

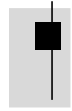


Extreme Risk Protection Orders—Red Flag Law **Filing a Complaint, Hearing the Matter, and Deciding Whether To Issue an Order**

A.	Filing Requirements—MCR 3.716(A)(1).....	2
B.	Who May Initiate an ERPO Action—MCR 3.716(A)(2); MCL 691.1805(1)-(2).....	3
C.	Complaint for an ERPO—MCR 3.716; MCL 691.1805.....	3
D.	Petitioner’s Knowing and Intentional False Statement— MCL 691.1819(4).....	6
E.	Hearings in General.....	6
F.	Notice Required for Specific Hearing Circumstances.....	8
G.	Hearing Attendance—MCR 3.718(D).....	10
H.	Court’s Considerations at the Hearing—MCR 3.718(D)(8); MCL 691.1807(1).....	11
I.	Dismissal of an Action for an Extreme Risk Protection Order— MCR 3.717.....	13
J.	Definitions—for purposes of MCR 3.716–MCR 3.722, and the Extreme Risk Protection Order Act, MCL 691.1801 <i>et seq.</i>	14

An action requesting that an **extreme risk protection order** (ERPO) be issued is an independent action initiated by filing a **complaint** with the family division of circuit court. An action under the Extreme Risk Protection Order Act (ERPO Act) may be initiated regardless of whether **respondent** owns or possesses a firearm. MCR 3.716(A)(1).

Initiating an action under the **Extreme Risk Protection Order** Act (ERPO Act) does not limit **petitioner’s** ability to initiate an action under MCL 600.2950 (domestic relations personal protection orders—domestic PPOs) or MCL 600.2950a (nondomestic PPOs).¹ MCL 691.1820(a). Nor does an action under the ERPO Act limit petitioner’s ability to initiate an action under MCL 330.1434 (petition asserting that a person requires mental health treatment). MCL 691.1820(b).

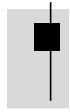


A. Filing Requirements—MCR 3.716(A)(1)

- **Independent action.** An ERPO action is an independent action initiated by filing a **complaint** with the family division of the circuit court.
 - ❑ ERPO action **MAY NOT** be initiated by motion in an **existing action** or by joining a claim to an action.
 - ❑ ERPO complaint **MAY** be filed without regard to whether **respondent**² owns or possesses a firearm. See also MCL 691.1805(4).
- **Form approved by the State Court Administrative Office (SCAO) required.**
 - ❑ Proposed ERPO **MUST** be prepared on a SCAO-approved form.
 - ❑ Proposed ERPO **MUST** be submitted at the same time as the complaint is filed.
- **Requirements of completion.** **Petitioner MUST** complete proposed ERPO as follows:
 - ❑ Complete case caption and known fields with respondent's identifying information, including:
 - Race.
 - Sex.
 - Date of birth or age.
 - ❑ Petitioner **DOES NOT** need to complete or file the SCAO-approved form re: personal identifying information.
- **NO fees.** There are **NO** fees required.
- **NO summons.** There is **NO** summons issued.

¹See the Michigan Judicial Institute's *Domestic Violence Benchbook*, Chapter 5, for detailed information about personal protection orders (PPOs).

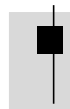
²This document uses *respondent* in all places that refer to the individual against whom an order is sought and to the individual who is restrained by an ERPO already issued. *Respondent* and *restrained individual* are both terms used in some Red Flag Law provisions. This document limits its referral to *respondent* for the sake of clarity and consistency.



B. Who May Initiate an ERPO— MCR 3.716(A)(2); MCL 691.1805(1)-(2)

■ ONLY the following individuals may initiate an ERPO action:

- Respondent's spouse.
- Respondent's former spouse.
- Individual who has a child in common with respondent.
- Individual who has or has had a **dating relationship** with respondent.
- Individual who resides or has resided in the same household with respondent.
- Respondent's **family member**.
- Respondent's **guardian**.
- Law enforcement officer**.
- Health care provider**, **IF** filing and maintaining the action **DOES NOT VIOLATE**:
 - Requirements of HIPAA (Health Insurance Portability and Accountability Act of 1996).
 - Regulations promulgated under HIPAA.
 - Physician-patient confidentiality.



