Gun seizures more likely under Colorado's Red Flag if law enforcement is involved

Red flag applications are approved 95% of the time if police step in. If Coloradans file on their own, the approval rate dips to 32%.

Zack Newman, Kevin Vaughan

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RED FLAG PETITIONS | A SUCCESS STORY | NEED FOR CHANGE | PETITION PATTERNS

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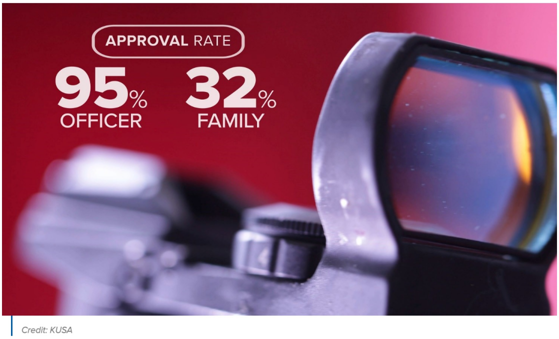
COLORADO, USA

Colorado’s 2-year-old “red flag” law gives police officers and average citizens alike the power to seek the removal of guns from people they believe are dangerous – but a 9Wants to Know investigation found the chances that will actually happen depend largely on who’s asking.

The law took effect on Jan. 1, 2020, and it gives judges the power to issue what’s known as an “extreme risk protection order” if there’s compelling evidence that an individual poses a danger, either to themself or others. In those cases, the gun owner is required to surrender their weapons for 14 days, and the order can be extended to 364 days.

The goal of the law is simple: to temporarily remove guns from someone in crisis who hasn’t broken the law.



Credit: KUSA

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RED FLAG PETITIONS

The approval rate varies greatly depending on who makes the request.

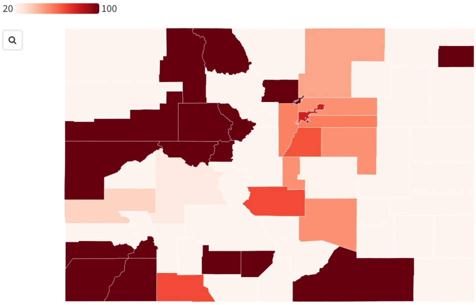
A monthslong 9Wants to Know analysis of every single red flag petition filed in Colorado during the first two years the law was on the books found that judges approved 95% of the petitions filed by police officers – but a little less than a third of those sought by average citizens.

RELATED: **Year 1 of Colorado's red flag gun control law, by the numbers**

And in El Paso County – where the sheriff has publicly said he won't enforce the law unless a crime is involved – the success rate is tied for the lowest approval rate among Front Range counties. Judges in El Paso County approved about one in five red flag petitions in 2020 and 2021.

Percentage of red flag order approvals by Colorado county

9Wants to Know found of the 107 petitions filed by law enforcement officers, 101 – or 95% – were granted. But of the rest, which were filed by citizens, were approved 32% of the time.



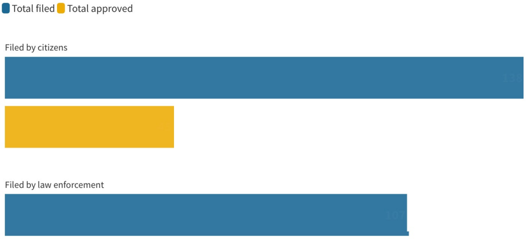
Source: Colorado Judicial Branch. • Data runs from January 1, 2020 to November 16, 2021.

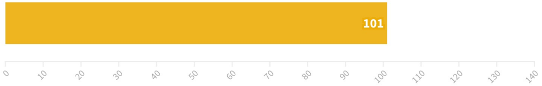
Graphic created by Zack Newman.

The 9Wants to Know investigation, which included an examination and analysis of every single red flag petition provided a detailed look at how the law has worked during its first two years of existence.

Colorado Red Flag petitions

Filed during 2020 and 2021





Colorado Judicial Department • NOTE: Approved includes unique cases where a judge granted either a temporary extreme risk protection order or an extreme risk protection order.

Graphic created by Janet Oravetz.

Of the 244 unique red flag petitions that were filed, 146 were granted. That's an approval rate of 60% – significantly lower than the bill's fiscal note prediction before the law took effect that 95% of the petitions would be granted.

Of the 107 petitions filed by law enforcement officers, 101 – or 95% – were granted. But of the rest, which were filed by citizens, about 32% were approved.

While the approval rate in El Paso County stood at 20%, judges granted 65% of the petitions filed in neighboring Douglas County. And in Denver, where more than half of the petitions were filed by police, 79% were approved.

