. L.J.* 157 (2023).

orders that included family members and partners to petition a firearm removal to the court. Per other state legislation, law enforcement officers are also able to temporarily prohibit firearm purchases and possession.

Connecticut's ERPO law remained largely unchanged for 20 years, but within the last five years, additional edits have been made to the state statute, which included expanding who is eligible to petition an ERPO (changed in 2021). As of 2025, law enforcement, medical professionals, and family members are allowed to petition the civil court order, and the burden of proof required to issue an *ex parte* order (which lasts 14 days) is probable cause.^{9 10} A final order ERPO may be issued by the court—and can only be terminated by the court—by presenting clear and convincing evidence that the respondent is no longer a danger to themselves or others. The makeup of Connecticut's ERPO law is similar to other states with the same civil protection orders in place; who can petition, how long *ex parte* orders last, the burden of proof required, and the scope of enforcement vary by state.

Firearms & Suicide: Addressing the Bigger Picture

A 2022 CDC study found that a majority of both homicides (79%) and suicides (53%) in the United States in the year 2020 involved a firearm. However, just one year later, data from PEW Research shows that the statistic flipped, and that more deaths by firearm were suicides (58%) rather than homicides (38%). The same data shows that suicide by firearm has continued to increase since the study's first data point in 1968, and that murder by firearm, which reached its peak in 1993, has gone both up and down. In 2023, there were 17,927 murders by firearm, which had gone down 14% since 2021, where the number of murders by firearm remained well above 20,000. In regard to suicides in the year 2023, more than half (55%) occurred by use of a

⁹ Who is included within the general category of “family members” varies per state; in the instance of Connecticut, it includes individuals who reside with the respondent, people with a child in common, and/or dating partners.

¹⁰ “Connecticut.” *The National ERPO Resource Center*, John Hopkins Bloomberg School of Public Health, 3 Mar. 2026, erpo.org/state/connecticut/.

firearm.¹¹

According to the National Institute of Mental Health in a study that was conducted in 2022, between one and five adults (approximately over 23% of the U.S. population) live with a mental illness.¹² The range in which these mental illnesses exist are categorized from mild, moderate, and severe. There are additional classifications for what constitutes a mental illness. Of the 23% of U.S. adults living with a mental illness, all of them are categorized as having “any mental illness” (AMI). A smaller, yet still increasing number of adults, live with a “serious mental illness” (SMI). A SMI is defined as a mental, behavioral, or emotional disorder that severely impacts or prohibits one’s ability to function normally in one or more major activities. Within the National Institute of Mental Health Study, they found that over 11.5% of adults aged 18-25 lived with an SMI; it affected whites, American Indians/Alaskan Natives, and individuals with two or more racial/ethnic identities the most.

In 2022, of the 15.4 million adults diagnosed with SMI, over half of them (roughly 67%) received some sort of mental health treatment. Within that, adults aged 18-25 received treatment at a higher rate than the rest. However, across the board, over 50% of all races and ethnicities received mental health treatment. Regardless of the fact that many—if not most individuals with AMIs receive mental health treatment—the rate in which suicide occurs by firearm is at an all-time high.

These alarming statistics show the critical need to provide a remedy for the issue at hand: people are dying because of firearms. But a gun doesn’t fire if nobody is behind it pulling the trigger. According to many think tanks, policy advocacy groups, and research groups, like the John Hopkins Bloomberg School of Public Health, ERPOs were instituted in part to combat

¹¹ Kegler, Scott R. et al. "Vital Signs: Changes in Firearm Homicide and Suicide Rates — U.S. 2019–2020" vol. 71, 2022

¹² “Mental Health Information .” *National Institute of Mental Health*, U.S. Department of Health and Human Services, Sept. 2024, www.nimh.nih.gov/health/statistics/mental-illness.

suicides by firearm. If over 20% of adults in the U.S. are categorized as having any mental illness, with most adults between the ages of 18-25 having the heaviest concentration of a mental illness diagnosis, this raises the question of whether the issue of gun violence is really a gun problem, or rather a mental illness problem.

