

October 23, 2019: Courts, Corrections and Justice Committee

Statement on Extreme Risk Protection Orders (ERPO) (also known as Gun Violence Protection Orders (GVPO))

By Rep. Joy Garratt (joy.garratt@nmlegis.gov)

I believe that the New Mexico State Legislature should pass an Extreme Risk Protection Order in the next legislative session. It is one tool that families and law enforcement can use when an individual is identified as posing an imminent threat of harming self or others with a firearm. As National Review writer David French stated in his March 16, 2018 article entitled “The NRA Makes a Wise, Principled Decision to Support Gun-Violence Restraining Orders,” this is “. . . a remarkably simple and precisely targeted remedy for two forms of gun violence — mass shootings and suicides.”

An Extreme Risk Protection Order (ERPO) law, also known as a Gun Violence Protection Order (GVPO), allows law enforcement officers and/or families and household members, and in one state, mental health providers to petition a court to remove a person's access to guns if he or she poses an imminent danger to self or others.

Seventeen states—California, Colorado, Connecticut, Delaware, Florida, Hawaii, Illinois, Indiana, Maryland, Massachusetts, New Jersey, Nevada, New York, Oregon, Rhode Island, Vermont, and Washington—have enacted laws authorizing courts to issue extreme risk protection orders. The New Jersey law went into effect this September and the Colorado law does not go into effect until 2020.

In order to address Constitutional concerns presented by the ACLU, sheriffs and others, legislation has been revised in some states to address such concerns. For example, the NCSL Report (updated September 2019) entitled “Information on Extreme Risk Protection Orders or Gun Violence Protection Orders,” states that “when the ACLU of Rhode Island was concerned with the breadth of the original bill and its potential impact on civil liberties . . . Rhode Island tightened the bill to make the standard for granting a petition higher, created penalties for providing false evidence of a threat . . . required specific evidence and granted the right to legal counsel in hearings.”

Over 50% of all suicides in the United States are carried out with a firearm. In 2017, 491 New Mexicans died by suicide. Two hundred sixty (260) of these, or 53%, used a firearm. (I note that this is a much higher number than DUI deaths which were 172).

Suicide is an extremely serious problem here—our suicide rate is at least 50% higher than the US rate. We are 4th in the nation for death by suicide. The NM Department of Health in discussing suicides in a 2018 report, stated: “Temporarily removing a firearm from the homes of persons with increased suicidal risk has been shown to reduce to reduce suicides. This strategy can be implemented by families, local communities, or through legislation that mandates temporary removal of a firearm by law enforcement . . .”