One case that unfolded in El Paso County in 2021 provides a snapshot of how the law can work.

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A SUCCESS STORY

'This is a step to helping him get better.'

A woman named Christine became frightened and then frustrated as her brother struggled with mental health issues and alcohol – and made suicidal threats.

9NEWS agreed not to use Christine's last name or identify her brother.

Credit: KUSA

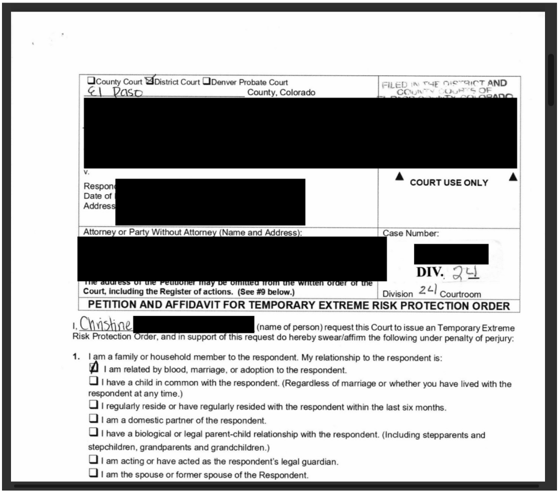
Christine thumbs through a binder of files.

One night last fall, she called 911. Her brother was drunk, and he'd been in a FaceTime conversation with a friend and during it had put his gun in his mouth. Responding officers ultimately concluded that he was not a threat to anyone else and decided to let him sleep it off and check on him the next day.

When the next day came, a police officer called Christine and suggested that she file for a red flag order. She wasn't sure what her chances of success would be but went ahead anyway.

"I felt like at that point I was kind of in the mindset of even if it doesn't go through, at least I tried," she said.

Read her application below.



☐County Court ☑District Court ☐Denver Probate Court
El Paso County, Colorado

FILED IN THE DISTRICT AND COUNTY COURTS OF

[redacted]

v.

Respon [redacted]
Date of
Address

▲ COURT USE ONLY ▲

Attorney or Party Without Attorney (Name and Address):

[redacted]

The address of the Petitioner may be omitted from the written order of the Court, including the Register of actions. (See #9 below.)

Case Number: [redacted]

DIV. 24

Division 24 Courtroom

PETITION AND AFFIDAVIT FOR TEMPORARY EXTREME RISK PROTECTION ORDER

I, Christine [redacted] (name of person) request this Court to issue an Temporary Extreme Risk Protection Order, and in support of this request do hereby swear/affirm the following under penalty of perjury:

1. I am a family or household member to the respondent. My relationship to the respondent is:
   - ☑ I am related by blood, marriage, or adoption to the respondent.
   - ☐ I have a child in common with the respondent. (Regardless of marriage or whether you have lived with the respondent at any time.)
   - ☐ I regularly reside or have regularly resided with the respondent within the last six months.
   - ☐ I am a domestic partner of the respondent.
   - ☐ I have a biological or legal parent-child relationship with the respondent. (Including stepparents and stepchildren, grandparents and grandchildren.)
   - ☐ I am acting or have acted as the respondent's legal guardian.
   - ☐ I am the spouse or former spouse of the Respondent.

She went to court with a binder of evidence – including statements from a friend and her brother's ex-wife and text messages from her brother. In one message, he wrote: "I swear to God, if one f------ cop shows up, there's going to be a standoff with your niece and nephew in the house .. so don't even try that bulls---."

"I told the judge 100 times, you know, I know who he can be, and he's not himself right now," Christine said. "I just want him to get better. And I think this is a step to helping him get better, is not giving him that opportunity to get chaotic with weapons."

The judge granted the petition. Her brother surrendered his guns to their mother, who sold them.

I may look like my Daddy but I have my Mommy's

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NEED FOR CHANGE

An ambush of deputies in late 2017 spurred conversations and then change.

The law was championed by two Colorado sheriffs on opposite sides politically – Republican Tony Spurlock of Douglas County and Democrat Joe Pelle of Boulder County.

"There's no room for politics in people's lives or saving people's lives," Spurlock said. "And that's what this sliver of law is about is saving people's lives."

Credit: KUSA

Douglas County Sheriff Tony Spurlock

Both men were affected deeply by the same incident – a shooting on Dec. 31, 2017. That morning, a man with mental health issues and guns opened fire on Douglas County deputies. Deputy Zackari Parrish died, and four other officers were wounded. One of them was Pelle's son.

RELATED: **Report details New Year's Eve gunfight that left deputy dead, six others wounded**

"This became a special interest to me on a personal level, and a professional level," Pelle said.

