

Appendix
Firearm Extreme Risk Protection Order Laws and Preemption: New Developments and Outstanding Issues, 50 States, 2020
Pomeranz and Ochoa

Appendix Table 1. State and Washington DC Extreme Risk Protection Order (ERPO) Laws, as of July 2020

State Statute (Original Enactment Date)	Type of order ^a ("statute title")	Petitioners allowed	Notice of order to gun owner	Court approval required before firearm removal	Hearing timing in relation to ERPO and respondent	Standard of proof to obtain order	Speech considered for issuance of order ^b	Penalty for filing false or harassing petitions	Procedure exists to retrieve firearm	Procedure exists to challenge removal
California Cal Pen Code § 18125. (9/30/2014)	Temporary ERPO ex parte - "temporary emergency gun violence restraining order"	Law enforcement	YES; upon service of order	YES	An ex parte order shall be issued or denied on the same day the petition is submitted to the court but if filed too late to permit effective review, the order shall be issued or denied on the next day of judicial business.	Reasonable cause	A recent threat of violence directed toward another or themselves; pattern of violent threats to themselves or others within the past 12 months	YES; misdemeanor	YES	YES
California Cal Pen Code § 18150. (10/11/2019) Note: replaced version enacted 9/30/2014	Temporary ERPO ex parte expanded - "ex parte gun violence restraining order"	Immediate family member, employer, coworker with substantial and regular interactions for at least 1 year with approval of employer, employee or teacher of a secondary or postsecondary school with approval of a school administrator or supervisor, law enforcement officer	YES; upon service of order	YES	An ex parte order shall be issued or denied on the same day that the petition is submitted to the court but if filed too late in the day to permit effective review, the order shall be issued or denied on the next day of judicial business.	Substantial likelihood	A recent threat of violence directed toward another or themselves; pattern of violent threats to themselves or others within the past 12 months	YES; misdemeanor	YES	YES
California Cal Pen Code § 18175. (10/11/2019) Note: replaced version enacted 9/30/2014	Final ERPO expanded	Immediate family member, employer, coworker with substantial and regular interactions for at least one year with approval of the employer, employee or teacher of a secondary or postsecondary school with approval of a school administrator or supervisor, law enforcement officer	YES; upon service of order	YES	Within 21 days after the date on the temporary order.	Clear and convincing evidence	A recent threat of violence directed toward another or themselves; pattern of violent threats to themselves or others within the past 12 months.	YES; misdemeanor	YES	YES
Colorado C.R.S. 13-14.5-103. (4/12/2019)	Temporary ERPO ex parte expanded	Family or household member or a law enforcement officer or agency	YES; upon service of order	YES	The court shall hold a temporary ERPO hearing in person or by telephone on the day the petition is filed or on the court day immediately following the day the petition is filed.	Preponderance of the evidence	Credible threat of violence against self or others, pattern of credible threats of violence against self or others within the past year; history of credible threats of violence by the threatened use of unlawful physical force by the respondent against another person	YES; criminal prosecution	YES	YES
Colorado C.R.S. 13-14.5-104. (4/12/2019)	Final ERPO expanded	Family or household member or a law enforcement officer or agency	YES; upon service of order	YES	Within 14 days after the issuance of a temporary ERPO	Clear and convincing evidence	Credible threat of violence against self or others, pattern of credible threats of violence against self or others within the past year; history of credible threats of violence by the threatened use of unlawful physical force by the respondent against another person	YES; criminal prosecution	YES	YES
Connecticut Ct. Gen. Stat. Sec. 29-38c. (6/29/1999)	Temporary Ex Parte Risk Based Firearm Removal Law - "ex parte warrant application for seizure of firearms"	State's attorney or assistant state's attorney or by any two police officers.	YES; upon service of warrant	YES	Time not specified	Probable cause □	Recent threats by such gun owner directed toward other persons or themselves; history of threatened use of physical force by the gun owner against other persons.	YES; penalty of perjury	YES	YES
Connecticut	Final Risk Based Firearm Removal Law- "order to	State's attorney or assistant state's attorney or by any two police officers.	YES; upon service	YES	14 days after the execution of a warrant	Clear and convincing evidence	Recent threats by such gun owner directed toward other persons or themselves; history of	YES; penalty of perjury	YES	YES