The state of California has over 100 firearm regulatory provisions, ranging from specific gun bans to procedural regulations when purchasing a firearm. In a press release on January 15, 2026, Everytown for Gun Safety said that their analysis found that “California once again ranks first in the nation for its comprehensive gun laws.”¹³ However, the California Department of Justice released a pamphlet regarding all homicides that occurred in California in 2024. For homicides where an identifiable weapon was found, a firearm was used nearly 70% of the time.¹⁴ Though the state ranks relatively low for firearm violence when looking at the country as a whole, firearm violence still exists at a massive scale.

Regarding suicide, which took the lives of almost 50,000 Americans in 2023, the California Violent Death Reporting System recorded in 2022 that one third of suicides were carried out by firearm—the remaining two thirds committed suicide by either suffocating or poisoning.¹⁵ Josh McIntosh at Indiana University South Bend, prepared a document for the National Council for Suicide Prevention using 2023 CDC data and found that the ratio of all suicides as compared to firearm suicides was drastic; 4.2 (per 100,000) suicides occurred by firearm, while the rate in which suicide occurred by other means was over double—sitting at 10.8

¹³ “Everytown for Gun Safety Releases 2026 State Gun Law Rankings, California Continues to Lead the Nation with the Strongest Gun Laws.” *Everytown*, 15 Jan. 2026, www.everytown.org/press/everytown-for-gun-safety-releases-2026-state-gun-law-rankings-california-continues-to-lead-the-nation-with-the-strongest-gun-laws/.

¹⁴ “Homicide in California 2024 - Data.” *California Department of Justice*, data-openjustice.doj.ca.gov/sites/default/files/2025-07/Homicide%20In%20CA%202024%20final.pdf. Accessed 19 Mar. 2026.

¹⁵ “Suicide Data and Statistics.” *Centers for Disease Control and Prevention*, Centers for Disease Control and Prevention, 25 Mar. 2025, www.cdc.gov/suicide/facts/data.html.

(per 100,000).¹⁶ Similar statistics appear for the state of Connecticut. The same 2023 data from McIntosh’s findings show that suicide by firearm occurred at a rate of 3.1% (per 100,000) and suicide by other means occurred at a rate nearly three times the firearm rate—sitting at 9.8% (per 100,000).

Empirical Research on ERPOs

A question that remains for policy advocates, social scientists, legal scholars, and perhaps even the general public that these bills impact, is whether ERPOs are effective. The efficacy of this type of legislation cannot be studied through a singular lens, however, nor be determined by a single hypothesis. Measuring the effectiveness of legislation has proven to be quite a difficult task, as legislators and public policy experts all seek different goals (and maybe even have different motivations) for addressing the issue at hand. Put simply, ERPOs have shown some general effectiveness when preventing firearm-related violence, like suicide.

The Journal of the American Academy of Psychiatry and the Law published a study in 2024 titled “Suicide Prevention Effects of Extreme Risk Protection Order Laws in Four States,” and it is one of the most solid pieces of data to exist that demonstrates the link between issuing ERPOs and preventing suicide by firearm.¹⁷ The study analyzed 4,583 individual respondents that had ERPOs issued against them across four different states—1,386 people in California, 1,407 people in Connecticut, 1,347 people in Maryland, and 443 people in Washington—and found from two evidence-based approaches that between 17 and 23 ERPOs needed to be issued in order to prevent one suicide. Their method was as follows: they used the 4,583 people with ERPOs issued against them and built a counterfactual model that asked “what would have happened if those

¹⁶ “2023 Suicide Data States by Firearms 2.” *SAVE*, Suicide Awareness Voices for Education, www.save.org/wp-content/uploads/2025/02/2023_Suicide_Data_States_by_Firearms_2.pdf. Accessed 19 Mar. 2026.