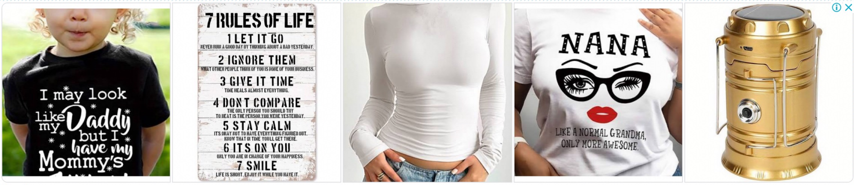
Credit: KUSA

Boulder County Sheriff Joe Pelle

The family of the shooter had tried unsuccessfully to take his guns away from him, a source of great frustration for Spurlock.

"I think about Deputy Zack Parrish every day and I think about that very early morning," Spurlock said. "I think about what could we have done in the front to prevent such a tragedy. … There wasn't anything that anybody could do a lot about him having access to guns."

The law, which was named in Parrish's memory, allows police officers, family members, and roommates to seek a red flag order and requires them to go to a judge with a detailed petition laying out the reasons one should be granted and providing information about the person's access to weapons.



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PETITION PATTERNS

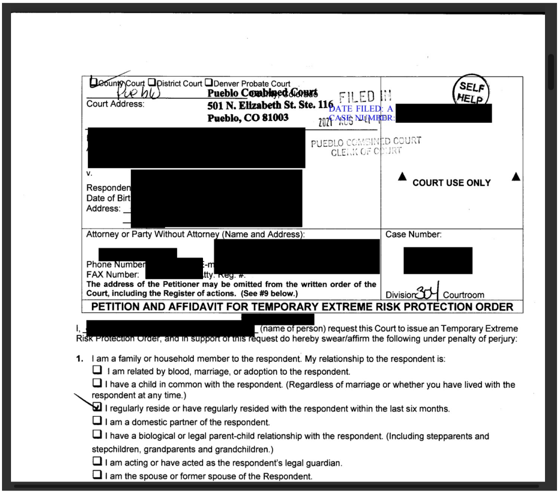
There's a high bar for approval.

9 Wants to Know observed a pattern in the red flag applications that were approved. They were all highly detailed and outlined a clear threat. Pelle said there's a high bar for approval to make sure the law is not being misused to take guns away unnecessarily.

"It's a bit onerous," Pelle said. "You have to go through a lot of hoops in order to get one of these. But it's there and it's available. And I think – and you have the data – but I think statistically it's fairly well proven that it's not being abused."

However, there were other detailed petitions written by citizens that outlined a clear and present threat that were not approved for unclear reasons. In multiple cases, people dealing with domestic abuse pleaded with the court to take away the weapons but were denied.

Below is an example of a denied petition. It was requested by a resident of Pueblo County.



☑ County Court ☐ District Court ☐ Denver Probate Court
Pueblo
Pueblo Combined Court
Court Address: 501 N. Elizabeth St. Ste. 116
Pueblo, CO 81003

FILED IN
2021 AUG -4
PUEBLO COMBINED COURT
CLERK OF COURT

SELF HELP

DATE FILED: A
CASE NUMBER: [redacted]

[redacted]
v.
Responden [redacted]
Date of Birt
Address:

COURT USE ONLY

Attorney or Party Without Attorney (Name and Address): [redacted]
Phone Number [redacted] E-m [redacted]
FAX Number: tty. Reg. #.
The address of the Petitioner may be omitted from the written order of the Court, including the Register of actions. (See #9 below.)

Case Number: [redacted]
Division 304 Courtroom

PETITION AND AFFIDAVIT FOR TEMPORARY EXTREME RISK PROTECTION ORDER

I, [redacted] (name of person) request this Court to issue an Temporary Extreme Risk Protection Order, and in support of this request do hereby swear/affirm the following under penalty of perjury:

1. I am a family or household member to the respondent. My relationship to the respondent is:
   - ☐ I am related by blood, marriage, or adoption to the respondent.
   - ☐ I have a child in common with the respondent. (Regardless of marriage or whether you have lived with the respondent at any time.)
   - ☑ I regularly reside or have regularly resided with the respondent within the last six months.
   - ☐ I am a domestic partner of the respondent.
   - ☐ I have a biological or legal parent-child relationship with the respondent. (Including stepparents and stepchildren, grandparents and grandchildren.)
   - ☐ I am acting or have acted as the respondent's legal guardian.
   - ☐ I am the spouse or former spouse of the Respondent.

Those approved are often written like an incident report typically compiled by law enforcement. Christine said she thinks her binder made a difference in convincing a judge to grant her petition.

