Michigan Supreme Court
State Court Administrative Office
Michigan Hall of Justice
P.O. Box 30048
Lansing, Michigan 48909
517-373-0128

Thomas P. Boyd
State Court Administrator

M E M O R A N D U M

DATE: January 5, 2024
(Revised February 7, 2024 – Revisions underlined)

TO: Circuit and Probate Court Chief Judges
Circuit and Probate Court Administrators
Circuit and Probate Court CMS Providers

FROM: Thomas P. Boyd, State Court Administrator

SUBJECT: Extreme Risk Protection Order Act (2023 PA 38)

BACKGROUND

The Extreme Risk Protection Order Act, 2023 PA 38, (the Act) provides for the issuance of restraining orders prohibiting certain individuals from possessing or purchasing firearms. It further requires the surrender or seizure of a restrained individual's firearms and prescribes penalties and remedies for noncompliance. **The Act becomes effective on February 13, 2024.**

This memo establishes new case type codes for the Act, identifies new CMS data fields and reporting requirements for courts, and shares an Extreme Risk Protection Order (ERPO) training opportunity for judicial officers.

TRAINING

The Michigan Judicial Institute will be presenting a 90-minute webinar for judicial officers on Extreme Risk Protection Orders at noon on February 8, 2024. Registration information for this webinar went out on December 11, 2023, and a reminder email will be sent out prior to the webinar. For those unable to attend the webinar at that time, it will be recorded and available after the fact as an on-demand learning module.

FORMS

The State Court Administrative Office (SCAO) is required to develop court forms to initiate ERPO actions. MCL 691.1805(3). These forms are being developed and will be made available to courts before the effective date of the Act.

CASE TYPE CODES

The following new case type codes are established for ERPO actions.

Respondent	Case Type Code	Short Description
Adult	EP	All extreme risk protection order proceedings under MCL 691.1805 where the respondent is over the age of 18 and an ex parte order is requested at case initiation.
Adult	ER	All extreme risk protection order proceedings under MCL 691.1805 where the respondent is over the age of 18 and an ex parte order is **not** requested at case initiation.
Adult	EV	All extreme risk protection order proceedings under MCL 691.1805 where the respondent is over the age of 18 and an **immediate emergency order is requested by a law enforcement officer** pursuant to MCL 691.1807(4).
Minor	EE	All extreme risk protection order proceedings under MCL 691.1805 where the respondent is under the age of 18 and an ex parte order is requested at case initiation.
Minor	EJ	All extreme risk protection order proceedings under MCL 691.1805 where the respondent is under the age of 18 and an ex parte order is **not** requested at case initiation.
Minor	EZ	All extreme risk protection order proceedings under MCL 691.1805 where the respondent is under the age of 18 and an **immediate emergency order is requested by a law enforcement officer** pursuant to MCL 691.1807(4).

The case type code is determined at case filing and does not change as the case progresses, regardless of how the court rules or disposes of the case. For example, the case type code "EP" is used when a petitioner requests an ex parte ERPO against an adult respondent. The case type code will remain "EP" even if the court denies the request for an ex parte order and schedules the matter for a hearing.

DATA COLLECTION

The SCAO is statutorily required to submit an annual report on the application of the Act. See MCL 691.1821. The SCAO will use data in the Judicial Data Warehouse (JDW)—not the Caseload Reporting System— to generate the ERPO annual report. As such, courts must begin capturing data in their case management systems and submitting data to the JDW by February 13, 2024.

The data feeds from circuit and juvenile case management systems to the JDW must include the following data elements immediately following the effective date of the Act. Each case management system must provide a test data feed to the JDW maintenance contractor, Optum, Inc. to resolve any issues with the data feed. This programming is occurring automatically for JIS courts; however, non-JIS courts need to contact their CMS providers to program these new requirements. Please note that the party type, disposition method, and event codes sent to the JDW must be the same as or map perfectly to the standard JDW codes. Case management systems that use non-standard codes must document for SCAO how their source codes map to the standard codes.