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Ct. Gen. Stat. Sec. 29-38c. (6/29/1999)	determine if state should return firearm/ammunition seized via warrant or hold it up to one year ^c		of warrant				threatened use of physical force by the gun owner against other persons.			
District of Columbia D.C. Code § 7-2510.04. (1/30/2019)	Temporary ERPO ex parte expanded	Persons related by blood, adoption, guardianship, marriage, domestic partnership, having a child in common, cohabitating, or maintaining a romantic, dating, or sexual relationship; sworn member of the Metropolitan Police Department; or a mental health professional	YES; upon service of order	YES	If the petitioner requests that the court issue an ex parte ERPO, the court shall grant or deny the request on the same day that the request was made, unless the request is filed too late in the day to permit effective review.	Probable cause	History or pattern of threats of violence directed toward themselves or others; recent threats of violence directed toward themselves or others	YES; penalty of perjury	YES	YES
District of Columbia D.C. Code § 7-2510.03. (1/30/2019)	Final ERPO expanded	Persons related by blood, adoption, guardianship, marriage, domestic partnership, having a child in common, cohabitating, or maintaining a romantic, dating, or sexual relationship; sworn member of the Metropolitan Police Department; or a mental health professional	YES; upon service of order	YES	Within 10 days after the date the petition was file.	Preponderance of the evidence	History or pattern of threats of violence directed toward themselves or others; recent threats of violence directed toward themselves or others	YES; penalty of perjury	YES	YES
Delaware 10 Del. C. § 7703. (6/27/2018)	Temporary ERPO ex parte - "emergency hearings"	Law enforcement	Yes; upon service of order	YES	The Justice of the Peace Court shall hear a request for an order within 24 hours of the filing of the affidavit or verified petition. If the Justice of the Peace Court issues an emergency lethal violence protective order the Superior Court must hold a full hearing within 15 days.	Preponderance of the evidence	No	YES; penalty of perjury	YES	YES
Delaware 10 Del. C. § 7704. (6/27/2018)	Final ERPO expanded - "nonemergency hearings"	A family member of the respondent or a law-enforcement officer	Yes; upon service of order	YES	If a lethal violence protective order is issued, the court shall inform the respondent that the respondent is entitled to 1 hearing; if a hearing is requested, it must be held within 15 days of the filing of an affidavit or verified petition	clear and convincing evidence	No	YES; penalty of perjury	YES	YES
Florida Fla. Stat. § 790.401. (3/9/2018)	Temporary ERPO ex parte	Law enforcement	YES; upon service of order	YES	The court must hold a temporary ex parte risk protection order hearing in person or by telephone on the day the petition is filed or on the business day immediately following the day the petition is filed.	reasonable cause	A recent or past threat of violence in the last 12 months against themselves or others, whether respondent threatened to use, against themselves or others any weapons, recurring threat to use physical force by the respondent against another person; affidavit must state the specific statements that give rise to a reasonable fear of significant dangerous acts by the respondent.	YES; felony of a third degree	YES	YES
Florida Fla. Stat. § 790.401. (3/9/2018)	Final ERPO	Law enforcement	YES; upon service of order	YES	No later than 14 days after the date of the order	clear and convincing evidence	A recent or past threat of violence in the last 12 months against themselves or others, whether respondent threatened	YES; felony of a third degree	YES	YES

