

A large, stylized, light yellow background image of a pair of scales of justice. The scales are centered and extend from the top of the page down to the bottom, framing the central text.

Extreme Risk Protection Order Act (2023 PA 38)

2024 Annual Report

February 2025

State Court Administrative Office

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Introduction

The Extreme Risk Protection Order (ERPO) Act, also known as 2023 PA 38 (“Act”), was signed into law on May 23, 2023, and became effective on February 13, 2024. The Act authorizes the family division of the circuit court to enter an order restraining an individual from possessing a firearm or concealed pistol license upon a finding, by a preponderance of the evidence, that the respondent:

“[C]an reasonably be expected within the near future to intentionally or unintentionally seriously physically injure himself, herself, or another individual by possessing a firearm, and has engaged in an act or acts or made significant threats that are substantially supportive of the expectation.” MCL 691.1807(1)

The Act requires the State Court Administrative Office (SCAO), acting at the direction of the Michigan Supreme Court (MSC), to prepare an annual report on and relating to the application of the Act by the courts. MCL 691.1821. This report provides a summary of judicial implementation of the Act throughout 2024, and aggregated data elements following the first year of implementation. Until the uniform statewide case management system—commonly referred to as the SCAO Judicial Information Services (JIS) case management system—is fully funded and operational statewide, statewide reports such as this one are more difficult to compile and likely to have limitations or incomplete data.

Judicial Implementation

Court Rules: The MSC published for comment several proposed amendments and additions to Chapter 3 of the Michigan Court Rules on September 20, 2023. The Court held a public hearing on the proposed amendments and additions on November 15, 2023, and adopted them on February 6, 2024. The adopted court rules provide procedural guidance and clarity when implementing the Act.

Resources: The SCAO published an [Extreme Risk Protection Order Manual](#) that provides a comprehensive overview of the Act and judicial requirements. Additionally, the SCAO published [Quick Reference Materials](#) for ERPO implementation and also updated the [Domestic Violence Benchbook: Fourth Edition](#) to include a chapter on ERPOs.

Trainings: The SCAO delivered a 90-minute ERPO training webinar on February 8, 2024, for judicial employees and traveled throughout the state delivering in-person ERPO trainings at various regional judicial association meetings.

Forms: The SCAO created [19 new forms](#) to implement the Act.

Case Types: To facilitate data collection and case processing, the SCAO created six new case type codes for ERPO actions.

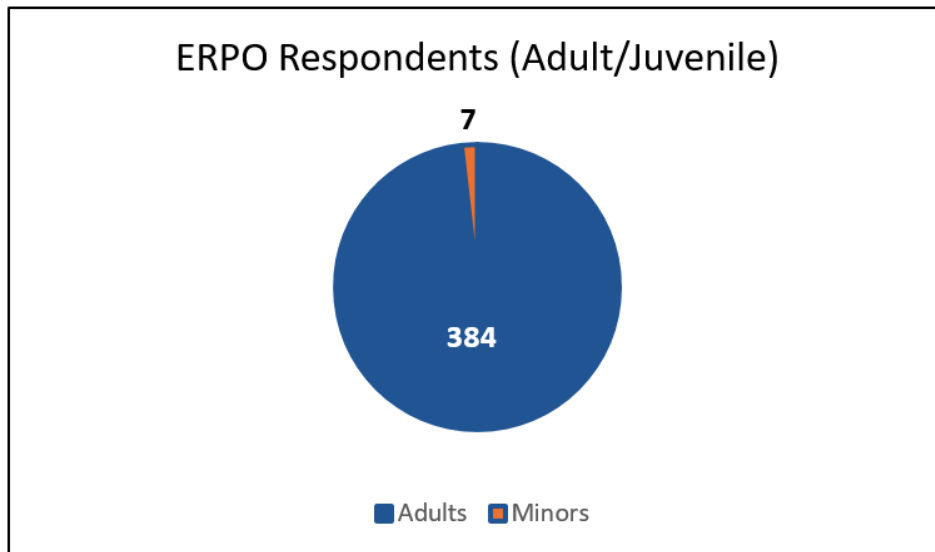
Data Collection: To produce a detailed annual report described in MCL 691.1821, the SCAO required circuit courts to submit data about ERPO complaints and orders, including the case type, party type, disposition method, post-order motions, and new criminal charges, using standard codes to the Judicial Data Warehouse (JDW).