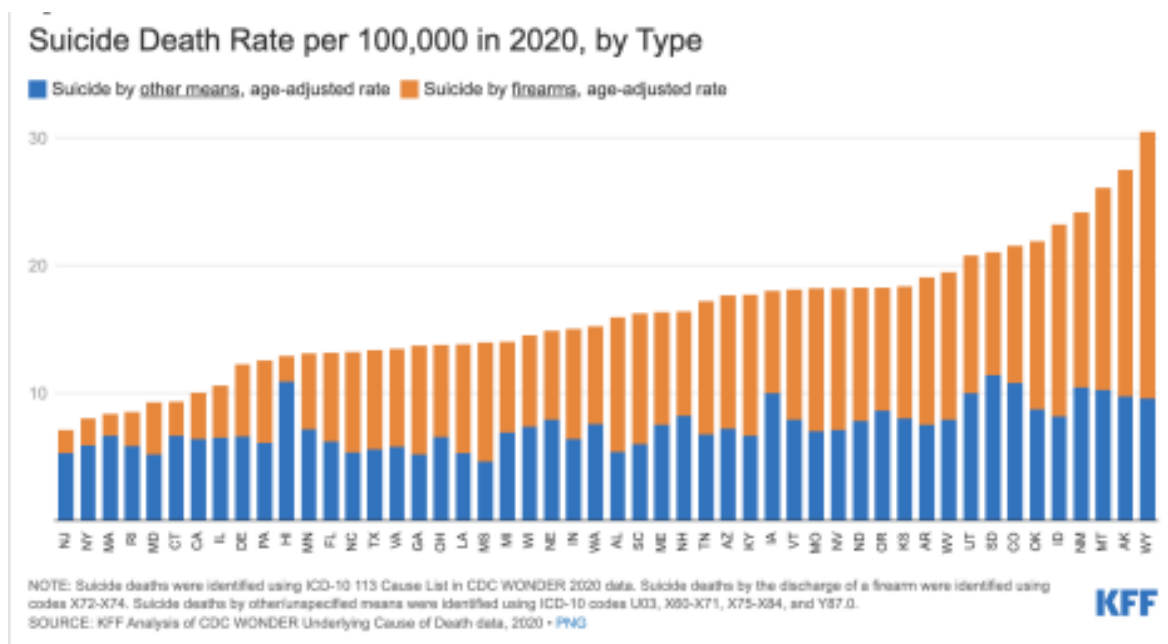
¹⁷ Swanson, Jeffrey W et al. “Suicide Prevention Effects of Extreme Risk Protection Order Laws in Four States.” *The journal of the American Academy of Psychiatry and the Law* vol. 52,3 327-337. 3 Sep. 2024, doi:10.29158/JAAPL.240056-24

people still had access to guns?” Since suicide attempts by firearm have a higher fatality rate than suicide by other methods, it can be correctly inferred that the suicide attempts carried out by firearm were more likely to be successful than attempts by other methods. As this applies to the research at hand, the study uses case fatality rates (CFRs) to observe how many people with ERPOs attempted suicide by firearm versus other means and who actually died as a result. In the final analysis, the researchers concluded that roughly 229 lives were saved among the 4,583 people studied. This amounts to between roughly 17 and 23 ERPOs issued saving one life.

However, as the data has shown in prior elements of this Article, ERPOs, if viewed as completely effective in diminishing the amount of suicides that occur by firearm—are really only capable of just that: reducing suicide by firearm. Suicide by other methods still occur at roughly double the rate of suicides by firearm in states with ERPOs. Table 1 below illustrates that for every 100,000 people, roughly 7 people died by a non-firearm suicide and roughly 2 people died by firearm suicide.¹⁸ Though the rate in which firearm-inflicted suicide is lower, the success rate of suicide by other means is two to three times the firearm-suicide rate.

¹⁸ Saunders, Heather. “Do States with Easier Access to Guns Have More Suicide Deaths by Firearm?” *KFF*, 18 July 2022, www.kff.org/mental-health/do-states-with-easier-access-to-guns-have-more-suicide-deaths-by-firearm/.

TABLE 1: Suicide by firearm versus other means, rate adjusted per 100,000



Legal Considerations

Michael Ulrich writes in his article for Boston University School of Public Health, titled "Revisionist History? Responding to Gun Violence Under Historical Limitations," that in Chief Justice John Roberts's oral argument for *District of Columbia v. Heller*, he "expressed skepticism at the standards of review, often referred to as the tiers of scrutiny, that developed over the last several decades."¹⁹ ²⁰ Here, Chief Justice Roberts is referring to the tiers of scrutiny that have surrounded Second Amendment debates throughout the last century. To initiate the question of study—which requires a historical approach—Ulrich first asks for us to develop a historical inquiry as to which rights the Second Amendment sought to protect. In the *Heller* majority opinion, issued by Justice Scalia, Ulrich cites that "the opinion makes clear that history played a central role in determining there was an individual right to keep and bear arms

¹⁹ *District of Columbia v. Heller*, 554 U.S. 570 (2008).