C. Complaint for an ERPO— MCR 3.716; MCL 691.1805

- **Requirements of a complaint.** MCR 3.716(B); MCL 691.1805(5)-(6).
 - MUST** be in writing on the form approved by the SCAO.
 - MUST** state **respondent's** name and address.
 - MUST** state with particularity any facts (including facts addressing the factors in MCL 691.1807(1)—factors court must consider in determining whether to issue an ERPO) showing that an ERPO is necessary because:
 - Respondent can reasonably be expected within the near future to intentionally or unintentionally seriously

physically injure themselves or another individual by possessing a firearm, **AND**

- Respondent has engaged in an act(s) or made significant threats that substantially support that expectation.
- MUST** state, if **petitioner** knows, whether any of the following circumstances apply:
 - Respondent is required as a condition of respondent's employment to carry a pistol and is issued a license to carry a concealed pistol.
 - Respondent is any of the following:
 - Police officer licensed or certified under the Michigan Commission on Law Enforcement Standards Act (MCOLES).
 - Sheriff or deputy sheriff.
 - Member of the Department of State Police.
 - Local corrections officer.
 - Michigan Department of Corrections employee.
 - Federal law enforcement officer who carries a pistol during the normal course of employment or an officer of the Federal Bureau of Prisons.
 - Petitioner knows or believes that respondent owns or possesses firearms.
 - To the extent possible, petitioner must identify the firearms and where they are located.
 - Provide any additional information that would help a **law enforcement officer** find the firearms.
- MUST** state the relief petitioner is seeking.
- MUST** state whether petitioner is seeking an ex parte order.
 - **IF** an ex parte order is sought, complaint **MUST** state with particularity facts showing that an ex parte order is necessary because:
 - Immediate and irreparable injury, loss, or damage will result from the delay required to give notice, **OR**
 - Notice itself will precipitate adverse action before an ERPO can be issued.
- MUST** state whether an ERPO action involving respondent has been commenced in another jurisdiction, **AND IF SO**, identify the jurisdiction.

- MUST** be signed by the party or attorney as provided in MCR 1.109(E).
- MUST** also comply with MCR 3.718(A)(2) if the complaint requests an ex parte order.
- **Petitioner's address is confidential.** Petitioner's address **MUST NOT** be disclosed in any pleading, paper, or other manner. MCR 3.716(C); MCL 691.1805(7).
 - Petitioner **MUST** provide their address and contact information in the form and manner established by SCAO.
 - Petitioner's contact information **MUST** include email address and telephone number, if available.
 - Court clerk **MUST** maintain petitioner's address as confidential in the court file.
 - Court clerk **MUST** provide petitioner with notice of hearing using the confidential address for any motion filed by respondent or for any hearing otherwise scheduled.
- **Complaint against a minor.** MCR 3.716(D).
 - Complaint against a minor **MUST** adhere to the requirements set forth in MCR 3.716(B).
 - Complaint **MUST** also list the names and addresses of the minor's parent(s), **guardian**, or custodian if known or can be easily ascertained.
- **Other pending actions or orders.** Complaint **MUST** specify other pending actions or orders or judgments already entered. MCR 3.716(E).
 - MUST** specify whether any other actions are pending in this court or any other court.
 - MUST** specify whether any orders or judgments affecting the parties have been issued by this court or any other court.
 - MUST** include the court name and case number, if known.
 - A complaint filed in the same court as a pending action, or in a court from which an order or judgment affecting the parties has already been entered, **MUST** be assigned to the same judge.
 - **IF** there is a pending action in another court, or there is an order or judgment affecting the parties already entered in any other court, court **MAY**, if practicable, contact court where there is a pending action, or from which a judgment or order was entered, to determine any relevant information.