ERPO Data and Statistics

The primary data source for this report is the JDW, which receives case-level data directly from court case management systems.¹ This enables the SCAO to generate detailed numbers as required by MCL 691.1821. However, there are known gaps in the available data from non-JIS case management systems. Post-order motions, new criminal charges, and demographic data were not available from all non-JIS systems. The ERPO complaints filed from February 13, 2024, to December 31, 2024, are summarized in this report.

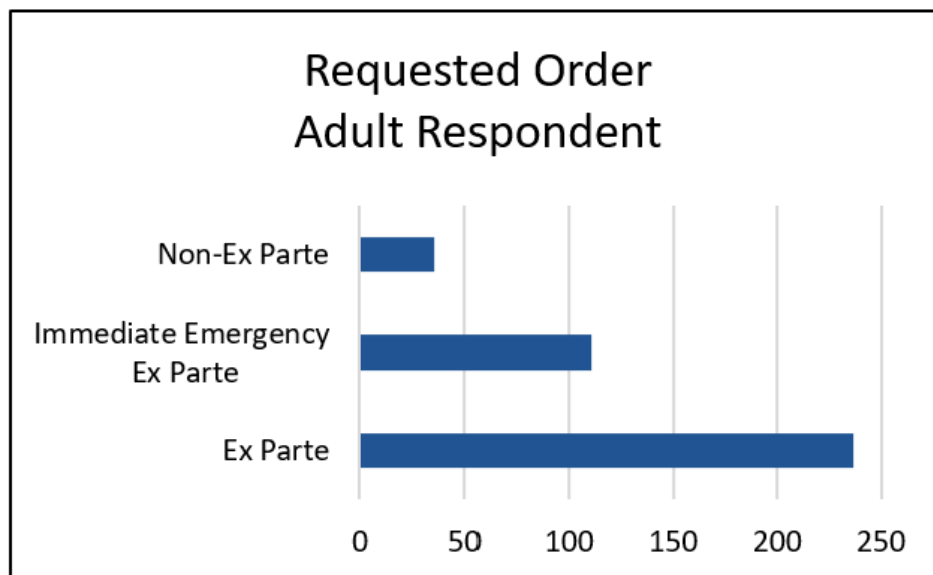
ERPO Complaints: A total of 391 ERPO complaints were filed in Michigan. Of these, 384 complaints were filed against adult respondents and seven were filed against minor respondents.

Requested Order Type: In ERPO actions, the “petitioner” is the person filing the complaint with the court and the “respondent” is the person that the petitioner is asking be subject to an ERPO. When filing a ERPO complaint, the petitioner must state whether they are requesting an “ex parte” order (defined below).

