



NEW YORK STATE SENATOR

Brian Kavanagh

## State Lawmakers Announce 30-State Push for Commonsense Laws to Prevent Individuals Likely to Harm Themselves or Others from Accessing Guns

BRIAN KAVANAGH March 2, 2018

| ISSUE: **GUNS, GUN VIOLENCE, GUN VIOLENCE PREVENTION, EXTREME RISK PROTECTION ORDERS**

*New court-issued civil orders would empower families & police to prevent violence by temporarily prohibiting individuals likely to harm themselves or others from purchasing or possessing guns*

*Bills introduced or soon to be unveiled in Alabama, Alaska, Arizona, Colorado, Delaware, Florida, Hawaii, Illinois, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, North Carolina, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Virginia, and Wisconsin*

*Currently, 19% of Americans live in states with ERPOs — including California, Connecticut, Indiana, Oregon, and Washington — with the 30 additional states announced today, that figure would jump to 83%*

**(New York, NY)** — Two weeks after the tragic shooting at Marjory Stoneman Douglas High School in Parkland, Florida, American State Legislators for Gun Violence Prevention — a non-partisan coalition of legislators from across the country — announced today that lawmakers in 30 states have introduced or are planning to introduce Extreme Risk Protection Order legislation that would empower family members and law enforcement to help prevent gun violence. Currently, five states representing 19% of Americans have similar laws. If all 30 additional states passed ERPO bills, 83% of Americans would be protected by

this legislation.

The bills would create a new court-issued civil order of protection called an “Extreme Risk Protection Order” or “ERPO” (also known as “Lethal Violence Restraining Orders” or “Gun Violence Restraining Orders” in some states) which prohibits individuals from purchasing or possessing guns if a court finds they are likely to harm themselves or others. Orders could be requested by family members or local law enforcement — who often see warning signs of gun violence but may be powerless to act under current law before tragedy occurs.

“The gun industry and its allies in Washington have long blocked federal laws to prevent gun violence, but state lawmakers across the country are stepping up with legislation that can save lives — and we won’t back down,” **said NY State Senator Brian Kavanagh, Founder and Chair of American State Legislators for Gun Violence Prevention and sponsor of S7133 which would create ERPOs in New York.** “State lawmakers in these 30 states are working to ensure that 5 in 6 Americans will be protected by extreme risk protection order legislation, because we know these laws can prevent gun violence, safeguard our communities, and save lives. It’s that simple.”

In many cases of gun violence — including mass shootings, interpersonal violence, and suicide -- the shooter exhibits warning signs before tragedy occurs. However, family members and local police are often powerless to intervene.

According to news reports, the teenager arrested and charged in the Parkland shooting had numerous contacts with police, left troubling comments on social media, and had a history of self-harm and violence. Despite these warning signs, however, it seems at this point that he had not committed a crime that would make him ineligible to purchase guns, and all of his weapons were apparently bought legally. If Florida had extreme risk protection orders, however, this violent tragedy might have been avoided.

Members of American State Legislators for Gun Violence Prevention (ASLGVP) have introduced or will soon introduce legislation in their state that would create ERPOs. They include:

- Alabama — Representative Merika Coleman
- Alaska — Representative Geran Tarr
- Arizona — Senator David Bradley
- Colorado — Senator Rhonda Fields
- Delaware — Representative David Bentz
- Florida — Representative Lori Berman
- Hawaii — Representative Chris Lee
- Illinois — Representative Kathleen Willis
- Iowa — Representative Art Staed
- Kansas — Senator Barbara Bollier
- Kentucky — Representative Joni Jenkins
- Maine — Senator Mark N. Dion
- Maryland — Delegate Geraldine Valentino-Smith
- Massachusetts — Representative David Linsky
- Michigan — Representative Robert Wittenberg
- Minnesota — Representative Dave Pinto
- Missouri — Representative Stacey Newman
- Montana — Representative Ellie Hill
- Nevada — Senator Julia Ratti
- New Hampshire — Representative Renny Cushing