Case Type: Case management systems must submit an ERPO case type code to the JDW in the Case Type field of the VEN_CASE table and other JDW tables.

Party Type: Courts must identify the petitioner and respondent by using the following party type codes. The SCAO will use the party type to identify specific individuals in ERPO filings and any related charged, as required by MCL 691.1821(2)(h) and MCL 691.1821(2)(i). Case management systems must submit a party type to the JDW in the Party Type – Source field of the VEN_PRTY table. Although the parties to an ERPO action are "petitioners" and "respondents," the JDW will also accept "plaintiff" and "defendant" designations from your CMS.

Courts must also provide the Date of Birth, Gender, and Race of the petitioner and respondent in the VEN_PRTY table of their JDW data feed, to the extent that this information is provided in or with the ERPO complaint.

JDW Standard Party_Type	Description
P	Plaintiff
PTR	Petitioner

JDW Standard Party_Type	Description
D	Defendant
RES	Respondent

Disposition Method: Courts must use the following disposition codes to report the disposition of the case. The SCAO will use these codes to count the number of orders issued or denied, and to identify the number of orders issued ex parte. Case management systems must submit the disposition code to the JDW in the Disposition Code - Source field of the VEN_CASE table.

These dispositions **must be reported in the case table and must not be overwritten by post-order motions.** A flowchart is included at the end of this memo regarding when the various disposition and event codes should be used.

JDW Standard Disposition_Code	Description
OIEX	Order Issued Ex Parte
DDEX	Dismissed/Denied Ex Parte
OIAH	Order Issued After Hearing
DDAH	Dismissed/Denied After Hearing
CONT	Order Continued
REC	Order Rescinded
DISPL, DISPT, WPET, WTDW	Dismissed/Withdrawn by Plaintiff/Petitioner

Post-Order Motions: Courts must use the following codes to report the results of motions to rescind, extend, or modify an ERPO. Case management systems must submit motion data in the VEN_EVNT table including an Event_Code_SRC and an Event_Date. Case management system providers must modify their data extracts to the JDW to include ERPO case types in the VEN_EVNT table. This table was previously used for child protective (NA) cases only. The data extract should include Fields #1-27 of the VEN_EVNT table, although Adjournment Date and Adjournment Code should be reserved for NA cases only. See the Universal Input Format (UIF) Version 3.

JDW Standard Event_ Code	Description
RESCIND	Motion Granted – Order Rescinded
EXTEND	Motion Granted – Order Extended
MODIFY	Motion Granted – Order Modified
DENY	Motion Denied

New Criminal Charges: The Act established new criminal offenses for respondents who fail to comply with orders; petitioners who knowingly and intentionally provide a false statement in the complaint; and against any person who knowingly places a firearm in the possession of a restrained individual. See MCL 691.1819(1), (4), and (5). These charges are filed and entered as new criminal cases with the appropriate non-ERPO case type and PACC code. The SCAO is required to report annually to the Legislature on the number of prosecutions for these offenses. If any of the charges in the following three tables are filed in the court, case management systems must submit these PACC codes to the JDW in the VEN_OFF table.

Respondent Criminal Offenses

MCL	PACC Code	Charge Description
691.1819(1)(a)	691.18191A	Extreme Risk Protection Order – Failure to Comply with

691.1819(1)(b)	691.18191B	Extreme Risk Protection Order – Failure to Comply with – Second Offense
691.1819(1)(c)	691.18191C	Extreme Risk Protection Order – Failure to Comply with – Third Offense

The court may also enforce an ERPO order by charging the restrained individual with contempt of court. See MCL 691.1819(3).