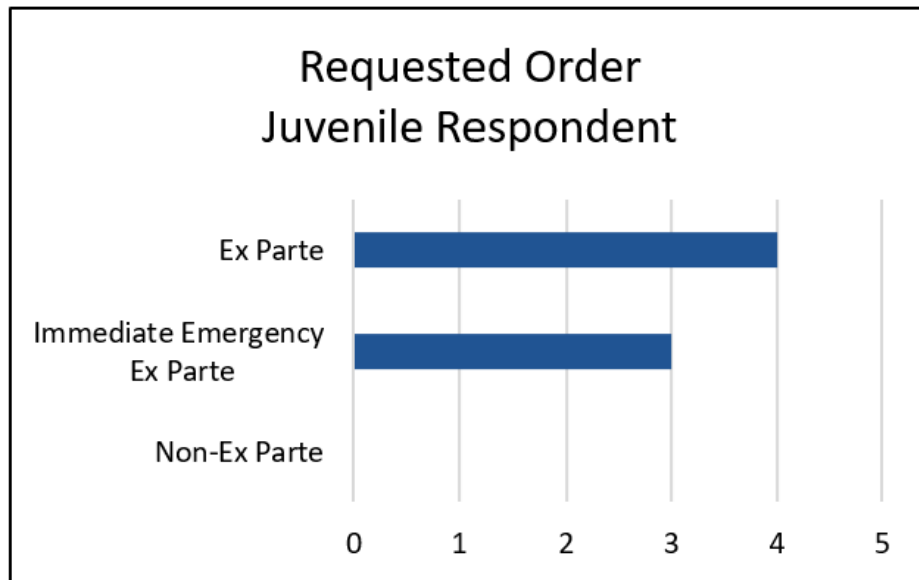


¹ Lake, St. Joseph, St. Clair, and Berrien counties use a non-JIS case management system and provided SCAO with ERPO data in Excel, or confirmed that there were no cases to report, instead of adding ERPO cases to a JDW data feed. These data points were added to the figures in this report.

Order Type	Summary
Ex Parte Order	<p>An ex parte order means the petitioner is asking the court to issue an order immediately, before the respondent receives notice about the petition and before a hearing. The evidentiary standard is higher to issue an ex parte order—the petitioner must also show by clear and convincing evidence that:</p> <ul style="list-style-type: none"> • Immediate and irreparable injury, loss, or damage will result from the delay required to give notice; or, • The notice itself will precipitate adverse action before an extreme risk protection order can be issued. <p>Respondents are still entitled to a hearing after the judge grants an ex parte order.</p>
Immediate Emergency Ex Parte Order	<p>A law enforcement officer may verbally request by telephone that a judge or magistrate on duty within the jurisdiction immediately issue an emergency ex parte order. These orders may only be issued if the law enforcement officer is:</p> <ul style="list-style-type: none"> • Responding to a complaint involving the respondent; and • The respondent can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure the respondent or another individual by possessing a firearm.
Non-Ex Parte Order	<p>If a petitioner does not request an ex parte order in their complaint, an order will not be entered until after the court holds a hearing on the matter.</p>



Adult Respondents: Of the 384 ERPO complaints filed against adult respondents, 237 requested an ex parte order, 111 requested an immediate emergency ex parte order, and 36 did not request an ex parte order.



Juvenile Respondents: Of the seven ERPO complaints filed against juvenile respondents, four requested an ex parte order and three requested an immediate emergency ex parte order.

Issued Orders

Of the total 391 ERPO complaints filed:

- 287 orders were issued
- Eight were initially issued, but rescinded after hearing
- 84 were denied
- Six were dismissed or withdrawn by the petitioner
- Six were undisposed (i.e., were open cases at the time of the data pull)

A total of 355 requests were made for ex parte and emergency ex parte orders, but not all of these were disposed ex parte. In several instances, judges held a hearing before making a decision. Of the 338 complaints disposed ex parte, a total of 273 orders were issued and 65 were denied.

Rescinded Orders

Initial Hearing: Respondents have the right to an initial hearing on an extreme risk protection complaint, including instances where the court issued an ex parte order. The petitioner must attend these hearings and carries the burden of proof. If an ex parte order was issued, and the petitioner does not meet their burden at the hearing, the court will rescind the order.

Eight orders were initially ordered ex parte, and then rescinded after the hearing.

Motions: In addition to this hearing, the respondent may also file a motion to modify or terminate an ERPO. The respondent has the right to file one motion during the first six months that the order is in effect and one motion during the second six months the order is in effect. The moving party carries the burden of establishing that the respondent no longer poses a risk to seriously physically injure another individual or respondent by possessing a firearm.

At least two ERPOs were rescinded by a post-order motion.²

Renewed Orders

An extreme risk protection order expires one year after the date of issuance. Upon motion by the petitioner or the court's own motion, the court may issue an extended extreme risk protection order that is effective for one year after the expiration of the preceding order.