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							to use, against themselves or others any weapons, recurring threat to use physical force by the respondent against another person; affidavit must state the specific statements that give rise to a reasonable fear of significant dangerous acts by the respondent.			
Hawaii HRS § 134-64. (6/26/2019)	Temporary ERPO ex parte expanded - "ex parte gun violence protective order"	Law enforcement officer, family or household member of the gun owner, medical professional, educator, or colleague	YES; upon service of order	YES	The court shall issue or deny an ex parte gun violence protective order on the same day that the petition is submitted to the court, unless the petition is filed too late in the day to permit effective adjudication.	Probable cause	Threat of violence against the respondent's self or another person, regardless of whether the violence involves a firearm	YES; misdemeanor	YES	YES
Hawaii HRS § 134-65. (6/26/2019)	Final ERPO expanded - "One-year gun violence protective order after notice and hearing"	Law enforcement officer, family or household member of the gun owner, medical professional, educator, or colleague	YES; upon service of order	YES	Within 14 days of the granting of the petition for an ex parte gun violence protective order.	Preponderance of the evidence	Threat of violence against the respondent's self or another person, regardless of whether the violence involves a firearm	YES; misdemeanor	YES	YES
Illinois 430 ILCS 67/35. (7/16/2018)	Temporary ERPO ex parte expanded - "emergency hearing"	Family member and law enforcement officer	YES; upon service of order	YES	An emergency hearing held on an ex parte basis shall be held the same day that the petition is filed or the next day that the court is in session.	Probable cause	No	YES; penalty of perjury	YES	YES
Illinois 430 ILCS 67/40. (7/16/2018)	Final ERPO expanded - "Six-month orders"	Family member and law enforcement officer	YES; upon service of order	YES	Within 30 days from receipt of a petition.	Clear and convincing evidence	History of threatened use of physical force against another person, recent threat of violence directed toward themselves or another, pattern of violent threats directed toward themselves or another person	YES; penalty of perjury	YES	YES
Indiana Ind. Code Ann. §35-47-14-2. (3/24/2006)	Temporary risk based firearm removal law - "ex parte warrant for search and seizure of firearm"	Law enforcement	YES; upon service of warrant	YES	Time not specified	Probable cause	The law enforcement officer's conversations with the gun owner who is alleged to be dangerous, or another individual if the law enforcement officer believes that information obtained from this individual is credible and reliable	YES; penalty of perjury	YES	YES
Indiana Ind. Code Ann. §35-47-14-3. (3/24/2006)	Temporary risk based firearm removal law - "warrantless search"	Law enforcement	NO	NO: law enforcement affidavit after removal	n/a	Probable cause	No	YES; penalty of perjury	YES	YES
Indiana Ind. Code Ann. §Sec. 35-47-14-6. (3/24/2006)	Final Risk Based Firearm Removal Law - "Order"	Members of law enforcement	YES; upon service of warrant	YES	The court shall make a good faith effort to conduct the hearing not later than 14 days after the filing of a search warrant (or as soon as possible).	Clear and convincing evidence	No	YES; penalty of perjury	YES	YES
Maryland Md. PUBLIC SAFETY Code	Temporary - ERPO ex parte expanded by	Physician, psychologist, clinical social worker, licensed clinical professional counselor, clinical nurse	Yes; upon	Yes, by a District Court	Time not specified	Reasonable grounds	Statements of the respondent or any other information that led the petitioner to believe that the	YES; penalty of perjury	YES	YES

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Ann. § 5-603. (4/24/2018)	Commissioner - "Interim extreme risk protective order"	specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, licensed clinical marriage or family therapist, or health officer or designee of a health officer who has examined the individual; law enforcement officer; spouse; cohabitant; person related to the respondent by blood, marriage, or adoption; individual who has a child in common; current dating or intimate partner; and current or former legal guardian.	service of order	Commissioner			respondent presents an immediate and present danger of causing personal injury to the respondent or others including any threat of violence the respondent made against themselves or against another			
Maryland Md. PUBLIC SAFETY Code Ann. § 5-604. (4/24/2018)	Temporary ERPO ex parte expanded or Temporary ERPO expanded	Physician, psychologist, clinical social worker, licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, licensed clinical marriage or family therapist, or health officer or designee of a health officer who has examined the individual; law enforcement officer; spouse; cohabitant; person related to the respondent by blood, marriage, or adoption; individual who has a child in common; current dating or intimate partner; and current or former legal guardian.	YES; upon service of order	YES	□ temporary extreme risk protective order hearing shall be held on the first or second day on which a District Court judge is sitting after issuance of the interim ERPO; the judge may proceed with a final ERPO hearing instead of a temporary ERPO if: the respondent appears at the hearing; the respondent has been served with an interim extreme risk protective order; or the court otherwise has personal jurisdiction over the respondent; and the petitioner and the respondent expressly consent to waive the temporary ERPO hearing	Reasonable grounds	Statements of the respondent or any other information that led the petitioner to believe that the respondent presents an immediate and present danger of causing personal injury to the respondent or others including any threat of violence the respondent made against themselves or against another	YES; penalty of perjury	YES	YES
Maryland Md. PUBLIC SAFETY Code Ann. § 5-605. (4/24/2018)	Final ERPO expanded	Physician, psychologist, clinical social worker, licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, licensed clinical marriage or family therapist, or health officer or designee of a health officer who has examined the individual; law enforcement officer; spouse; cohabitant; person related to the respondent by blood, marriage, or adoption; individual who has a child in common; current dating or intimate partner; and current or former legal guardian.	YES; upon service of order	YES	The final ERPO hearing shall be held not later than 7 days after the temporary extreme risk protective order is served on the respondent.	Clear and convincing evidence	Statements of the respondent or any other information that led the petitioner to believe that the respondent presents an immediate and present danger of causing personal injury to the respondent or others including any threat of violence the respondent made against themselves or against another	YES; penalty of perjury	YES	YES
Massachusetts ALM GL ch. 140, § 131T. (7/03/2018)	Temporary ERPO ex parte expanded - "emergency extreme risk protection order"	Family members, household members, and members of law enforcement.	YES; upon service of order	YES	Time not specified	Reasonable cause	No	YES; by a fine of not <\$2,500 and not >\$5,000 or by imprisonment for not >2.5 years, or both	YES	YES