- New Jersey — Assemblymember John F. McKeon
- New York — Senators Brian Kavanagh and Brad Hoylman; Assemblymember Jo Anne Simon
- North Carolina — Representative Marcia Morey
- Pennsylvania — Representative Madeleine Dean
- Rhode Island — Representative Marcia Ranglin-Vassell
- Tennessee — Senator Lee Harris
- Texas — Senator José Rodríguez
- Vermont — Senator Dick Sears, Jr.
- Virginia — Delegate Richard "Rip" Sullivan
- Wisconsin — Representative Melissa Sargent

In addition, U.S. Representative Salud Carbajal of California has introduced federal legislation ([H.R. 2598](#)) that would provide funding to support states that adopt these laws.

While the exact bill language differs from state to state, ERPO legislation creates a civil process where family members, household members, and law enforcement can petition a state court to issue an order preventing an individual from purchasing or possessing guns — and removing guns they already own. If the court finds the individual is likely to harm him- or herself or others in the near future, the judge can issue an initial *ex parte* emergency order. After an emergency order, a hearing for the respondent must be scheduled on a short time frame, where the judge will determine if the order should remain in effect for a longer period of time, typically a year. Orders can then be renewed through another hearing. In addition to the initial hearing, those subject to ERPOs have the opportunity to file a request

for a hearing to lift the order.

Five states — Connecticut (1999), Indiana (2005), California (2014), Washington (2016), and Oregon (2017) — have enacted similar laws. A study by researchers from Duke University found that Connecticut's law led to a measurable reduction in the state's suicide rate.

*Quotes from bill sponsors:*

"Alaska has some of the highest rates of suicide, gun deaths and domestic violence in the nation," **said Alaska Representative Geran Tarr**. "Families and law enforcement need more tools to save lives, and extreme risk protective orders can help. All Americans, including NRA members, should be able to support laws that are temporary in nature and limited in scope to crisis situations."

"The formula for a domestic violence situation escalating to a fatality is this: depression, isolation, agitation, reinforcement from social media, and access to a lethal weapon. The anger that clenches a fist becomes a source of lethal terror when the same fingers that clench the fist now pull the trigger. All of the other variables are inflamed by this one action," **Arizona Senator David Bradley said**. "It is indisputable that the variable in this recipe that literally explodes on the community is access to the weapon. All of the other ingredients must rely on intensive interpersonal relationships to remove them from the formula. Removing the weapon is one ingredient that lends itself to legislative intervention."

**Colorado Senator Rhonda Fields said:** "We are not doing enough to keep guns out of the hands of people who are at risk of committing violence to themselves or others. As a Colorado lawmaker, it is time that we empower families and law enforcement with legal intervention tools to safe guard our community. An Extreme Risk Protection Order will close the gap through the judicial system to prohibit the purchase or possession of a firearm while the order is in effect. This is a common sense measure to reduce gun violence."

**Delaware Representative David Bentz said:** "Countless gun deaths happen each year that might have been prevented if police and loved ones could have intervened sooner and removed firearms from a dangerous situation. Extreme Risk Protection Orders give family members and law enforcement the ability to intervene when an individual is not thinking clearly and can save lives from gun violence and reduce suicide deaths."

**Florida Representative Lori Berman said:** "Now more than ever, the recent massacre in the State of Florida has shown why Extreme Risk Protection Orders are needed. As the sponsor of HB 231, I will continue to advocate to support adding this tool to our gun violence prevention toolbox. This legal mechanism, which could prevent or take guns away from those who are a danger to themselves or others, is long overdue. It is my hope that this will be a tipping point and we will start to see common-sense gun safety reform. The students have spoken and they are heard, supported and need action."

**Hawaii Representative Chris Lee said:** "An Extreme Risk Protection Order (ERPO) would have enabled law enforcement to prevent the recent tragedy at Marjory Stoneman Douglas High School, and would have prevented the seven fatalities of the mass shooting at Xerox right here in Hawaii, among many others. Friends and family of shooters often say they knew that person was both armed and dangerous, and this common sense law would allow action to be taken before it's too late. ERPOs uphold second amendment rights of responsible citizens while enabling a judge to assess the risk and take appropriate action when people are identified as an imminent threat to themselves or others."

