

HB19-1177 ERPO'S FIRST IMPRESSIONS

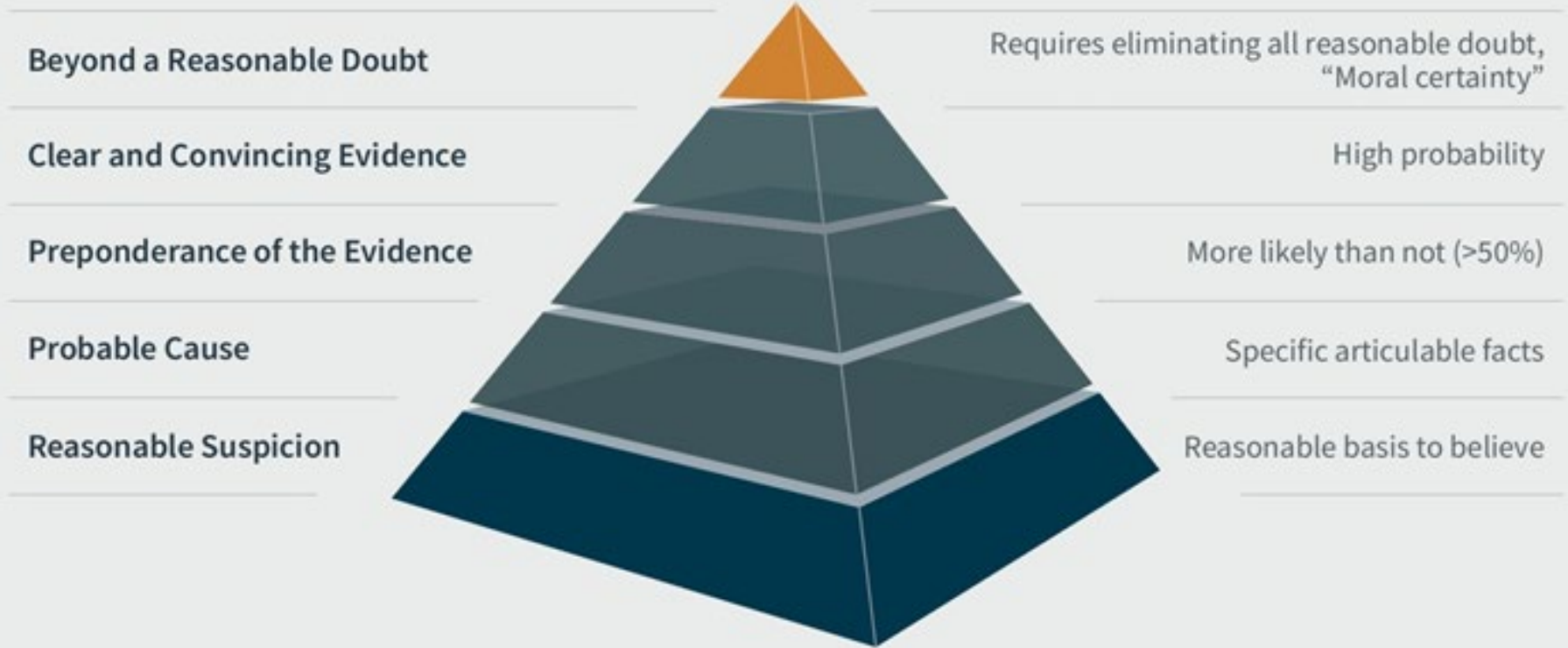


HB19-1177 ERPO'S

Terms & Definitions

- TERPO: Temporary Extreme Risk Protection Order, valid 14 days
- ERPO: Extreme Risk Protection Order, valid 364 days
- Petitioner: Individual filing the sworn affidavit requesting TERPO
- Respondent: Subject of TERPO request and who allegedly owns firearms
- Court Considering: Respondent poses a significant risk of causing personal injury to self or others in the near future by having in his or her custody or control a firearm or by purchasing, possessing, or receiving a firearm

BURDENS OF PROOF STANDARDS



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Family or Household
Member

Petition Filed
With County or
District Court

Law Enforcement
Officer (e.g., CRPD)

Scheduled same day
or next day

Judge determines based on
Preponderance of the Evidence

If judge grants TERPO, law enforcement is given judge's order to serve Respondent
The judge's order lists an additional hearing within 14 days
Firearms relinquished, CCW Permit revoked

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Respondent and Petitioner are present at hearing
Each side allowed to present evidence and witnesses

Judge determines based on
Clear and Convincing

If denied, CCW Permit
reissued and firearms
returned within 72 hours

If granted, order is in
effect for 364 days

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Once during 364 day period, Respondent may petition the court to
terminate the order
At this hearing, Respondent bears the burden



Judge determines based on
Clear and Convincing

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CRPD Requirements

- Adopt relevant ERPO policies and procedures by January 1, 2020. CRS 13-14.5-108(7).
- Training on issuance of TERPO's and ERPO's.
- Various deadlines and reporting back to court required (e.g., requesting more time to serve, alternative service, etc.)
- If TERPO/ERPO granted, notification to family, household members, and any known third party who may be at direct risk of violence. CRS 13-14.5-106(13).
- Criminal background checks required under HB19-1177 in some situations.

Q&A

Questions?

D.C. V. HELLER 554 US 570 (2008)

Like most rights, the right secured by the Second Amendment is not unlimited. From Blackstone through the 19th-century cases, commentators and courts routinely explained that the right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose....Although we do not undertake an exhaustive historical analysis today of the full scope of the Second Amendment, nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms.

Justice Scalia