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Massachusetts ALM GL ch. 140, §§ 131R-S. (7/03/2018)	Final ERPO expanded	Family members, household members, and members of law enforcement.	YES; upon service of order	YES	Within 10 days of receipt of a petition	Preponderance of the evidence	No	YES; by a fine of not <\$2,500 and not >\$5,000 or by imprisonment for not >2.5 years, or both	YES	YES
Nevada Nev. Rev. Stat. Ann. § 33.570. (6/12/2019)	Temporary ERPO ex parte expanded - "Ex parte Order for Protection Against High-Risk Behavior"	Law enforcement officer, family member, and household member.	YES; upon service of order	YES	The court shall hold a hearing on the ex parte order and shall issue or deny the ex parte order on the day the verified application is filed or the judicial day immediately following the day the verified application is filed.	Preponderance of the evidence	Threatens the use of physical force against another person; communicates a threat of imminent violence toward themselves or another person; pattern of threats of violence against themselves or another person, including, without limitation, threats of violence that have caused another person to be in reasonable fear of physical harm	YES; misdemeanor	YES	YES
Nevada Nev. Rev. Stat. Ann. § 33.580. (6/14/2019)	Final ERPO expanded - "Extended Order for Protection Against High-Risk Behavior"	Law enforcement officer, family member, and household member.	YES; upon service of order	YES	A hearing on an application for an extended order must be held within 7 calendar days after the date on which the application for the extended order is filed.	Clear and convincing evidence	Threatens the use of physical force against another person; communicates a threat of imminent violence toward themselves or another person; pattern of threats of violence against themselves or another person, including, without limitation, threats of violence that have caused another person to be in reasonable fear of physical harm	YES; misdemeanor	YES	YES
New Jersey N.J. Stat. § 2C:58-23. (6/13/2018)	Temporary ERPO ex parte expanded	Family members, household members, and members of law enforcement.	Yes; upon service of order	YES	Time not specified	Good cause	History of threat of violence directed toward self or others; history of threatened use of physical force against another person	NO	YES	YES
New Jersey N.J. Stat. § 2C:58-24. (6/13/2018)	Final ERPO expanded	Family members, household members, and members of law enforcement.	YES; upon service of order	YES	Within 10 days of the filing of a petition	Preponderance of the evidence	History of threat of violence directed toward self or others; history of threatened use of physical force against another person	NO	YES	YES
New Mexico N.M. Stat. Ann. § 40-17-6. (2/25/2020)	Temporary ERPO - "Petition for temporary extreme risk firearm protection order"	Law enforcement officer employed by a law enforcement agency; or if the respondent is a law enforcement officer, the petition shall be filed by the district attorney or the attorney general	YES; upon service of order	YES	Time not specified	Probable cause	Specific statements that support the belief that the respondent poses a significant danger of causing imminent personal injury to self or others by having in the respondent's custody or control or by purchasing, possessing or receiving a firearm	YES; penalty of perjury	YES	YES
New Mexico N.M. Stat. Ann. § 40-17-8. (2/25/2020)	Final ERPO - "One-year extreme risk firearm protection order"	Law enforcement officer employed by a law enforcement agency; or if the respondent is a law enforcement officer, the petition shall be filed by the district attorney or the attorney general	YES; upon service of order	YES	Within 10 days of the issuance of a temporary ERPO	Preponderance of the evidence	Specific statements that support the belief that the respondent poses a significant danger of causing imminent personal injury to self or others by having in the respondent's custody or	YES; penalty of perjury	YES	YES