To date, no ERPOs have been renewed or extended. This is expected because the Act has been effective for less than a year, meaning that previously issued ERPOs have not yet expired.

Criminal Charges

ERPO Respondents

At least 31 individuals (11.4 percent) restrained by an ERPO were charged with 74 criminal offenses within 30 days of the ERPO's entry.³ From available data, no charges were for refusing or failing to comply with an ERPO under MCL 691.1819(1); however, 22 charges were related to firearms or ammunition. The most frequently charged offenses were domestic violence (MCL 750.812) at 11 counts and police officer assault/resist/obstruct (MCL 750.81D1) at seven counts.⁴ (See the following table for a complete list of the filed charges.)

² Several non-JIS case management systems did not add post-order motion data to their JDW data feed. Therefore, the number of post-order rescissions and renewals excludes the following counties: Antrim, Grand Traverse, Leelanau, Ottawa, Ingham, Kent, Macomb, Kalamazoo, Saginaw, Washtenaw, and Wayne.

³ The following non-JIS case management systems do not have an established data feed to the JDW. Therefore, the number of criminal charges filed for ERPO respondents and the number of ERPO criminal violations excludes the following courts: D61-Grand Rapids; D05-Berrien County; and C02-Berrien County.

⁴ The criminal charges section of the ERPO annual report identifies charges filed against a respondent within 30 days of an extreme risk protection order's issuance. The filing date of criminal charges is not necessarily the same date that the charged offense alleged occurred. Most criminal charges filed against ERPO respondents occurred with a few days of an extreme risk protection order's entry. As such, the data in the report cannot conclusively determine whether the charged offense allegedly occurred before or after the date the ERPO order was entered.

PACC Code	Offense Description	Counts
257.626	Driving - Reckless	1
257.602A2	Police Officer - Fleeing - Fourth Degree - Vehicle Code	2
257.9041B	Operating - License Suspended, Revoked, Denied	1
333.74032B1	Controlled Substance - Possession of Methamphetamine/Ecstasy	2
333.74032B-A	Controlled Substance - Possession/Analogues	1
333.74032C-A	Controlled Substance - Possession (Schedule 5 and LSD, etc.)	1
750.81	Assault or Assault and Battery	2
750.81D1	Police Officer - Assaulting/Resisting/Obstructing	7
750.812	Domestic Violence	11
750.813	Domestic Violence and/or Knowingly Assaulting a Pregnant Individual	1
750.82	Assault with a Dangerous Weapon (Felonious Assault)	3
750.84	Assault with Intent to do Great Bodily Harm Less Than Murder or by Strangulation or Suffocation	2
750.115-A	Breaking & Entering - Illegal Entry (without owner's permission)	1
750.136B4	Child Abuse - 3rd Degree	1
750.145A-A	Children - Accosting for Immoral Purposes	1
750.1743A	Embezzlement - Agent or Trustee \$200.00 or more but less than \$1,000.00	1
750.224B	Weapons - Firearms - Short-Barreled Shotgun/Rifle	1
750.224F7	Weapons - Ammunition – Possession by Prohibited Person	1
750.224F-A	Weapons - Firearms - Possession by Prohibited Person	1
750.227	Weapons - Carrying Concealed	4
750.227B-A	Weapons Felony Firearm	2
750.234A	Weapons - Firearms - Discharge From Vehicle	1
750.234B	Weapons - Firearms - Discharge in or at a Building	2
750.234E	Weapons – Firearms – Brandishing in Public	1
750.237	Weapons - Firearms - Possession Under the Influence	2
750.411H	Stalking	1
750.411I	Stalking - Aggravated	2
750.483A2A	Interfering with Crime Report	1
750.520B	Criminal Sexual Conduct - First Degree (Multiple Variables)	1
750.520B1F	Criminal Sexual Conduct - First Degree (Personal Injury)	1
750.520C	Criminal Sexual Conduct - Second Degree (Multiple Variables)	1
750.5405A	Interfering with Electronic Communications	1
750.540E	Telecommunication Services - Malicious Use	1
750.543M	False Report or Threat of Terrorism	1
750.552	Trespass	2
752.7973F	Computers - Using to Commit a Crime - Maximum Imprisonment of 20 years	1
752.863A	Weapons - Firearms - Reckless Use	7
771.3F	Tampering with Electronic Monitoring Device	1

Status of Charges: The table below summarizes the status of these 74 criminal charges at the time this report was generated.

