FAQ: Karina's Law

Disclaimer: This is intended to be an educational resource, not legal advice for survivors considering filing for an order of protection and asking for the firearm remedy. To be connected with an advocate or attorney, reach out to the Illinois Domestic Violence Hotline: 1-877-863-6338.

Glossary:

- Petitioner: A person who asks the court for legal protection or other relief. When it comes to domestic violence, most likely it is the survivor or victim of violence acting as the petitioner. Under Illinois law, "petitioner" can include the person who files the petition, any named victim of abuse on whose behalf the petition is brought, and other individuals protected under the Act. To seek an order if protection under the Illinois Domestic Violence Act, the petitioner must have a qualifying "domestic relationship," with the respondent, which includes family members (through blood, marriage, or a child in common), current or former intimate partners, household members, high-risk adults with disabilities and their caretakers, or elderly adults and their caretakers. When it comes to seeking the firearm remedy (box 14.5 in the order of protection paperwork), all petitioners under the IDVA are eligible to be granted that remedy.
- Respondent: A person responding to another person's petition in court against them. When it comes to domestic violence, most likely the respondent is the abusive person or partner.
- Order of protection (OP): An order of protection is a key tool aimed at protecting an individual—and their children or other household members—from an abuser who may cause them harm. Orders of protection deal with a host of needs for survivors of violence—whether the abuser can be present at the survivor's home, care of children, whether an abuser has to stay away from the survivor's place of work, etc., access to records, child support, removal of firearms, or who will care for a family pet. These needs are referred to as "remedies" in the law, of which there are 18 different ones that a survivor can ask for when petitioning for an order of protection. Orders of protection are tools that are often used to help keep survivors safe when they leave their abusive partners. Orders of protection can be issued in three ways:
    - Emergency orders – issued with only the petitioner present, typically without giving respondent advance notice, and can last 14 to 21 days, and can be renewed repeatedly until the respondent is served and appears in court.
    - Interim orders – issued with both parties present, and last for 30 days. They can be renewed until a final hearing is scheduled.

- Plenary orders – issued with both parties present and can last up to two years.
- Criminal orders – orders of protection attached to criminal cases. They can last as long as the case is active or dismissed, up to two years, or can be permanent, depending on final outcome of the case.

Basics of the law

1. What is Karina's Law, and who is it named for?

Karina Gonzalez was a beloved mother, sister, and daughter who dreamed of giving her children a better life by coming to the U.S. During the summer of 2023, we tragically lost Karina and her daughter, Daniela, to an incident of domestic gun violence. Sadly, this could have been prevented.

Karina and her daughter are among the countless victims of domestic gun violence who reached out for help by getting orders of protections but were failed by a system meant to keep them safe.

Karina's Law was signed into law in February 2025 by Gov. J.B. Pritzker. Karina's Law:

- Gives judges the option to require guns to be surrendered to law enforcement during service of an emergency order of protection
- Clarifies existing law for a judge to issue a search warrant to allow for consistent firearm removal enforcement across the state
- Closes a loophole in previous law by allowing transfer only after firearms have been removed or surrendered to law enforcement or under certain conditions

2. Before this law, weren't respondents prohibited from possessing firearms if they were subject to orders of protection already?

Respondents were prohibited from possessing firearms if they were subject to orders of protection, but firearms were not required to be surrendered to or seized by law enforcement. Under the Firearm Owner Identification Card (FOID) Act, respondents had 48 hours to transfer ownership of firearms to another FOID card holder when an order of protection is entered by a judge. So, most often, respondents still had guns in their possession because they did not follow the requirement of simply transferring their guns, and law enforcement had not confiscated firearms at the time of service for the order of protection. However, this transfer process has changed under Karina's Law (see below).

3. Why was this law necessary?

Before Karina's Law, several loopholes existed in Illinois law that enabled abusers to keep their firearms.

First, the law required respondents subject to an order of protection to turn over their firearms to either police or another FOID card holder, but the enforcement of that law was on the "honor system," meaning law enforcement often did not follow up to ensure the respondent did not possess weapons.

Second, the law allowed respondents to transfer their firearms to any other FOID card holder, like a friend or family member, even if they lived in the same home as the respondent.

And finally, the law was not clear about how firearms seizure or search warrants could be granted by a judge, like factors judges considered to grant it, the timeline of enforcement or at what stage in the protective order process that the order to seize firearms be granted.

4. Isn't the Firearm Restraining Order (FRO) an immediate way to remove guns from people causing harm? What's the difference?

An order of protection is a key tool aimed at protecting an individual—and their children—from an abuser who may cause them harm. Orders of protection deal with a host of needs for survivors of violence—whether the abuser can be present at the survivor's home, care of children, child support, whether an abuser has to stay away from the survivor's place of work, etc., access to records, removal of firearms, or who will care for a family pet. These needs are referred to as "remedies" in the law, of which there are 18 different ones that a survivor can ask for when petitioning for an order of protection. Orders of protection are tools that are often used to help keep survivors safe when they leave their abusive partners. An order of protection can be granted in emergencies for 14 to 21 days, up to 30 days for an interim order, or for up to two years long for a plenary order.