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							control or by purchasing, possessing or receiving a firearm			
New York NY CLS CPLR § 6342. (2/25/2019)	Temporary ERPO ex parte expanded or Temporary ERPO expanded	Police officer or district attorney with jurisdiction in the county or city where respondent resides; family or household member; school administrator or their designee (e.g., guidance counselor, psychologist, social worker, nurse, teacher).	YES; upon service of order	YES	Application for a temporary order shall be determined in writing on the same day the application is filed.	Probable cause	A threat of violence or use of physical force directed toward self, the petitioner, or another person	YES; penalty of perjury	YES	YES
New York NY CLS CPLR § 6343. (2/25/2019)	Final ERPO expanded	Police officer or district attorney with jurisdiction in the county or city where respondent resides; family or household member; school administrator or their designee (e.g., guidance counselor, psychologist, social worker, nurse, teacher).	YES; upon service of the order	YES	No sooner than 3 business days nor later than 6 business days after service of a temporary ERPO and, alternatively, no later than 10 business days after service of an application where no temporary ERPO has been issued, supreme court shall hold a hearing to determine whether to issue a final ERPO	Clear and convincing evidence	A threat of violence or use of physical force directed toward self, the petitioner, or another person	YES; penalty of perjury	YES	YES
Oregon ORS § 166.527. (8/15/2017)	Temporary ERPO ex parte expanded	A law enforcement officer or a family or household member of a person.	YES; upon service of order	YES	An ERPO petition shall be heard by the court and issued or denied on the same day the petition is submitted to the court or on the judicial business day immediately following the day the petition is filed.	Clear and convincing evidence	History of suicide threats; history of threatened use of physical force by the respondent against another person	YES; class A misdemeanor	YES	YES
Oregon ORS § 166.527. (8/15/2017)	Final ERPO expanded	A law enforcement officer or a family or household member of a person.	YES; upon service of order	YES	The hearing shall occur within 21 days of the request; if respondent fails to request a hearing within 30 days, the order is confirmed and is effective for one year.	Clear and convincing evidence	History of suicide threats; history of threatened use of physical force by the respondent against another person	YES; class A misdemeanor	YES	YES
Rhode Island R.I. Gen. Laws § 8-8.3-4. (6/01/2018)	Temporary ERPO ex parte	Law enforcement	YES; upon delivery of order	YES	Time not specified	Probable cause	Specific statements that support the belief that respondent poses a significant danger of causing imminent personal injury to self or others by having in their custody or control, or by purchasing, possessing, or receiving, a firearm; a recent threat of violence by respondent against self or others, regardless of whether threat involves a firearm; a pattern of threats of violence within past 12 months, such as threats of violence against self or others; unlawful, threatening, or reckless use or brandishing of a firearm by respondent, including, act taken or displayed via social media.	YES; felony punished by imprisonment for not >5 years, or a fine of not >\$5,000, or both.	YES	YES
Rhode Island R.I. Gen. Laws § 8-8.3-5. (6/01/2018)	Final ERPO	Law enforcement	YES; upon delivery of order	YES	Within 14 days of the issuance of a temporary ERPO	Clear and convincing evidence	Specific statements that support the belief that respondent poses a significant danger of causing imminent personal injury to self or others by having in their custody or control, or by	YES; felony punished by imprisonment for not >5	YES	YES