Number of Charges	Charge Status
28	Undisposed
28	Guilty/No Contest/Plea to Amended Charge
14	Dismissed
4	Competency Evaluation/Deferral

Petitioners Filing False Information

MCL 691.1819(4) established criminal penalties for petitioners who knowingly and intentionally make a false statement to the court in an ERPO complaint. A first offense is a misdemeanor punishable by not more than 93 days in jail; a second offense is a felony punishable by not more than four years in prison; and a third offense is a felony punishable by not more than five years in prison. No petitioner has been charged with this criminal offense based on available data.⁵

Knowingly Placing Firearm in Possession of Restrained Individual

MCL 691.1819(5) establishes criminal penalties for individuals who knowingly place a firearm in the possession of an individual who is restrained under an extreme risk protection order. The offense is a felony punishable by imprisonment for not more than one year. No individual has been charged with this criminal offense based on available data.⁶

Demographic Data

The SCAO complaint forms for filing an Extreme Risk Protection Order Action (CC 452 and CC 452M) contain fields for the petitioner to identify their age, race, and sex. However, these fields are not mandatory, and courts cannot legally reject a filing if the petitioner does not populate this information on the complaint form. The following demographic data reflects the data as currently populated in the JDW or otherwise reported by the courts.⁷

Race

Petitioners: Of the 385 petitioners, the race of 282 petitioners is unknown. The table identifies the race of petitioners; however, conclusions should not be drawn from this data, as the race of approximately 73 percent of all petitioners is unknown.

Petitioners	Race
282	Unknown
86	White
12	Black
3	Asian
2	Hispanic

⁵ *Id.*

⁶ *Id.*

⁷ Several non-JIS case management systems did not add demographic data about ERPO petitioners and respondents to their JDW data feed. Therefore, the already limited demographic data points wholly exclude the following counties: Antrim, Grand Traverse, Leelanau, Ingham, Kent, and Macomb.

Respondents: Of the 391 respondents, the race of 176 respondents is unknown. The table identifies the race of respondents; however, conclusions should not be drawn from this data, as the race of approximately 45 percent of all respondents is unknown.

Respondents	Race
176	Unknown
150	White
64	Black
1	Asian

Gender

Petitioners: Of the 385 petitioners, the gender of 263 petitioners is unknown. The table identifies the gender of petitioners; however, conclusions should not be drawn from this data, as the gender of approximately 68 percent of all petitioners is unknown.

Petitioners	Gender
263	Unknown
86	Male
36	Female

Respondents: Of the 391 respondents, the gender of 158 respondents is unknown. The chart identifies the gender of the 233 respondent's that is known; however, conclusions should not be drawn from this data, as the gender of approximately 40 percent of all respondents is unknown.

Respondents	Gender
158	Unknown
201	Male
32	Female

Age

Petitioners: Of the 385 petitioners, the age of 287 petitioners is unknown. The table identifies the age group of petitioners; however, conclusions should not be drawn from this data, as the age of approximately 75 percent of all petitioners is unknown.

Petitioners	Age
287	Unknown
14	20s
32	30s
21	40s
24	50s
6	60s

Respondents: Of the 391 respondents, the age of 160 respondents is unknown. The table identifies the age group of respondents; however, conclusions should not be drawn from this data, as the age of approximately 41 percent of all respondents is unknown.

Respondents	Age
160	Unknown
5	19 or Younger
50	20s
52	30s
52	40s
38	50s
22	60s
6	70s
6	80s-90s

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