**Illinois Representative Kathleen Willis said:** "In the Illinois House we hope to pass HB2456 which will allow family members to have guns temporarily removed from homes where there are "red flags" such as those seen in Florida. The goal is to remove the guns while the gun owner gets the help they need before he or she hurts themselves or others."

**Iowa Representative Art Staed said:** "What can you say to those who have suffered the unthinkable loss of loved ones - like the family, friends and classmates of the Parkland High victims? What words can provide any comfort? Thoughts and prayers? Thoughts and prayers are not enough. Meaningful action that reduces the likelihood of gun violence is necessary to save lives. That's why I've introduced Extreme Risk Protection Order legislation (HF 2180) in the Iowa House. ERPOs have saved lives in other states and will do the same in Iowa. More than thoughts and prayers; we need action."

**Kansas Senator Barbara Bollier said:** "We know that extreme risk protection order bills would add a huge measure of protection to our citizenry. If a similar law had been in place in Florida, the recent shooting could have been prevented. With the inaction of our federal legislators, state leaders are working diligently to bring some common sense anti-gun-violence laws to our states. We MUST move forward to slow this public health crisis."

**Kentucky Representative Joni Jenkins said:** "Throughout my legislative career, I have worked hard to establish policies that support victims of domestic and family violence. I am especially proud of those measures that provide interventions before the abuse becomes deadly. I have looked at the increase of gun violence, specifically mass shootings, with the same problem-solving lens. What can we do to intervene early in a potential deadly situation? Extreme Risk Protective Orders are a tool for friends, neighbors and family members to speak out when they know someone is at risk of hurting themselves or others with a gun. It allows a judge to assess a situation and if needed, temporarily remove guns from the hands of a troubled individual before there is a tragic outcome. Preventing gun violence is a complex venture and I hope discussions continue and there there will be other very worthy policies to be considered. ERPOs can be a lifesaving tool for our communities."

**Maine Senator Mark N. Dion said:** "After the Parkland high school shooting, we're all searching for a way forward that protects our children while respecting responsible firearm ownership."

I've introduced legislation to create Community Protection Orders that will authorize a court to order the surrender of firearms linked to a person, identified as a high risk individual, who presents a substantial danger to the personal safety of innocent third parties. With passage of this bill, Maine will add its voice to a growing national consensus that rapid legal intervention, provided by "red flag" statutes, will provide families and public safety officials with a key intervention that will help prevent needless deaths in schools, and in all other public spaces."

**Maryland Delegate Geraldine Valentino-Smith said:** "House Bill 1302, Lethal Violence Protection Order, presents an opportunity for family, law enforcement and judges to intervene earlier to protect Marylanders in crisis situations from harming themselves, their families or the public using a firearm. This kind of early intervention has the ability to save lives."

"We don't give people the tools they need to stop tragedies like what happened in Parkland," **said Massachusetts Representative David Linsky.** "There is no one solution to gun violence prevention, but with Extreme Risk Protective Orders, we can remove guns from individuals who are demonstrating dangerous and threatening behavior. If Congress is going to continue to refuse to have a conversation about guns on the national level, it is time for us to act at the state level. The time for thoughts and prayers is over. We need to pass Extreme Risk Protective Order legislation in Massachusetts, and throughout the country."

**Michigan Representative Robert Wittenberg said:** "As the founder and Chair of the Gun Violence Prevention Caucus in Michigan, I am working hard to implement sensible gun laws that have been proven to save lives, ERPO is one of them."

**Minnesota Representative Dave Pinto said:** "Outside of the Legislature, I serve as a prosecutor of gender violence, including domestic assault. Often, there are warning signs that tragedy is about to strike. Gun Violence Protective Orders - our state's proposed version of ERPOs - can



give family members and law enforcement the tools they need to keep communities safe.”

**Missouri Representative Stacey Newman said:** “We’ve filed this for four years now. We are thrilled to include it in our brand new ‘Save Our Kids Act.’ There is no reason to drag our feet. This will save lives. Now is the time.”