- IF** an order in the prior action provided for continuing jurisdiction of a minor, and the new action seeks relief with regard to the minor, court **MUST** comply with MCR 3.205, which governs prior and subsequent orders and judgments affecting minors.
- **Venue for filing.** MCR 3.716(F); MCL 691.1805(8).
 - When respondent is an adult**—petitioner **MAY** file the action in any county in Michigan regardless of the parties’ residency or location.
 - When respondent is a minor**—petitioner **MUST** file the action in the county where either petitioner or respondent resides.
 - When respondent is not a Michigan resident**—petitioner **MUST** file the action in petitioner’s county of residence.
- **Petitioner or respondent is a minor or legally incapacitated individual.** MCR 3.716(G).
 - When petitioner or respondent is a minor or a legally incapacitated individual, court **MUST** appoint a next friend or guardian ad litem as provided by MCR 2.201(E).

D. Petitioner’s Knowing and Intentional False Statement—MCL 691.1819(4)

- A **petitioner** who knowingly and intentionally makes a false statement in the complaint, or in support of it, is guilty of the offense named in MCL 691.1819(4) and subject to the corresponding penalties:
 - FIRST OFFENSE** is a misdemeanor punishable by not more than 93 days of imprisonment, or a fine of not more than \$500, or both. MCL 691.1819(4)(a).
 - SECOND OFFENSE** is a felony punishable by not more than 4 years of imprisonment, or a fine of not more than \$2,000, or both. MCL 691.1819(4)(b).
 - THIRD OR SUBSEQUENT OFFENSE** is a felony punishable by not more than 5 years of imprisonment, or a fine of not more than \$20,000, or both. MCL 691.1819(4)(c).

E. Hearings in General

- **Hearings MUST be expedited.** MCR 3.718(D)(1); MCL 691.1806(1).

- Court **MUST**, when an action is filed under MCL 691.1805, **expedite and give priority to** a hearing that will determine whether to enter an ERPO and to any other hearings required under the ERPO Act.
- **Scheduling the hearing.** MCR 3.718(D)(2).
 - Court **MUST** schedule a hearing when **ANY** of the following exist:
 - Complaint DOES NOT** request an ex parte order.
 - **IF petitioner DOES NOT** request an ex parte order, hearing **MUST** occur within 14 days of date that complaint was filed.
 - Court refuses to enter an ex parte order **AND** petitioner timely requests a hearing.
 - **IF** court refuses to enter an ex parte order, hearing **MUST** occur within 14 days of petitioner's request.
 - Court entered an ex parte order **AND** **respondent** requests a hearing.
- **Hearing MUST be on the record.** MCR 3.718(D)(5).
- **Videoconferencing permitted.** MCR 3.718(D)(5); MCL 691.1806(4).
 - Court **MAY**, in accordance with MCR 2.407 and MCR 2.408, allow proceedings in an action under MCL 691.1805 to be conducted using videoconferencing technology or using other communication equipment allowed under the court rules and administrative orders.
- **Change of venue.** MCL 691.1806(3).
 - Court **MAY** order that venue of an action filed under MCL 691.1805 be changed for any reason allowed under the court rules, including, but not limited to, the convenience of the parties and witnesses.
 - Court **MAY** decide whether to change venue after considering the location of firearms owned or possessed by respondent.
- **Notice.** Respondent **MUST** receive notice of a hearing. MCL 691.1806(2).
 - Except as provided in MCL 691.1807(2) (ex parte orders), respondent **MUST** receive notice of a hearing to determine whether an ERPO will be issued.
 - Respondent **MUST** be given an opportunity to be heard at the hearing.