A firearm restraining order (FRO), on the other hand, is a court order that says that a person temporarily cannot have a gun, ammunition, or gun parts because they pose a threat of injury to themselves or another. The relief is limited only to firearms and typically last for a shorter period of time.

5. What about the due process rights of a respondent in an order of protection?

Karina's Law improved due process protections for respondents subject to the Illinois Domestic Violence Act, and mirrors the due process protections within the firearm restraining orders in Illinois. It makes clear that a search warrant cannot be issued without probable cause and provides a clear standard for ex parte or emergency orders: The court can only issue an order including the firearm remedy without notice to respondent first if it determines that harm is likely to occur if the respondent is given prior notice.

What survivors need to know:

6. Does firearm removal apply to all orders of protection?

No. In the order of protection petition, there are different needs or "remedies" that a survivor may request and check off on the paperwork. One of these can be the firearm remedy. A survivor must check box 14.5 for the firearm remedy, and request if (1) they want the respondent to surrender their firearms, also known as a surrender order, or (2) ask for a search warrant to be granted for law enforcement to go seize firearms from the respondent. A surrender order is the default option if the survivor wants respondent's guns removed but does not request a search warrant be granted.

7. Does this law apply to only orders of protection in civil court, or only orders of protection in criminal court, or both?

The changes in Karina's Law regarding surrendering or seizing firearms applies to orders of protection in civil court that a survivor petitions for on their own, and to orders of protection in criminal court obtained with the assistance of the state's attorney's office.

8. Do I need to have an attorney to ask for firearms to be removed as part of the order of protection?

You are not required to have an attorney or support from a domestic violence advocate to ask for the firearm remedy as part of an order of protection. It is recommended you do contact an attorney or advocate to help with filing the petition for the order of protection and in arguing for one in court to improve your chances of the order of protection of being granted. To be connected with an advocate in your community who may be able to help you regardless of your income, contact the Illinois Domestic Violence Hotline: 877-863-6338.

9. What are the steps and timeline in the process of getting firearms taken away?

First, the survivor must decide if they want to file an order of protection at all, and if they want to check the firearm remedy. We recommend doing safety planning with a domestic violence advocate or attorney to determine if asking for the firearm remedy (checking box 14.5) in the list of remedies for the order of protection is a good fit for your needs.

After checking box 14.5 for the firearm remedy, you must decide whether to ask only for a surrender order, meaning the respondent is told to surrender their weapons to law enforcement at the time of service of the order of protection, or if you also want to pursue a search warrant, where law enforcement can enter a property to search and recover a firearm. If you check box 14.5 and do not explicitly petition for a search warrant, the surrender order is the default. Once the order of protection has been served, the respondent has 24 hours to surrender all firearms and/or firearm parts.

If you are pursuing a search warrant, law enforcement has 96 hours (4 days) to execute the search warrant if it is granted by the judge, if there was a credible report of domestic violence made to local law enforcement within the previous 90 days. If there has not been a credible report made to law enforcement in 90 days, law enforcement has an additional 48 hours to review the warrant, request more information from you or the court, and if applicable, modify, correct or negate the warrant. If law enforcement seeks to negate the warrant, it must take reasonable steps to notify the petitioner before appearing before the court. The law enforcement agency must also notify the petitioner of any changes to the warrant or if the warrant has been negated. If a change is made to the warrant, law enforcement then has 96 hours from the time the correction is issued to execute the warrant.

Law enforcement must file documentation with the court of what firearms were recovered from either a surrender order or execution of a search warrant. After law enforcement execute the warrant, a return of the warrant must be filed by law enforcement within 24 hours. The return includes information about the execution of the search warrant like the date, location, and what items, if any, were seized.

The seizure/surrender of firearms last for as long as the order of protection is in place. Once that order of protection is up, the respondent can get back their firearms (see below).

10. How much information do I have to know about respondent's guns in order to ask that the be removed?

It is common for survivors to have limited or incomplete information about what firearms respondent owns. You do not need to know all the details about a gun (s) for it to be removed. Size, color, and anticipated location of the gun within a property are

helpful for law enforcement to identify what they are looking for, and accurately execute and return the search warrant. For example, “one small black handgun in the respondent’s bedroom on the ground level of the house” without identifying the manufacturer, model, serial number or other details, should be sufficient. However, you may be able to get a warrant even if you do not know those details. Law enforcement will contact the survivor if the information provided is not sufficient to accurately and safely execute the search warrant. Note: The law only applies to firearms – it does not apply to tasers or other types of weapons.

