

At a Glance

H.R. 2377, Federal Extreme Risk Protection Order Act of 2021

As ordered reported by the House Committee on the Judiciary on October 27, 2021

By Fiscal Year, Millions of Dollars	2022	2022-2026	2022-2031
Direct Spending (Outlays)	*	*	*
Revenues	*	*	*
Increase or Decrease (-) in the Deficit	*	*	*

Spending Subject to Appropriation (Outlays)	16	188	not estimated
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Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Under Threshold

* = between -\$500,000 and \$500,000.

The bill would

- Allow family members and law enforcement officials to file petitions in federal courts requesting extreme risk protection orders (ERPOs) for the removal of firearms from people who are believed to present an extreme risk of harm to themselves or others
- Direct the U.S. Marshals Service (USMS) to serve federal ERPOs, remove firearms and ammunition if so ordered, and store those items
- Require federal law enforcement agencies to develop training on implementing the bill
- Make it a federal crime to possess or to ship, transport, or receive firearms or ammunition via interstate or foreign commerce while such a court order is in effect
- Impose private-sector mandates by prohibiting people who are subject to an ERPO from possessing, purchasing, or transferring firearms or ammunition while that order is in effect; and prohibiting other entities from selling or transferring firearms or ammunition to people who are subject to such an order

Estimated budgetary effects would mainly stem from

- Spending by federal courts to conduct hearings on ERPOs
- Spending by the USMS to serve ERPOs
- Spending by federal law enforcement agencies on training

Areas of significant uncertainty include

- Estimating the number of ERPOs that would be filed in federal courts

Detailed estimate begins on the next page.

Bill Summary

H.R. 2377 would allow family members and law enforcement officials to file petitions in federal courts requesting extreme risk protection orders (ERPOs) for the removal of firearms from people who are believed to present an extreme risk of harm to themselves or others. The bill would require the U.S. Marshals Service (USMS) to serve federal ERPOs, remove firearms if so ordered, and store firearms until a hearing can be held to determine whether the firearms should be returned to or kept from the respondent for a specific period.

Estimated Federal Cost

The costs of the legislation fall within budget function 750 (administration of justice).

Basis of Estimate

For this estimate, CBO assumes that the legislation will be enacted in late fiscal year 2022 and that the estimated amounts will be appropriated for each fiscal year. Estimated outlays are based on historical patterns for similar programs.

Direct Spending and Revenues

H.R. 2377 would prohibit people subject to an ERPO from receiving firearms or ammunition, and it would prohibit entities or other persons from providing, selling, or otherwise making such items available to people subject to an ERPO. Violations in either case could result in federal criminal charges and fines. Fines would be recorded as revenues and deposited in the Crime Victims Fund, and they could be spent without further appropriation. CBO expects any additional revenues and associated direct spending would not be significant because relatively few additional cases would be likely to occur.

Spending Subject to Appropriation

Assuming appropriation of the estimated amounts, CBO estimates that enacting H.R. 2377 would cost \$188 million over the 2022-2026 period (see Table 1).

Table 1.
Estimated Increases in Spending Subject to Appropriation Under H.R. 2377

	By Fiscal Year, Millions of Dollars					2022-2026
	2022	2023	2024	2025	2026	
Federal Judiciary						
Estimated Authorization	1	12	12	13	13	51
Estimated Outlays	1	11	12	13	13	50
U.S. Marshals Service						
Estimated Authorization	16	25	26	27	29	124
Estimated Outlays	15	24	26	27	28	121
Law Enforcement Training						
Estimated Authorization	1	4	4	4	5	18
Estimated Outlays	1	4	4	4	5	18
Total Changes						
Estimated Authorization	18	41	43	45	47	193
Estimated Outlays	16	39	43	45	46	188

Components may not sum to totals because of rounding.

Federal Judiciary. Nineteen states and the District of Columbia currently have “red flag laws,” which allow people to petition the courts to issue ERPOs; nine other states currently are considering such laws. H.R. 2377 would allow family members, household members, and law enforcement officials to file ERPO petitions in federal district courts instead of state courts. Under H.R. 2377, petitioners would not pay court filing fees.