- **Ex parte orders—discretionary.** Court **MAY** issue an ERPO **WITHOUT** written or oral notice to respondent under the circumstances described in MCL 691.1807(2):
 - **IF** “the court determines by clear and convincing evidence from specific facts shown by a verified complaint, written motion, or affidavit that immediate and irreparable injury, loss, or damage will result from the delay required to effectuate notice or that the notice will itself precipitate adverse action before an [ERPO] can be issued.”
 - **IF** petitioner requests court to issue an order without notice to respondent, court **MUST** decide within one business day whether to issue the ERPO.
- **Ex parte orders—mandatory.** Under MCR 3.718(A)(2), court **MUST** issue an ex parte order **IF** it clearly appears from the specific facts shown by a verified, written complaint that:
 - “[B]y a preponderance of the evidence after considering the factors identified in MCL 691.1807(1), the respondent can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure themselves or another individual by possessing a firearm, and has engaged in an act or acts or made significant threats that substantially support the expectation that the respondent will intentionally or unintentionally seriously physically injure themselves or another individual by possessing a firearm,” **AND**
 - “[P]ursuant to MCL 691.1807(2), there is clear and convincing evidence that immediate and irreparable injury, loss, or damage will result from the delay required to effectuate notice or that the notice will itself precipitate adverse action before an order can be issued.”
 - **IF** petitioner requests an ex parte order, court **MUST** decide within one business day whether to issue the ERPO. MCR 3.718(A)(1).

F. Notice Required for Specific Hearing Circumstances

- **When **complaint** DOES NOT request an ex parte order.** MCR 3.718(D)(4).
 - **Petitioner** **MUST** serve **respondent** the complaint and notice of the hearing as provided in MCR 2.105(A), for a hearing scheduled under MCR 3.718(D)(2)(a).
 - If respondent is a **minor**, and petitioner knows the whereabouts of respondent’s parent(s), **guardian**, or custodian, petitioner

must also in the same manner serve the complaint and notice of hearing on respondent's parent(s), guardian, or custodian.

- If respondent is a person described in MCL 691.1805(5) (list of individuals required or authorized to carry a pistol under certain circumstances), providing notice one day before the hearing is deemed as sufficient notice to petitioner.

■ **When court refuses to enter an ex parte order AND petitioner timely requests a hearing.** MCR 3.718(D)(4).

- Petitioner **MUST** serve respondent the complaint and notice of the hearing as provided in MCR 2.105(A), for a hearing scheduled under MCR 3.718(D)(2)(b).
- If respondent is a minor, and petitioner knows the whereabouts of respondent's parent(s), guardian, or custodian, petitioner must also in the same manner serve the complaint and notice of hearing on respondent's parent(s), guardian, or custodian.
- If respondent is a person described in MCL 691.1805(5) (list of individuals required or authorized to carry a pistol under certain circumstances), providing notice one day before the hearing is deemed as sufficient notice to petitioner.

■ **When court entered an ex parte order or immediate emergency ex parte order AND respondent requests a hearing.** MCR 3.718(D)(4).

- Due to the confidential nature of petitioner's address, the court clerk, as provided in MCR 2.107(C) and MCR 3.718(D)(3)(b) (to ensure timely service, court clerk must notify petitioner of hearing at email address and telephone number provided under MCR 3.716(C)), **MUST** serve on petitioner respondent's request for a hearing under MCR 3.718(D)(2)(c), unless petitioner electronically filed the case under MCR 1.109(G), and respondent has registered with the electronic-filing system.
 - If petitioner filed electronically and respondent is registered with the electronic-filing system, respondent must serve petitioner electronically at petitioner's registered email address.
- If respondent is a person described in MCL 691.1805(5) (list of individuals required or authorized to carry a pistol under certain circumstances), providing notice one day before the hearing is deemed as sufficient notice to petitioner.
- Hearing **MUST** occur as set out in MCR 3.718(D)(3) and MCL 692.1807(3):
 - **Respondent is NOT an individual described in MCL 691.1805(5).** Hearing **MUST** occur within 14 days after the

ERPO is served on respondent or after respondent receives actual notice of the ERPO.