²⁰ Michael Ulrich, *Revisionist History? Responding to Gun Violence Under Historical Limitations*, 45 AMERICAN JOURNAL OF LAW AND MEDICINE 188 (2019).

anchored in the preexisting right to self-defense.” Surely there are debates from legal theorists, judges, and scholars that question restrictive firearm legislation on Second Amendment grounds; but a more pertinent issue arose with *McDonald v. City of Chicago*, which questioned the Due Process Clause of the Fourteenth Amendment and its relation to protecting the Second Amendment and the individual right to own a firearm.²¹

Justice Thomas’s dissent in *McDonald* replicated that of Justice Roberts’s in *Heller* in that they both disagreed with how the lower courts traditionally opted to evaluate the Second Amendment under immediate scrutiny. Even Justice Kavanaugh and Justice Gorsuch joined the historical-context approach to the Second Amendment. In *Heller v. District of Columbia* (dubbed “*Heller II*”), the (then) Judge Kavanaugh “argued that regulations infringing on the Second Amendment rights must be evaluated under ‘*Heller*’s history- and tradition-based test.’” Judge Kavanaugh also expressed discomfort with the notion that heightened scrutiny, immediate or strict, would be applied...” but these methods were nothing more than “judge-empower, interest-balancing inquiries.”²²

Though critics of ERPOs insist that these laws equate to “pre-crime punishment” and they they violate both due process and the right to bear arms, both “judges and scholars have long recognized that laws regulating on the basis of future risk raise a different and in many ways harder set of questions than those that, for example, punish prior behavior.”²³ The idea of “regulating the risk” is nothing new. The issue occurs when regulating the risk comes into conflict with questions of constitutionality, especially in the absence of a criminal conviction. The “hold-up” many conservatives get caught on is that the evidentiary burden for ERPOs and

²¹ *McDonald v. City of Chicago*. 561 U.S. 742 (2010).

²² *Heller v. District of Columbia*. 670 F.3d 1244 (D.C. Cir. 2011)

²³ Blocher, Joseph, and Jacob D Charles. “Firearms, Extreme Risk and Legal Design: ‘Red Flag’ Laws and Due Process.” *Virginia Law Review Association*, vol. 106, 2020, pp. 1287–1344.²⁶ “Colorado.” *The National ERPO Resource Center*, John Hopkins Bloomberg School of Public Health, 27 Feb. 2026, erpo.org/state/colorado/.

their procedures may violate due process in the meantime. Joseph Blocher and Jacob Charles ask in their article for the 2020 Virginia Law Review Association if ERPO laws provide due process to begin with. “If so, then ‘due process’ objections should be recognized for what they are: political rhetoric rather than doctrinal claims.” However, if ERPO laws do not provide due process to begin with, then “no amount of political or empirical support will suffice, and this promising new avenue of gun regulation will be shut down by the courts.”

Policy Recommendations to Legislators

Different states have diverse needs that state legislators and policy advocates must respond to accordingly. When Connecticut first enacted their ERPO law in 1999, it was a direct response to the horrific tragedy that took place one year earlier at the Lottery Headquarters. Therefore, the specifics regarding the procedure and outcome of ERPO laws vary based on each state’s specific statute. Here is where questions arise regarding due process violations. For example, the scope of who can petition an ERPO is far more vast in some states than it is in others, like Colorado, where a long list exists as to who can petition for a firearm removal.²⁶ Illinois even has a law where anyone can complain to a circuit court that an individual with a firearm threatened to use it illegally.²⁴

Within each state that has an extreme risk protection law, the order is generally issued one of two ways: either by *ex parte*, which means without prior notice given to the respondent, or by having a notice issued after a hearing. Generally, the former means for issuing an ERPO raises constitutional concerns. When a respondent is issued an *ex parte* order, the respondent is still entitled to and eligible for an additional hearing which determines whether the order should remain in effect or have the weapons returned. The burden of proof required for an *ex parte* order is that the petitioner must have probable cause or reasonable good cause that proves the

