

# HB 1411: Opposition to ERPO ban

Rep. Karla Rose Hanson - District 44  
House Energy & Natural Resources Committee - 1/30/24

Chairman Porter and members of the committee,

I urge you to give a Do Not Pass recommendation on HB 1411, which would prohibit Extreme Risk Protection Orders (ERPOs) in North Dakota.

Prohibiting ERPOs removes a potential tool from law enforcement and families that could be used to prevent the tragedy of gun violence. Gun violence is a serious issue, involving suicide, domestic violence and homicides.

- Firearms are the most common and the most lethal means of suicide. In 2023, 83 of the 145 suicides (57%) that occurred in North Dakota involved a firearm, a rate that is consistent with prior years.
- Firearms make domestic violence more deadly for the victim and law enforcement. In 2023, firearms were used in 155 cases of domestic violence in ND. Domestic violence calls are among the most dangerous calls law enforcement officers face.
- Firearms are used in the majority of homicides in our state. In 2023, 18 of the 28 homicides in North Dakota involved a firearm (64%).

As you deliberate this bill, I ask you to consider the following points. I learned these facts when I introduced an Extreme Risk Protection Order bill in 2019 and participated in an interim committee study in 2019-20 that examined such legislation.

**ERPOs save lives.** They enable action before warning signs escalate into tragedies.

ERPOs put time and space between people who pose a danger to themselves or others and lethal means. Research shows that most people in suicidal crisis who don't have easy access to a lethal suicide method will not find a way to kill themselves. Removing access to firearms allows time for the moment of intense suicidality to pass and for someone to intervene with potentially life-saving mental health support.

In its recent [report](#), North Dakota's Suicide Fatality Review Commission recommended reducing access to lethal means by people who are at acute risk for suicide.

Research shows that ERPO laws have corresponded with a reduction in the firearm suicide rate in Indiana & CT and the prevention of mass shootings in FL, CA, MD & WA.

**ERPOs have strong due process.** Using a civil legal process (not a criminal process), law enforcement, family members and states attorneys can petition the court to temporarily prohibit a person who is determined by the court to be a danger to themselves or others from possessing a gun for up to one year.

Specific actions must occur before the court order to remove a weapon can be issued, including notice, hearing, opportunities to present evidence, and the opportunity to appeal. Those elements represent strong due process.

The process of requesting an ERPO is parallel to Domestic Violence Protection Orders. DVPOs have existed in ND since 1979, and they also enable the removal of weapons.

***ERPOs are constitutional.*** The first ERPO law was enacted 25 years ago, and ERPO laws are now in place in 21 states. Since then, case law has repeatedly affirmed that ERPOs do not conflict with the US Constitution. I've uploaded a memo from Legislative Council to the online testimony page, summarizing how these laws have been challenged on 2<sup>nd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Amendment grounds. In summary, courts have upheld ERPO laws against constitutional challenges every single time.

***ERPOs fill a gap by serving as a mid-level solution.*** Today, there is a range of tools for family and law enforcement who know a person who is a danger to themselves or others. These range from the least restriction solution, which includes voluntarily surrendering a firearm and/or having a family member store the firearm, to the most restrictive solution, which is civil commitment in the state hospital.

ERPOs create a new tool in between those two solutions. They reduce the risk of violence when family members are unwilling or unable to store a firearm. And they reduce the risk of violence without the loss of personal liberty and at less cost to taxpayers compared to involuntary commitment in the state hospital. ERPOs put the firearm in a timeout instead of the person, so individuals can get stabilized through community-based treatment while continuing to go to work and live with their families.

***ERPOs are popular.*** Polls say 70% of Americans favor ERPOs, including 65% of gun owners.

***ERPOs can be a beneficial tool for law enforcement.*** In 2019, the Extreme Risk Protection order bill introduced in North Dakota was supported by the ND Police Chiefs Association and the ND Association of School Resource Officers.

I'm glad to provide follow-up information if you have questions on these or any other points.

Mr. Chairman and members of the committee, please don't take away future tools to prevent the tragedy of gun violence. Please give HB 1411 a Do Not Pass recommendation.