- Respondent **MUST** request the hearing within 7 days after the ERPO is served or respondent receives actual notice of the ERPO.
- **Respondent IS an individual described in MCL 691.1805(5).** Hearing **MUST** occur within five days of the request for a hearing.
 - Five-day period excludes weekends and holidays **IF** court is closed to the public.
 - Respondent **MUST** request the hearing within three days after the ERPO is served or respondent receives actual notice of the ERPO.
 - **IF** court is closed when the three-day period expires, respondent **MUST** request a hearing not later than the next business day.
 - To ensure timely service, court clerk **MUST** notify petitioner of the hearing at the email address and telephone number petitioner provided under MCR 3.716(C).
- **Waiver of the right to a hearing.** Respondent waives their right to a hearing under MCR 3.718(D)(2)(c) IF respondent does not request a hearing within the timeframes specified in MCR 3.718(D)(3)(a)-(b).

G. Hearing Attendance—MCR 3.718(D)

- **Petitioner MUST** attend the hearing. MCR 3.718(D)(6).
 - Petitioner has the burden of proving by a preponderance of the evidence that:
 - **Respondent** can reasonably be expected within the near future to, intentionally or unintentionally, seriously physically injure themselves or another person by possessing a firearm, **AND**
 - Respondent has engaged in an act(s) **OR** made significant threats that are substantially supportive of the expectation.
 - If petitioner fails to attend the hearing, court may adjourn and reschedule the hearing **OR** may dismiss the **complaint**.
- **Respondent fails to appear: ex parte order was not sought.** MCR 3.718(D)(7). If respondent fails to appear at a hearing on a

complaint under MCR 3.718(D)(2)(a) (hearing on a complaint that does not request an ex parte order):

- AND** court determines that petitioner was diligent in attempting to serve respondent, whether or not respondent was served,
 - Court **MAY** enter the ERPO without further notice to respondent, **IF** court determines an order is necessary.
- **Respondent fails to appear: petitioner’s request for a hearing after court refused to issue ex parte order.** MCR 3.718(D)(7). If respondent fails to appear at a hearing on a complaint under MCR 3.718(D)(2)(b) (hearing requested by petitioner after court refuses to enter an ex parte order):
- AND** court determines that petitioner was diligent in attempting to serve respondent, whether or not respondent was served,
 - Court **MAY** enter the ERPO without further notice to respondent, **IF** court determines an order is necessary.
- **Respondent fails to appear: respondent’s request for a hearing after ex parte order entered.** MCR 3.718(D)(7). If respondent fails to appear at a hearing on a complaint under MCR 3.718(D)(2)(c) (hearing requested by respondent after court enters an ex parte order):
- Court **MAY** adjourn and reschedule the hearing, **OR**
 - Court **MAY** continue the ERPO without further hearing.

H. Court’s Considerations at the Hearing— MCR 3.718(D)(8); MCL 691.1807(1)

- **Order MUST be entered.** MCL 691.1807(1). Court **MUST** issue an ERPO **IF** it determines that the preponderance of the evidence establishes that:
- Respondent** can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure themselves or another individual by possessing a firearm, **AND**
 - Respondent has engaged in an act(s) **OR** has made significant threats that are substantially supportive of the expectation.
- **Factors to consider.** MCR 3.718(D)(8). To make this determination, court **MUST** consider, as to respondent, the following factors appearing in MCL 691.1807(1):
- Any history of use/attempted use/threatened use of physical force by respondent against another individual or against themselves, without regard to whether the violence/threat of violence involved a firearm.

- Any evidence of respondent having a **serious mental illness/serious emotional disturbance** that makes respondent dangerous to other individuals or themselves.
- Any of the following orders against respondent, previously entered or existing:
 - ERPO.
 - PPO under MCL 600.2950 or MCL 600.2950a.
 - Pretrial release order.
 - Probation order.
 - Parole order.
 - Any other injunctive order.
- Violation of a previous/existing ERPO.
- Violation of previous/existing personal protection order issued under MCL 600.2950 or MCL 600.2950a.
- Any previous conviction of/criminal charges pending against/previous or pending juvenile delinquency petitions against respondent for the commission/attempted commission of any of these offenses:
 - Misdemeanor violation of MCL 750.81.
 - Violation of MCL 750.411h or MCL 750.411i, or a similar offense in another jurisdiction.
 - Offense that has assault as an element.
 - Offense that has an element including a threat to person/property.
 - Offense that is a crime committed against the person/property of a **spouse or intimate partner**.
 - Offense involving animal cruelty or abuse.
 - A **serious misdemeanor**.
- Any evidence of recent unlawful use of controlled substances by respondent.
- Any recent alcohol abuse.
- Any previous unlawful possession/use/display/brandishing of a deadly weapon by respondent.