11. Can I still ask for guns to be removed if I don’t know exactly where the guns are located?

In order to get a warrant, you must be able to identify an address or vehicle description where you believe the guns are located. If all you know is an address, that should be okay. However, the more detail you have, the less likely law enforcement will contact you for more information in where the gun(s) is or what it looks like and are more likely to be able to successfully execute the warrant and seize firearms.

You will be asked to fill out information sheet(s) used by law enforcement to execute the warrant. This will include contact information for yourself or your advocate or attorney, a physical description of the respondent, days and times the respondent is likely to be at the property to be searched, and if there are other people than the respondent who are likely to be at the property to be searched. Please note this information sheet is not confidential and may be available to respondent or their attorney in the future.

12. Can a judge grant a seizure order or search warrant for firearms even if my abuser has not used or threatened to use their firearm(s) against me?

Yes, the judge can grant a seizure order or search warrant even if your abuser has not used or threatened to use their firearms against you. What the judge needs to find is that (1) the respondent poses a credible threat to the petitioner (you) that is protected by the order of the protection, and (2) that probable cause exists to believe that the respondent has firearms or firearm parts to make a firearm, that the firearm(s) is located at the property to be searched, and that the credible threat to the petitioner (you) is immediate and present.

In short, the law doesn’t require evidence of the firearm being used or threatened to be used against you – it requires a credible, imminent and present threat to your physical safety. The credible, imminent and present threat to your physical safety may be created simply by your abuser having access to firearms.

13. Can a judge in one Illinois county grant a seizure order or search warrant in another Illinois county or in another state?

A judge in one Illinois county can grant a search warrant to be executed in another Illinois county. The law allows a petitioner or the State's Attorney to request that a property in another county be searched by the law enforcement agency with the responsibility to respond to service calls in the area where the property is located.

A judge in Illinois cannot grant a seizure order or search warrant in another state.

14. Who is responsible for seizing the firearms?

Karina's Law requires the judge issuing the search warrant to direct the warrant to a local law enforcement agency. This most likely will be a community's local police department, like the Chicago Police Department, but could also be a county sheriff's department, like the Cook County Sheriff Department. Law enforcement agencies can also assist one another if they need additional support in executing these warrants.

15. Will the service of the order of protection happen at the same time as the search warrant?

The law says that the service of an order of protection shall happen, to the extent possible, at the same time as the search warrant. The intent of the law is for the service and the search warrant to happen at the same time, but that cannot be guaranteed.

16. What protections are in place for law enforcement who are executing search warrants when granted as part of an order of protection?

When a law enforcement agency receives a search warrant in a civil order of protection case, there are two ways the agency can proceed:

First, if the petitioner has made a credible report of domestic violence to the law enforcement agency within the last 90 days, the agency receiving the warrant must execute the warrant within 96 hours of receiving the order.

If there has not been a credible report on domestic violence to the agency by the petitioner within the last 90 days, law enforcement has an additional 48 hours to review the warrant, and if necessary, request any modifications or corrections. If no corrections are requested, law enforcement must execute the warrant within 96 hours after the 48 hour review period.

There is also the ability for law enforcement to petition the court to modify or extend the time to execute the search warrant for up to 96 hours again. The court is required to consider any increased risk to the petitioner's safety from the modification or extension

of the warrant, any unnecessary risk to law enforcement that could be mitigated with a modification or extension, any risk to third parties at the location to be searched, and the likelihood of successfully executing the warrant.

Law enforcement also have limited liability against them under Karina's Law when they are acting in good faith in executing search warrants.

17. Can respondents transfer their firearms to someone else to comply with the law against possessing firearms?

Respondents can transfer their firearms to another person, but they can no longer make that transfer directly. Instead, after the firearms are either surrendered or seized by law enforcement, the respondent can file a motion to transfer the firearms to a third party at the next scheduled court hearing.

For the transfer to happen, the third party who will be receiving the firearms must have a valid FOID card, appear in court, and affirm by affidavit the following:

- They do not reside with the respondent in the order of the protection
- The respondent does not have access to the location the firearms are being kept
- The third party will not transfer the firearm or firearm parts to the respondent or to anyone who resides with the respondent
- The third party will maintain possession of the firearms or firearm parts until directed otherwise by the court
- The third party transferee can be subject to criminal penalties for transferring the firearms or firearm parts to the respondent or allowing the respondent access to the firearms or firearm parts, as those actions are a violation of Section 24-3 of the Criminal Code of 2012.

This motion to transfer process cannot happen without the firearms first being surrendered to or seized by law enforcement.

18. When can respondents get their firearms back?

When the order of protection expires, the respondent may request the seized firearms and/or firearm parts be returned to them, if they are not prohibited from possessing firearms otherwise. If they are allowed to have firearms, the firearms and/or parts must be returned within 14 days of their request.