**Montana Representative Ellie Hill said:** “The State of Montana has the highest suicide rate in the nation and ERPO laws save lives. I am confident we will find bipartisan support to pass this common sense legislation, next session, and enable law enforcement and family to take action before crisis turns into tragedy.”

**New Hampshire Representative Renny Cushing said:** “As a legislator and as the survivor of family members killed by gun violence, taking a common sense step to prevent gun violence by passing a law to provide for Extreme Violence Prevention Orders is a priority for me. I am working with colleagues to draft bill for the next session of the New Hampshire legislature.”

**New Jersey Assemblymember John F. McKeon said:** “Family members and law enforcement are often the first to know when an individual is in crisis. However, in many states, a gap in the law makes it hard for families and law enforcement to intervene to limit a person’s access to guns even when they have demonstrated signs of a serious crisis. This gap can be filled by authorizing the creation of extreme risk protection orders. This legislative model is waiting for us to take action and make a difference, as it has in the states that have enacted it. State lawmakers across the country have a choice to make. We can continue to grieve for the lives that are stolen, or we can translate that grief into action and work in a bi-partisan manner to enact a law that will save lives. Legislators who fail to recognize the urgency of today on this issue are shamefully abdicating their responsibility to the people who have elected them to serve.”

**New York Senator Brad Hoylman said:** "Legislators at every level of government have a responsibility to act and protect our children and our communities against gun violence. Parkland was America's 41st mass shooting in 2018, but there have been at least five additional incidents of mass violence since as well as countless instances of everyday gun violence. Laws like Extreme Risk Protection Orders could help avert these tragedies by preventing individuals who pose a significant risk from acquiring firearms in the first place. The brave students from Parkland have made it clear we must confront the scourge of gun violence, and here in New York, I'm proud to join my colleagues Senator Kavanagh and Assemblymember Simon in fighting for passage of ERPO legislation this session."

**New York Senator Brian Kavanagh said:** "New York has some of the strongest gun laws in the country — but with 900 gun deaths each year, we can and must go further. Extreme risk protection orders are a proven tool that can help save lives. I'm proud to sponsor this legislation with Senator Hoylman and Assemblymember Simon, and I'm committed to working with our colleagues in government to enact it this session."

**New York Assemblymember Jo Anne Simon said:** "The recent school shooting in Parkland, Florida has shaken the country to its core, but we can do something about it. I am privileged to be a part of a network of state legislators who are taking action to make our country safer through gun violence prevention bills. I sponsor the Extreme Risk Protection Order bill in the New York State Legislature, which restricts access to firearms for those who pose a serious risk. We now know that the shooter in Parkland had a history of escalating violence and that people close to him were concerned about his behavior and reported it to law enforcement — but there was no mechanism for them to act. This bill can change that. The time for excuses has passed — let's stand with the brave kids in Florida and across the country who are calling on us to act. I applaud Senator Kavanagh and American State Legislators for Gun Violence Prevention for their commitment to reducing gun violence."

**Pennsylvania Representative Madeleine Dean said:** “Family and friends are often the first ones to see when a person is in crisis. But if a firearm is involved, the only recourse for many is to have a person involuntarily committed—a designation that has lasting effects for something that may be a temporary issue. ERPOs are a compromise that will keep people safe, without harming the rest of a person’s life as they work through their crisis.”

**Rhode Island Representative Marcia Ranglin-Vassell said:** “People are often told, 'if you see something, say something' This legislation gives court and law enforcement a critical tool to make sure that when someone alerts them to a person who poses a physical threat to them self or others, and they agree on the severity of that threat, they have the means to take action to prevent tragedy. As a teacher, as well as a parent, I believe that this legislation will save lives, while providing due process to those who are 'red flagged'.”

**Tennessee Senator Lee Harris said:** “People like to say, ‘See something, say something.’ But, right now, there’s a huge gap in our laws in Tennessee. Even if law enforcement knows that a tragedy is likely to occur and have details on the perpetrator, there is no real path to limit their access to weapons and to prevent the tragedy. Right now, law enforcement officers must wait until after something happens. Democrats have worked on many important public safety initiatives to stop this. For instance, Democrats have proposed a bill that would give law enforcement the ability to temporarily remove firearms from individuals that are likely to harm themselves or others (SB 670 by Sen. Lee Harris/HB 961 by Rep. Johnnie Turner).”