- Any evidence of an acquisition/attempted acquisition of a deadly weapon or ammunition within the previous 180 days by respondent.
- Any additional reliable information, including a statement by respondent, or relevant information about respondent from family and household members concerning respondent.
- Any other facts believed to be relevant.
- **Reasons must be given. MCR 3.718(8); MCL 691.1807(7).** Court must immediately state the reasons for granting, denying, or continuing an ERPO in writing. If a hearing is held, court must also immediately state on the record the specific reasons for issuing or refusing to issue the ERPO.

I. Dismissal of an Action for an Extreme Risk Protection Order—MCR 3.717

- Except as specified in MCR 3.718(A)(5), MCR 3.718(B), MCR 3.718(D), and MCR 3.720, an action for an ERPO may **ONLY** be dismissed on motion by **petitioner** before an order has been issued.
- There is **NO** fee for such a motion.
- MCR 3.717 **DOES NOT** preclude a dismissal as otherwise permitted by law.
- As noted in MCR 3.717, an ERPO **complaint** may be dismissed in any of the following circumstances:
 - MCR 3.718(A)(5) requires a court that refuses to grant an ex parte order to immediately state the reasons in writing and advise petitioner of the right to request a hearing as provided by MCR 3.718(D).
 - **IF** petitioner does not request a hearing within 21 days of the order's entry, the order denying the complaint is final.
 - MCR 3.718(B) permits a petitioner who is a **law enforcement officer** to verbally request by telephone that an emergency ex parte order be issued under certain circumstances and requires the officer to file within one business day a sworn written complaint detailing the facts and circumstances verbally presented to the judge or magistrate.
 - **IF** the law enforcement officer fails to file the complaint within one business day, court **MUST**, unless good cause is shown:
 - Terminate the emergency ex parte order, **AND**

- ❑ Order that **respondent**, subject to the restrictions in MCL 691.1815 (before returning a respondent’s seized firearm(s), the **law enforcement agency** having the firearm(s) must determine that respondent is not prohibited from possessing a firearm for any other reason), may reclaim any seized firearm(s), **AND**
- ❑ Dismiss the case.
- ❑ MCR 3.718(D)(6) provides that “the court may adjourn and reschedule the hearing or dismiss the complaint” if petitioner fails to attend the hearing.
- ❑ MCR 3.720(A)(1)(b) provides that if respondent files more than one motion to modify or terminate an ERPO during the first six months or more than one motion during the second six months after entry of the ERPO, “the court must review the motion before a hearing is held and may summarily dismiss the motion without a response from petitioner and without a hearing.”

J. Definitions—for purposes of MCR 3.716–MCR 3.722, and the Extreme Risk Protection Order Act, MCL 691.1801 *et seq.*

- **Complaint**—“for the purposes of [MCR 3.716 to MCR 3.722] only, means the act of petitioning the court to issue an [ERPO].³ Petitioning the court in this manner commences an independent action for an [ERPO] and is not considered a motion as defined in MCR 2.119.” MCR 3.715(1).
- **Dating relationship** is “a relationship that consists of frequent, intimate associations primarily characterized by the expectation of affectional involvement,” and “does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.” MCL 691.1803(b); MCR 3.715(2).
- **Existing action**—“an action in any court in which both **petitioner** and **respondent** are parties; existing action includes, but is not limited to, pending and completed domestic relations actions, and other actions for personal protection or [ERPOs].” MCR 3.715(3).
- **Extreme risk protection order**—“that term as defined in MCL 691.1803.” MCR 3.715(4). MCL 691.1803(c) provides that an ERPO is an order issued by a court under MCL 691.1807, which describes in detail the requirements and conditions necessary to support the issuance of an ERPO.