Petitioner Criminal Offense

MCL	PACC Code	Charge Description
691.1819(4)(a)	691.18194A	Extreme Risk Protection Order – Petitioner Knowingly & Intentionally Make False Statement in Complaint - First Offense
691.1819(4)(b)	691.18194B	Extreme Risk Protection Order – Petitioner Knowingly & Intentionally Make False Statement in Complaint – Second Offense
691.1819(4)(c)	691.18194C	Extreme Risk Protection Order – Petitioner Knowingly & Intentionally Make False Statement in Complaint – Third Offense

Other Criminal Offenses

MCL	PACC Code	Charge Description
691.1819(5)	691.18195	Extreme Risk Protection Order – Knowingly Place Firearm in Possession of Individual Under Order

Optional Data Elements: SCAO will use the VEN_ALTN table to capture the type of petitioner or type of respondent involved in ERPO filings if this information is captured in the CMS. This is an optional, additional code for each petitioner and some respondents, but does not eliminate the required party type in the Party Type – Source field in the VEN_PRTY table. Case management systems can submit the following Alternate Name Codes in addition to the key fields necessary to connect with the party record within the VEN_PRTY table. The name fields (first, last, middle, suffix) can be blank in the VEN_ALTN table for these cases.

Petitioner/Plaintiff Types

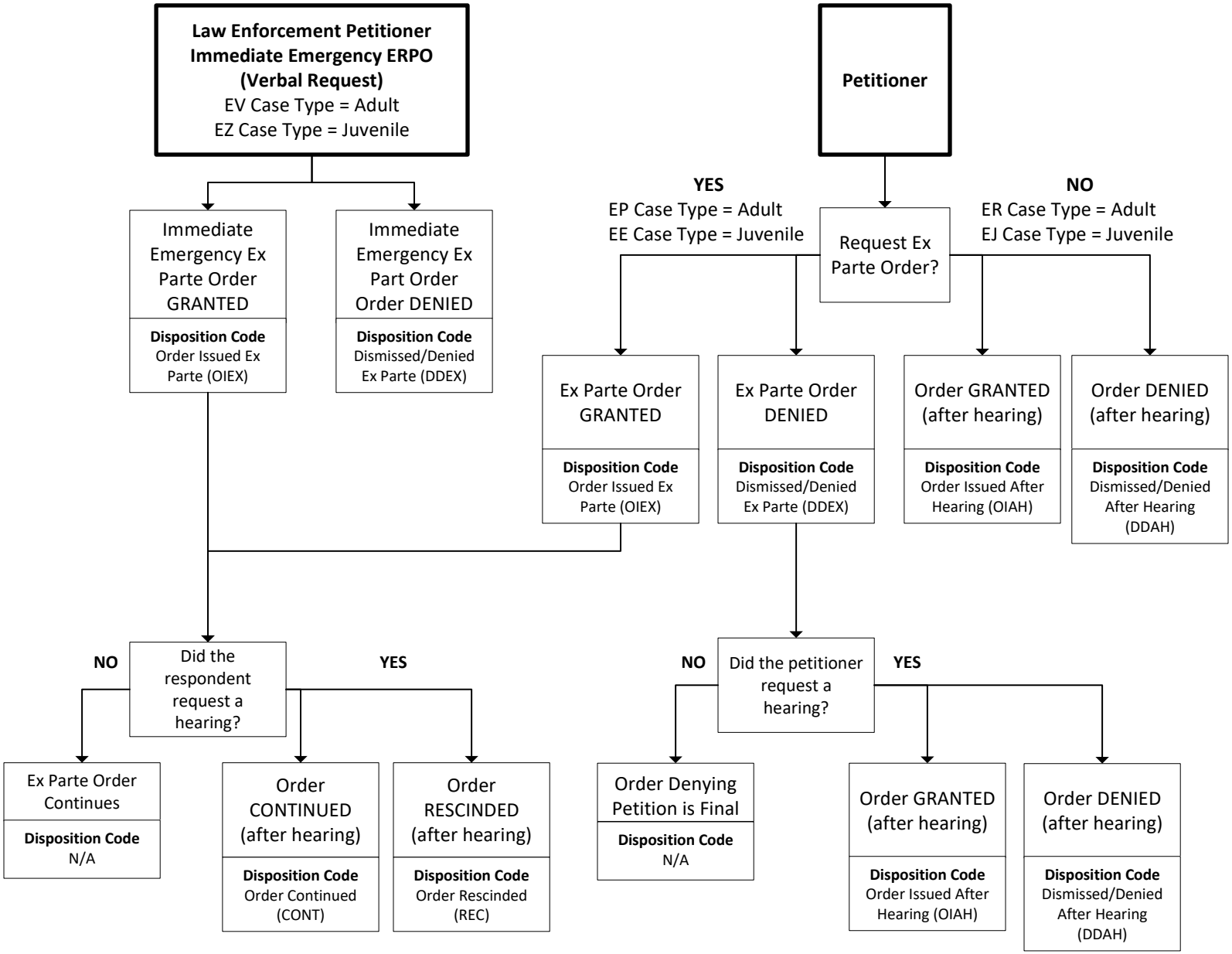
JDW Standard Party_Type Code	Description
SP	Current Spouse of ERPO Respondent
FSP	Former Spouse of ERPO Respondent
CIN	Child in Common with ERPO Respondent
DAT	Was or Is Dating ERPO Respondent
RS	Was or Is Residing with ERPO Respondent
FAM	Family Member to ERPO Respondent
GDN	Guardian of ERPO Respondent
LEO	Law Enforcement Officer
HCP	Health Care Provider