²⁴ See 725 ILL. COMP. STAT. ANN. 165/1 (LexisNexis 2019).

respondent is dangerous. The burden of proof required to issue a protection order is not uniform throughout the states, however, as California's burden of proof requires a "substantial likelihood" that the respondent is dangerous, and in four other states (Colorado, Delaware, Nevada, and Vermont) use the preponderance of evidence standard; Oregon uses the "clear and convincing" evidentiary standard.^{25 26 27} In order to find a simple way to eliminate the concern of constitutional violations of due process, I propose that one single burden of proof standard must be adopted into legislation relating to ERPOs, as it would provide a uniform standard of evidence required before depriving someone of their constitutional right to bear arms.

Requiring a single burden of proof is merely one aspect of a bigger issue, and the bigger issue at hand pertains to constitutional violations of due process and the Second Amendment as a whole. Other ways in which these concerns can be minimized could be to further require multiple hearings throughout the duration of the ERPO so that a judge can closely monitor the respondent's mental state. There is no doubt that there will be some instances where the return of a firearm and the removal of an ERPO is not a feasible option, in which case it only makes sense that judges keep the ERPO in effect and maintain possession of the firearm(s) and/or ammunition. As is, there are already classes of individuals that are prohibited completely—based on their criminal conviction status or other class—from having legal possession of a firearm. This is entirely another debate, and is not the subject of discussion here. What is relevant is that when drafting these various legislative provisions, public policy officials work together with legal and scientific scholars to find ways to effectively create legislation that passes all tiers of judicial scrutiny and still addresses the problem at hand.

²⁵ See COLO. REV. STAT. § 13-14.5-103(3) (2019); DEL. CODE ANN. tit. 10 § 7703(b)(2) (2019); NEV. REV. STAT. ANN. § 33.570(1) (LexisNexis 2020); VT. STAT. ANN. tit. 13 § 4054(b)(1) (2019)

²⁶ See CAL. PENAL CODE § 18150(b)(1)-(2)

²⁷ See OR. REV. STAT. § 166.527(6)(a) (2019).

Conclusion

Gun violence impacts the lives of millions of Americans every minute. Whether the debate about gun control and ERPO legislation is surrounding preventative measures for suicide or for the mass shooting epidemic, it is crucial that legislators on both sides of the aisle put forth their best effort to find a solution. Here, it seems that there has been much bipartisan policy work done on both a federal and state level to address the issue about gun violence. Nonetheless, the debate that surrounds the Second Amendment—what it protects, who it protects, and all the like—remains a hot topic issue in the United States today.

Since Connecticut's ERPO law in 1999, thousands of individuals—scientists, researchers, legal scholars, and public policy advocates—have put forth their time and money to generate valuable academic research that addresses the devastating issue of firearm violence. However, that research is not yet complete. This Article demonstrates that although ERPOs are seemingly effective at being used as a preventative tool for suicide and/or self-harm, the issue that remains is that people are still committing suicide—at nearly twice the rate just by different means. There is still much more work to do and many more questions to ask regarding the proper procedures and administration of ERPOs. I am also not implying here that the questions regarding ERPO effectiveness can be sufficiently remedied by progressive federalism. What is being implied here, however, is that there is much more work to be done regarding the broader implications of ERPOs and the threat they pose to constitutional concerns, and that it only makes sense to continue to question the role mental health plays with firearm violence.

References

“2023 Suicide Data States by Firearms 2.” *SAVE: Suicide Awareness Voices for Education*, 2025,
www.save.org/wp-content/uploads/2025/02/2023_Suicide_Data_States_by_Firearms_2.pdf. Accessed 19 Mar. 2026.

Blocher, Joseph, and Jacob D. Charles. “Firearms, Extreme Risk, and Legal Design: ‘Red Flag’ Laws and Due Process.” *Virginia Law Review*, vol. 106, 2020, pp. 1287–1344.