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							purchasing, possessing, or receiving, a firearm; a recent threat of violence by respondent against self or others, regardless of whether threat involves a firearm; a pattern of threats of violence within past 12 months, such as threats of violence against self or others; unlawful, threatening, or reckless use or brandishing of a firearm by respondent, including, act taken or displayed via social media.	years, or a fine of not >\$5,000, or both.		
Vermont 13 V.S.A. § 4054. (4/11/2018)	Temporary ERPO ex parte - "emergency relief"	A State's Attorney or the Office of the Attorney General	YES; upon service of order	YES	Time not specified	Preponderance of the evidence	Threats that have placed others in reasonable fear of physical harm to themselves; threatened suicide or serious bodily harm to self.	YES; crime subject to imprisonment not >1 year, or a fine not >\$1,000, or both.	YES	YES
Vermont 13 V.S.A. § 4053. (4/11/2018)	Final ERPO	A State's Attorney or the Office of the Attorney General	YES; upon notice of order	YES	Within 14 days after the issuance of a temporary ex parte ERPO	Clear and convincing evidence	Threats that have placed others in reasonable fear of physical harm to themselves; threatened suicide or serious bodily harm to self.	YES; crime subject to imprisonment not >1 year, or a fine not >\$1,000, or both.	YES	YES
Virginia Va. Code Ann. § 19.2-152.13. (4/8/2020)	ERPO ex parte - "Emergency substantial risk order"	An attorney for the Commonwealth or a law-enforcement officer	YES; upon service of order	YES	Time not specified	Probable cause	Threat directed toward self or another person that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury.	YES; class 1 misdemeanor	YES	YES
Virginia Va. Code Ann. § 19.2-152.14. (4/8/2020)	Final ERPO - "substantial risk order"	An attorney for the Commonwealth or a law-enforcement officer	YES; upon service of order	YES	Not later than 14 days after the issuance of an emergency substantial risk order	Clear and convincing evidence	Threat directed toward self or another person that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury.	YES; class 1 misdemeanor	YES	YES
Washington Rev. Code Wash. Sec. 7.94.050. (Ballot Initiative Measure No. 1491, approved 11/8/2016)	Temporary ERPO ex parte expanded	Family members, household members, and members of law enforcement.	YES; upon service of order	YES	The court shall hold an ex parte ERPO hearing in person or by telephone on the day the petition is filed or on the judicial day immediately following the day the petition is filed.	Reasonable cause	Specific statements that give rise to a reasonable fear of future dangerous acts	YES; gross misdemeanor.	YES	YES
Washington Rev. Code Wash. Sec. 7.94.040. (Ballot Initiative Measure No. 1491, approved 11/8/2016)	Final ERPO expanded	Family members, household members, and members of law enforcement.	YES; upon service of order	YES	The court shall schedule a hearing within 14 days of the issuance of an ex parte ERPO	Preponderance of the evidence	Specific statements made by gun owner including any threats of violence against self or others, threats of violence within the past 12 months against self or others, and history of use, attempted use, or threatened use of physical force by gun owner against another person.	YES; gross misdemeanor.	YES	YES

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^a A temporary order is issued by a court after a hearing and remains in effect until the final hearing; both the petitioner and respondent are present at the hearing unless it is an ex-parte order, where the respondent is not present. A final order is issued by a court after a hearing where both the petitioner and respondent are present and may last up to the maximum duration of time, as set by the state statute.

^b With the exception of Virginia, all states and DC lists one or more of the following as behaviors to consider when determining whether to issue an ERPO:

- Acts or threats of violence or bodily harm to themselves or others; history such threats/violence
- Arrest or conviction of a felony, violent crime, violent misdemeanor, other crimes/criminal history
- Violating a court order, including a civil protection order, domestic abuse/violence protective order, sexual assault protection order, peace order, previous ERPO, abuse prevention order, harassment prevention order, no contact order, emergency protective order
- Abuse of alcohol or drugs/controlled substances or illegal use of drugs [sometimes combined with committing acts described above]
- Prior involuntary confinement in a hospital for persons with psychiatric disabilities
- Experiencing a mental health crisis, mental illness, or other dangerous mental health issues
- Pattern of not taking medication if being treated for mental illness controlled with medication
- Unlawful and/or reckless use, display, storage, or brandishing of a firearm
- Domestic violence, stalking
- Cruelty to animals [only in states that prohibit the same]