

Request for a Hearing

Instructions For Using Form

1. Attorney

You may hire an attorney to represent you in this action. If you do not have an attorney, but have money to hire one, you can find an attorney through the State Bar of Michigan Lawyer Referral Service at 800-968-0738 or [lrs.michbar.org](https://www.michbar.org) or through the Oakland County Bar Association Lawyer Referral Service at (248)338-2100 or <https://www.ocba.org/?pg=FindALawyer>.

2. Your request for a hearing

If you handwrite your request, please print neatly. Be specific about what you are asking the court to do and why you are requesting it. Attach additional page(s) if necessary.

3. The hearing

If you are late or fail to appear for the hearing, the court may reschedule the hearing or continue the order without any further hearing.

The petitioner has the burden of proof to establish by a preponderance of the evidence that the respondent can reasonably be expected in 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 are substantially supportive of the expectation. MCL 691.1807(1).

IF YOU ARE THE PETITIONER

4. Eligibility to request a hearing

If the court entered an Order Denying ERPO (CC456) based on your ex parte request, you have the right to request a hearing as provided in MCR 3.718(A)(5) and (D)(2)(b). The Order Denying ERPO (CC456) is **final** if you fail to request the hearing **within 21 days of its entry**.

5. Filing and getting a hearing date

File your request with the circuit court clerk in the county that issued the order.

The court staff will review your request and confirm that you submitted your request **within 21 days** of the date that the court entered the Order Denying ERPO (CC456). Provided you file a timely request, the court staff will schedule a hearing date and provide you with written notice of the date, time, and location of the hearing in addition to the name of the judge conducting the hearing. If you failed to submit a timely request, you will receive an order denying the request for a hearing.

6. Service

The respondent must be served with the Complaint (CC452 or CC452m), the Order Denying ERPO (CC456), and Request for Hearing (**after** the court staff completes the Notice of Hearing section) *either* personally by an adult other than the petitioner via hand-delivery *or* by sending copies by registered or certified mail, return receipt requested, with delivery restricted to the respondent. Service by mail is made when the respondent acknowledges receipt of the mail shown on the signed return receipt, usually a green postcard. If the respondent is under 18 years of age, you must also serve the parent(s), guardian(s), or custodian(s) of the respondent.

7. Filing Proof of Service

At or before the date of your hearing, you must file a completed Proof of Service with the Circuit Court Clerk. The Proof of Service is your verification of who was served, when, and how. You should use Approved SCAO form (MC302) for this purpose. It is available on the SCAO website at www.courts.michigan.gov/SCAO-forms/. The Proof of Service must include the date, time, and location if it was personally served by hand-delivery on the other party. If service was accomplished by registered or certified mail a copy of the signed return receipt must be attached to the Proof of Service.

IF YOU ARE THE RESPONDENT

8. Eligibility to request a hearing on the issuance of an ERPO

If the court entered an Extreme Risk Protection Order (CC453 or CC453m or CC454) **without a hearing**, you have the right to request a hearing as provided in MCR 3.718(D)(2)(c) and (3). You waive your right to a hearing if you fail to request a hearing within the following timeframe:

- If you are an individual described in MCL 691.1805(5), you must file your request for a hearing **within 3 days** after the date you were served *or* received actual notice of the order, or on the first business day following the 3rd day if the court is closed to the public on the 3rd day.
- If you are not an individual described in MCL 691.1805(5), you must file your request for a hearing **within 7 days** after the date you were served *or* received actual notice of the order.
- MCL 691.1805(5) identifies the following individuals.
 - An individual who is required to carry a pistol as a condition of the individual's employment and is issued a license to carry a concealed pistol
 - A police officer licensed or certified under the MCOLES
 - A sheriff or a deputy sheriff
 - MSP Member
 - Local Corrections Officer
 - MDOC Employee
 - Federal Law Enforcement Officer-Carries Pistol During Employment
 - Officer of the Federal Bureau of Prisons

9. Filing and getting a hearing date

File your request with the circuit court clerk in the county that issued the order.

The court staff will review your request and confirm that you submitted your request **within the appropriate number of days** (e.g., 3 or 7 days as set forth above) after the date a person effectuated service *or* you received actual notice of the order. Provided you file a timely request, the court staff will schedule a hearing date. If you failed to submit a timely request, you will receive an order to deny the request.

10. Service

The court staff will provide you with written notice of the date, time, and location of the hearing.

The clerk of the court will provide the petitioner with written notice of the date, time, judge and location of the hearing in addition to the name of the judge conducting the hearing. MCR 3.718(7).