³“An individual seeking an [ERPO] is petitioning a court for relief.” MCR 3.715(1).

- **Family member, guardian, health care provider, and law enforcement officer**—“those terms as defined in MCL 691.1803.” MCR 3.715(5).
- **Family member**—is an individual related to **respondent** as any of the following:
 - Parent.
 - Son or daughter.
 - Sibling.
 - Grandparent.
 - Grandchild.
 - Uncle or aunt.
 - First cousin. MCL 691.1803(d)(i)-(vi).
- **Guardian**—means the term as it is defined in MCL 700.1104. MCL 691.1803(e). MCL 700.1104 defines guardian as “a person who has qualified as a guardian of a **minor** or a legally incapacitated individual under a parental or spousal nomination or a court appointment and includes a limited guardian as described in [MCL 700.5205, MCL 700.5206, and MCL 700.5306],” and “does not include a guardian ad litem.” MCL 700.1104(n).
- **Health care provider**—means any of the following:
 - Physician, physician’s assistant, nurse practitioner, or certified nurse specialist licensed under Michigan’s Public Health Code or licensed in another state.
 - A mental health professional as defined in MCL 330.1100b, or a mental health professional licensed in another state. MCL 691.1803(f)(i)-(ii).
 - MCL 330.1100b(19) defines *mental health professional* as an individual who is trained and experienced in the area of mental illness or developmental disabilities and who is one of the following: a physician, a psychologist, a registered professional nurse, a licensed master’s social worker, a licensed professional counselor, or a marriage and family therapist qualified by relevant licensure or other statutory requirements.
- **Law enforcement officer**—is a law enforcement officer as the term is defined in MCL 28.602. MCL 691.1803(h). MCL 28.602(f)(i)(A)-(MM) lists 39 employment descriptions considered to be law enforcement officers. MCL

28.602(f)(i)(A)-(Z) lists 26 employment descriptions that do NOT qualify as law enforcement officers.

- **Law enforcement agency**—means any of the following:
 - ❑ A sheriff's department.
 - ❑ The department of state police.
 - ❑ A police department of a township, village, or incorporated city.
 - ❑ The public safety department of an institution of higher education created under or described in Const 1963, Art VIII.
 - ❑ The public safety department of a community or junior college.
 - ❑ The public safety department or office of a private college. MCL 691.1803(g)(j)-(vi).
- **Minor**—“a person under the age of 18.” MCR 3.715(6).
- **Petitioner**—“the party seeking an [ERPO]”; “the individual who requests an [ERPO] in an action under [MCL 691.1805].” MCR 3.715(7); MCL 691.1803(i).
- **Possession or control** “includes, but is not limited to, actual possession or constructive possession by which the individual has the right to control the firearm, even though the firearm is in a different location than the individual”; “does not require the individual to own the firearm.” MCL 691.1803(j); MCR 3.715(8).
- **Respondent**—“the party to be restrained by the [ERPO]”; “the individual against whom an [ERPO] is requested in an action under [MCL 691.1805]” MCR 3.715(9); MCL 691.1803(k).
- **Restrained individual** is “the individual against whom an [ERPO] has been issued and is in effect.” MCL 691.1803(l).
- **Serious emotional disturbance** “means a diagnosable mental, behavioral, or emotional disorder affecting a **minor** that exists or has existed during the past year for a period of time sufficient to meet diagnostic criteria specified in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association and approved by the department and that has resulted in functional impairment that substantially interferes with or limits the minor's role or functioning in family, school, or community activities. The following disorders are included only if they occur in conjunction with another diagnosable serious emotional disturbance:
 - (a) A substance use disorder.

(b) A developmental disorder.

(c) ‘V’ codes in the Diagnostic and Statistical Manual of Mental Disorders.” MCL 330.1100d(3).