**Texas Senator José Rodríguez said:** “It's appalling that the NRA has such a stranglehold on Congress that they won't even pass commonsense measures that most of us agree on like universal background checks or banning bump stocks. The same holds true for the Texas Legislature. In 2015 and 2017, I filed legislation to create a lethal violence protective order, which would have allowed families and law enforcement to ask a court to temporarily

prevent violent or unstable individuals, who present an imminent threat, from accessing guns. Despite widespread support from organizations like Texas Gun Sense, Texas Municipal Police Association, National Alliance for Mental Illness, and the League of Women Voters, my bill (S.B. 434) didn't even receive a hearing because Senate leaders were unwilling to risk the wrath of the gun lobby. Hopefully, with the current momentum, Texas leaders will be unwilling to risk the wrath of students, parents, and teachers.”

**Vermont Senator Dick Sears, Jr. said:** “My bill (S.221) provides for an extreme risk protection order from the courts when harm is imminent in, for example, a case of a suicide attempt, domestic violence and even in the case of a potential mass shooting. The Governor has indicated his full support for the bill.”

“We constantly hear 'if you see something, say something' from law enforcement, but their hands are too often tied when it comes to preventing gun violence, even when there are clear red flags,” **said Virginia Delegate Richard C. "Rip" Sullivan.** “The bill I have introduced, HB 198, would allow law enforcement to finally 'do something,' while providing ample due process for gun owners. HB 198 would create a 'risk warrant,' the Virginia version of an Extreme Risk Protection Order.”

**Wisconsin Representative Melissa Sargent said:** “After yet another tragedy at the hands of gun violence in Florida last week, I am introducing a bill creating lethal violence protection orders in Wisconsin. We’ve had enough of empty thoughts and prayers, and we’ve had enough of complicity and complacency. As lawmakers, it’s time for us to take proactive steps to prevent gun violence in our communities, and lethal violence protection orders are critical for empowering law enforcement and families to limit gun access for individuals who pose a risk to themselves or others.”

“Our country is struggling to understand how so many warning signs failed to stop the killing of 17 students and educators in Parkland,” **said U.S. Representative Salud Carbajal (D-CA)**. “Implementing gun violence restraining orders is one sensible step forward to provide law enforcement a tool to temporarily disarm individuals in crisis and it is already saving lives in the states that have adopted these measures. I am proud to sponsor bipartisan legislation which encourages states to implement GVROs and I am elated to see legislators in 30 states stepping up today to protect our children and loved ones from gun violence.”

*Quotes from partners:*

“Every state must take action now to protect our children and families from gun violence,” **said Mark Barden, co-founder and managing director of Sandy Hook Promise and father to Daniel, killed at Sandy Hook Elementary School**. “We have solutions that we know work. Extreme Risk Protection Orders are a proven and critical tool to help families and law enforcement intervene and prevent a tragedy before it happens by temporarily separating at-risk individuals from firearms based on documented, sworn evidence that they pose an immediate threat to themselves or others.”

**Nico Bocour, State Legislative Director for Giffords, said:** "States across the country are resisting the gun lobby's dangerous agenda and instead are fighting to enact life-saving legislation like the Extreme Risk Protective Order. This important law will give families and law enforcement the tools they need to keep guns out of the hands of someone who is going through a crisis and needs help. We applaud the legislators who are taking action to protect families and communities in their own states and are showing the nation how to get this done."

"Passing Extreme Risk Laws should be among the highest priorities for state legislators across the country," **said Brady Campaign Co-Presidents Kris Brown and Avery Gardiner**. "If family members and law enforcement are concerned that someone in crisis might use a gun

to hurt themselves or others, they should be empowered to act - it's just common sense. Now is the time for elected officials to act and to join us in saying #ENOUGH."