“CalVDRS Suicide Fact Sheet.” *California Department of Public Health*, 2022,
www.cdph.ca.gov/Programs/CCDCPHP/DCDIC/SACB/CDPH%20Document%20Library/CA%20Violent%20Death%20Reporting%20System%20%28CalVDRS%29/CalVDRS_Suicide_Fact-Sheet_2022.pdf.

“Colorado.” *The National ERPO Resource Center*, Johns Hopkins Bloomberg School of Public Health, 27 Feb. 2026, erpo.org/state/colorado/.

“Connecticut.” *The National ERPO Resource Center*, Johns Hopkins Bloomberg School of Public Health, 3 Mar. 2026, erpo.org/state/connecticut/.

“Do States with Easier Access to Guns Have More Suicide Deaths by Firearm?” *KFF*, 8 Sept. 2025,
www.kff.org/mental-health/do-states-with-easier-access-to-guns-have-more-suicide-deaths-by-firearm/.

“Everytown for Gun Safety Releases 2026 State Gun Law Rankings, California Continues to Lead the Nation with the Strongest Gun Laws.” *Everytown for Gun Safety*, 15 Jan. 2026,
www.everytown.org/press/everytown-for-gun-safety-releases-2026-state-gun-law-ranking-s-california-continues-to-lead-the-nation-with-the-strongest-gun-laws/.

“Firearms Are the Leading Cause of Death for Children and Teens in the US.” *Everytown Research & Policy*, 16 Jan. 2026,
everytownresearch.org/graph/firearms-are-the-leading-cause-of-death-for-american-children-and-teens/.

“Gun Violence in the United States.” *Office of Juvenile Justice and Delinquency Prevention*, U.S. Department of Justice,
ojjdp.ojp.gov/sites/g/files/xyckuh176/files/pubs/gun_violence/sect01.html. Accessed 21 Mar. 2026.

Gramlich, John. “What the Data Says about Gun Deaths in the US.” *Pew Research Center*, 5 Mar. 2025,

www.pewresearch.org/short-reads/2025/03/05/what-the-data-says-about-gun-deaths-in-the-us/.

Kegler, Scott R., et al. “Vital Signs: Changes in Firearm Homicide and Suicide Rates — United States, 2019–2020.” *Morbidity and Mortality Weekly Report*, vol. 71, 2022.

“Mental Illness.” *National Institute of Mental Health*, U.S. Department of Health and Human Services, Sept. 2024, www.nimh.nih.gov/health/statistics/mental-illness.

Ulrich, Michael. “Revisionist History? Responding to Gun Violence Under Historical Limitations.” *American Journal of Law & Medicine*, vol. 45, 2019, p. 188.

“New Report Highlights U.S. 2023 Gun Deaths: Suicide by Firearm at Record Levels for Third Straight Year.” *Johns Hopkins Bloomberg School of Public Health*, Johns Hopkins University, 2025, publichealth.jhu.edu/2025/new-report-highlights-us-2023-gun-deaths-suicide-by-firearm-at-record-levels-for-third-straight-year.

“Research on Extreme Risk Protection Orders.” *Center for Gun Violence Solutions*, Johns Hopkins Bloomberg School of Public Health, 2023, publichealth.jhu.edu/sites/default/files/2023-02/research-on-extreme-risk-protection-orders.pdf.

“State-by-State ERPO Laws.” *The National ERPO Resource Center*, Johns Hopkins Bloomberg School of Public Health, 12 Feb. 2026, erpo.org/state-by-state/.

“Suicide Data and Statistics.” *Centers for Disease Control and Prevention*, 26 Mar. 2025, www.cdc.gov/suicide/facts/data.html.

Swanson, Jeffrey W., et al. “Suicide Prevention Effects of Extreme Risk Protection Order Laws in Four States.” *The Journal of the American Academy of Psychiatry and the Law*, vol. 52, no. 3, 2024, pp. 327–337. <https://doi.org/10.29158/JAAPL.240056-24>.

Willinger, Andrew, and Shannon Frattaroli. “Extreme Risk Protection Orders in the Post-Bruen Age: Weighing Evidence, Scholarship, and Rights for a Promising Gun Violence Prevention Tool.” *Fordham Urban Law Journal*, vol. 51, 2023, p. 157.