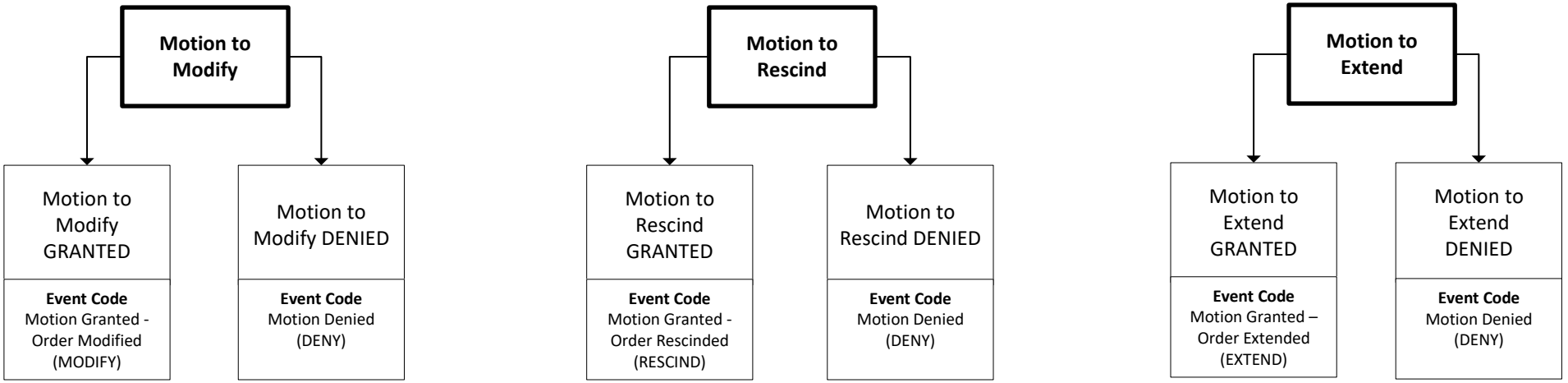
Respondent Types (if applicable)

JDW Standard Party_Type Code	Description
CPE	Individual Required to Carry Pistol as Condition of Employment—Issued a License to Carry a Concealed Pistol
PO	Police Officer Licensed or Certified by MCOLES
SRF	Sheriff or Deputy Sheriff
MSP	MSP Member
LCO	Local Corrections Officer
DOC	MDOC Employee
AFL	Federal Law Enforcement Officer—Carries Pistol During Employment
FBP	Officer of Federal Bureau of Prisons

If you or your case management system provider have any questions about the required or optional reporting methods for Extreme Risk Protection Orders, please contact Laura Hutzel, Statistical Research Director, at hutzell@courts.mi.gov. Please contact your SCAO regional administrator with any other questions regarding the Extreme Risk Protection Order Act.

Extreme Risk Protection Order



Post-Order Motions to Modify, Rescind, or Extend Extreme Risk Protection Order

(all case types)