"We applaud these lawmakers for their commitment to gun safety and for stepping up and supporting this first-of-its-kind, multi-state campaign," **said Shannon Watts, founder of Moms Demand Action for Gun Sense in America.** "Families and law enforcement are often the first to spot red flags, and extreme risk protection order laws empower them to intervene before a tragedy. Now is the time for state lawmakers across the country to take action and provide more families and police with this life-saving tool."

**Josh Horowitz, Executive Director, Coalition to Stop Gun Violence, said:** "In light of the tragedy in Parkland, Florida, Americans are demanding lawmakers do more to prevent access to firearms from people at a high risk of violence. This Extreme Risk Protective Order [ERPO] law provides an evidence-based mechanism for families and law enforcement to temporarily remove guns from a risky situation before it becomes lethal by utilizing the best research available. Family members are usually the first to recognize disturbing behavior, ERPO lets them take the first step to getting a loved one help -- with the gun out of the picture. Every state lawmaker -- Democrat, Republican, Independent -- should want to keep their constituents safe. This law provides a tool to do just that."

**Chelsea Parsons, Vice President of Gun Violence Prevention Policy, Center for American Progress, said:** "Extreme Risk Protection Orders provide a crucial tool for family members to take proactive steps to protect loved ones in crisis from using a gun to harm themselves or someone else. Not only can such legislation help prevent horrific mass shootings, but it offers a smart and effective way to help reduce gun-related suicide as well, which account for two-thirds of all gun deaths in the U.S."

**Manhattan District Attorney Cyrus R. Vance, Jr., and Los Angeles City Attorney Mike Feuer, co-founders and co-chairs of Prosecutors Against Gun Violence, said:** "It is long past time for

lawmakers to acknowledge that people in the midst of a mental health crisis should not have unfettered access to firearms. By empowering families and law enforcement to raise a red flag about those in crisis, Extreme Risk Protection Orders help save lives. We join law enforcement and legislators across the country to urge the passage of this commonsense gun violence prevention measure.”

**Mark Jones, Project Director for the Law Enforcement Partnership to Prevent Gun Violence, said:**

“The National Law Enforcement Partnership to Prevent Gun Violence recognizes the potential of judicial processes like Emergency Risk Protection Orders that temporarily remove firearms from people in crisis, to save lives. ERPOs have demonstrated positive outcomes in those jurisdictions that have them available and The Partnership is actively researching the available data to inform our policy statement to be issued in the near future.”

**Victoria Coy, National Director for States United to Prevent Gun Violence, said:** "ERPO laws are the epitome of common sense gun reform. And that is why so many States United affiliates are working with their state legislators to introduce it nation-wide. States United is excited to partner with ASLGVP to amplify the grassroots gun violence prevention efforts of tireless state advocates and lawmakers."

**Po Murray, Chair of Newtown Action Alliance & The Newtown Foundation, said:** "The State of Connecticut passed the nation's first Extreme Risk Protection Order law after a deadly workplace shooting at the state's lottery headquarters in 1998 and hundreds of warrants are filed annually. Allowing authorities to temporarily remove firearms from people in crisis will help to prevent mass shooting tragedies and gun suicides. These types of measures make Connecticut one of the safest states in the nation and we recommend all states pass this common sense measure while we wait for Congress to act."

**Amber Goodwin, Founding Director of Community Justice Reform Coalition, said:** “I applaud ASLGVP for spearheading this critical multi-state effort to help keep guns out of the hands of individuals who are dealing with a mental health crisis. This type of legislation will not only start to help urban communities of color get the resources we need to help our loved ones in crisis, but it will also prevent more senseless acts of gun violence from tearing apart our communities.”

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#### RELATED LEGISLATION

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### **2017-S7133A**

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- Introduced
  
- - In Committee Assembly
  - In Committee Senate
  
- - On Floor Calendar Assembly
  - On Floor Calendar Senate
  
- - Passed Assembly
  - Passed Senate
  
- Delivered to Governor



- Signed By Governor

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Establishes extreme risk protection orders as a court-issued order of protection prohibiting a person from purchasing, possessing or attempting to purchase or possess a firearm, rifle or shotgun

December 08, 2017

In Senate Committee [Codes](#)

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