- **Serious mental illness** “means a diagnosable mental, behavioral, or emotional disorder affecting an adult that exists or has existed within the past year for a period of time sufficient to meet diagnostic criteria specified in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association and approved by the department and that has resulted in functional impairment that substantially interferes with or limits 1 or more major life activities”; “includes dementia with delusions, dementia with depressed mood, and dementia with behavioral disturbance,” and “does not include any other dementia unless the dementia occurs in conjunction with another diagnosable serious mental illness. The following disorders also are included only if they occur in conjunction with another diagnosable serious mental illness:

(a) A substance use disorder.

(b) A developmental disorder.

(c) A ‘V’ code in the Diagnostic and Statistical Manual of Mental Disorders.” MCL 330.1100d(4).

- **Serious misdemeanor** “means 1 or more of the following:
 - ❑ A violation of MCL 750.81, assault and battery, including domestic violence.
 - ❑ A violation of MCL 750.81a, assault; infliction of serious injury, including aggravated domestic violence.
 - ❑ A violation of MCL 780.81c, threatening a Department of Health and Human Services’ employee with physical harm.
 - ❑ A violation of MCL 750.115, breaking and entering or illegal entry.
 - ❑ A violation of MCL 750.136b, fourth-degree child abuse.
 - ❑ A violation of MCL 750.145, contributing to the neglect or delinquency of a **minor**.
 - ❑ A misdemeanor violation of MCL 750.145d, using the internet or a computer to make a prohibited communication.
 - ❑ Beginning January 1, 2024, a violation of MCL 750.174a(2) or MCL 750.174a(3)(b), embezzlement from a vulnerable adult of an amount of less than \$200.

- Beginning January 1, 2024, a violation of MCL 750.174a(3)(a), embezzlement from a vulnerable adult of an amount of \$200 to \$1,000.
- A violation of MCL 750.233, intentionally aiming a firearm without malice.
- A violation of MCL 750.234, discharge of a firearm intentionally aimed at a person.
- A violation of MCL 750.235, discharge of an intentionally aimed firearm resulting in injury.
- A violation of MCL 750.335a, indecent exposure.
- A violation of MCL 750.411h, stalking.
- A violation of MCL 257.601b(2), injuring a worker in a work zone.
- Beginning January 1, 2024, a violation of MCL 257.601d(1), moving violation causing death.
- Beginning January 1, 2024, a violation of MCL 257.601d(2), moving violation causing serious impairment of a body function.
- A violation of MCL 257.617a, leaving the scene of a personal injury accident.
- A violation of MCL 257.625, operating a vehicle while under the influence of or impaired by intoxicating liquor or a controlled substance, or with an unlawful blood alcohol content, if the violation involves an accident resulting in damage to another individual's property or physical injury or death to another individual.
- Selling or furnishing alcoholic liquor to an individual less than 21 years of age in violation of MCL 436.1701, if the violation results in physical injury or death to any individual.
- A violation of MCL 324.80176(1) or MCL 324.80176(3), operating a vessel while under the influence of or impaired by intoxicating liquor or a controlled substance, or with an unlawful blood alcohol content, if the violation involves an accident resulting in damage to another individual's property or physical injury or death to any individual.
- A violation of a local ordinance substantially corresponding to a violation enumerated in MCL 780.811(1)(a)(i)-(xxi).
- A violation charged as a crime⁴ or **serious misdemeanor** enumerated in MCL 780.811(1)(a)(i)-(xxii) but subsequently reduced to or pleaded to as a misdemeanor. MCL 780.811(1)(a)(i)-(xxiii).

- **Spouse or intimate partner** means all of the following:
 - Spouse.
 - Former spouse.
 - An individual with whom **petitioner** has had a child in common.
 - An individual residing or having resided in the same household as petitioner.
 - An individual with whom petitioner has or has had a **dating relationship** as that term is defined in MCL 600.2950. MCL 600.2950k(3)(a)-(e).

⁴Crime means a violation of a penal law of Michigan for which the offender, upon conviction, may be punished by imprisonment for more than one year or an offense expressly designated by law as a felony. MCL 780.752(1)(b); MCL 780.811(1)(a)(xxiii).