Using information from the USMS, the Administrative Office of the U.S. Courts (AOUSC), and states with ERPO laws, CBO estimates that roughly 10,000 petitions would be filed each year over the 2022-2026 period in state and federal courts. Of that total, CBO expects roughly 4,500 each year would be filed in federal courts with the remaining filed in state courts.

The federal judiciary would incur costs to process and hold hearings for petitions that are filed in federal district courts. In addition, under the bill, respondents who cannot afford representation would be entitled to counsel appointed and paid by the court. Using information from the AOUSC about the average cost of a hearing, CBO estimates that federal courts would spend about \$10 million annually over the 2022-2026 period to hold hearings and perform other work for new filings and about \$2 million annually to provide representation for respondents.

U.S. Marshals Service. Under the bill, the USMS would serve respondents with ERPOs approved by a federal judge, remove firearms and ammunition from the respondents, and store those articles in agency facilities until an order expires. Using information about approval rates for state ERPO petitions, CBO estimates that roughly 4,500 federal petitions

would be filed annually and that judges would approve orders in about 60 percent of those cases, resulting in the issuance of about 2,700 ERPOs.

On the basis of information from the USMS, CBO estimates that the agency would require about \$25 million annually and \$121 million over the 2022-2026 period to implement the bill. Of that total, CBO estimates that the USMS would incur the following costs to plan and support field operations over the 2022-2026 period:

- \$45 million to compensate the equivalent of 94 employees for time spent on administrative support activities, such as managing documents and coordinating with officers and court personnel;
- \$36 million to compensate the equivalent of about 60 full-time federal marshals to plan field operations, remove firearms from respondents, coordinate with federal courts, and store firearms and ammunition;
- \$16 million to employ 22 intelligence analysts to assess security threats to field operations and to federal judges and courts;
- \$10 million to build secure storage areas for firearms and ammunition in 330 facilities used by the USMS;
- \$9 million for security training for marshals; and
- \$7 million to employ two attorneys, one paralegal, and six staff members to oversee the program.

Law Enforcement Training. H.R. 2377 would require all federal law enforcement officers to undergo ERPO training. About 4,000 of the nation's 133,000 federal law enforcement officers are U.S. Marshals. Assuming that their ERPO training costs are accounted for above, and assuming that all remaining officers undergo approximately two hours of ERPO training each year, CBO estimates that this provision would cost about \$4 million annually over the 2022-2026 period.

Uncertainty

In estimating the effects of H.R. 2377, CBO had to account for uncertainty in projecting the number of ERPO petitions that would be filed in federal courts, which in turn would affect the workload of the USMS and the federal judiciary. The volume of such filings would depend both on individual people's decisions about whether to file a petition and on the number of states that enact new red flag laws. Therefore, the volume of ERPOs could be larger or smaller than CBO has estimated and annual costs for the USMS could be higher or lower than CBO has estimated.

Pay-As-You-Go Considerations

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures would be less than \$500,000 in every year and over the 2022-2031 period.

Increase in Long-Term Deficits

CBO estimates that enacting H.R. 2377 would not significantly increase on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2032.

Mandates

H.R. 2377 contains private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the aggregate cost of complying with the mandates would fall below the annual threshold established in UMRA of \$170 million in 2021 (adjusted annually for inflation).

The bill does not contain intergovernmental mandates.

About half of the U.S. population lives in a state with current red flag laws similar to the types of restrictions that H.R. 2377 would impose. The mandates in the bill would affect the other half of the U.S. population that reside in states without red flag laws. CBO estimates that about 4,500 ERPOs would be filed each year in federal courts nationwide; of that total, CBO further estimates that about 2,500 would be filed and approved in states without current red flag laws.

H.R. 2377 would impose mandates on people who are subject to an ERPO and reside in states that currently do not have red flag laws by temporarily prohibiting them from purchasing or possessing firearms or ammunition. Because ERPOs are temporary in nature and relatively few people would be affected by the orders, CBO estimates that the cost of the mandate would be minimal.

H.R. 2377 also would impose a mandate on firearms dealers in states that currently do not have red flag laws by temporarily prohibiting them from selling firearms or ammunition to people who are subject to ERPOs. The cost of the mandate would be the lost revenue from the temporarily blocked sales. The amount and length of the delay could vary. Because of the small number of transactions that would be temporarily prevented, CBO estimates that the cost of the mandate would be small.



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