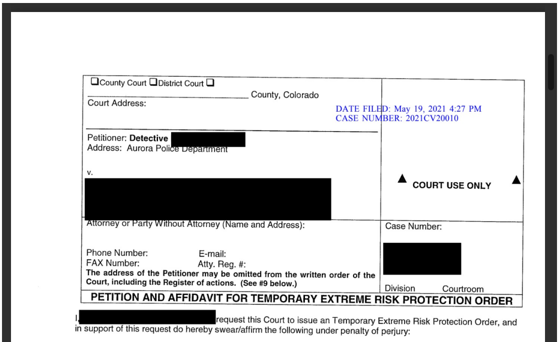
"I mean, I walked into court with a binder," she said. "I put everything out there that I had that made me feel, you know, that he shouldn't be around weapons."

Christine said it was intimidating to not be an attorney and go up against her brother's court-appointed lawyer. Her advice for others in a similar position is to try to get the red flag order. This way, you know you did everything you could.

"Don't give up just because you think you're not going to get it," she said. "If you don't ask for it, there's no chance of you getting it."

Applications for an extreme risk protection order can be found online.

Below is an example of an approved petition which was requested by a detective with the Aurora Police Department.



☐ County Court ☐ District Court ☐
_________________ County, Colorado
Court Address:

DATE FILED: May 19, 2021 4:27 PM
CASE NUMBER: 2021CV20010

Petitioner: **Detective** [redacted]
Address: Aurora Police Department

v.
[redacted]

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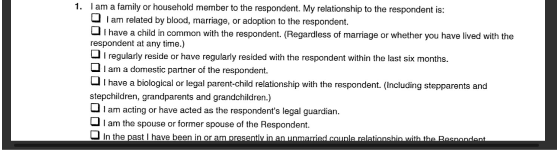
Attorney or Party Without Attorney (Name and Address):
Phone Number: E-mail:
FAX Number: Atty. Reg. #:
The address of the Petitioner may be omitted from the written order of the Court, including the Register of actions. (See #9 below.)

Case Number: [redacted]
Division Courtroom

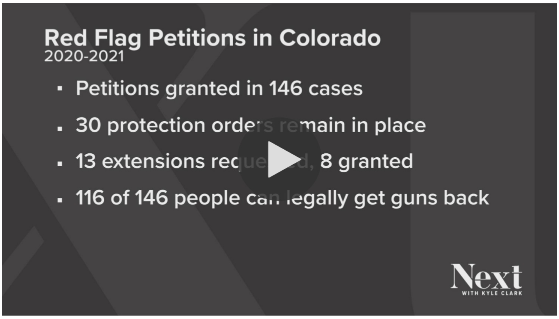
PETITION AND AFFIDAVIT FOR TEMPORARY EXTREME RISK PROTECTION ORDER

I, [redacted] request this Court to issue an Temporary Extreme Risk Protection Order, and in support of this request do hereby swear/affirm the following under penalty of perjury:



1. I am a family or household member to the respondent. My relationship to the respondent is:
   - ☐ I am related by blood, marriage, or adoption to the respondent.
   - ☐ I have a child in common with the respondent. (Regardless of marriage or whether you have lived with the respondent at any time.)
   - ☐ I regularly reside or have regularly resided with the respondent within the last six months.
   - ☐ I am a domestic partner of the respondent.
   - ☐ I have a biological or legal parent-child relationship with the respondent. (Including stepparents and stepchildren, grandparents and grandchildren.)
   - ☐ I am acting or have acted as the respondent's legal guardian.
   - ☐ I am the spouse or former spouse of the Respondent.
   - ☐ In the past I have been in or am presently in an unmarried couple relationship with the Respondent.

9Wants to Know looked at all the red flag petitions filed in the first two years of the law and found that judges granted them in 146 cases – some for 14 days and some for 364 days (both options are allowed under the law). We found that as of Wednesday, 30 of those extreme risk protection orders from 2020 and 2021 remain in effect – either because they haven't yet expired, or they expired and were renewed by a judge for another 364 days.



Red Flag Petitions in Colorado
2020-2021

- Petitions granted in 146 cases
- 30 protection orders remain in place
- 13 extensions requested, 8 granted
- 116 of 146 people can legally get guns back

The orders are extended only in rare cases – they were requested 13 times, granted eight times. But, 92% of those renewal applications happened in cases with law enforcement involvement.

All of the approved renewals came from police.

The bottom line: After Wednesday, 116 of the 146 people who were ordered to give up their guns can legally get them.

See the process behind our data analysis on our GitHub here.

Reach investigative reporter Zack Newman through his phone at 303-548-9044. You can also call or text securely on Signal through that same number. Email: zack.newman@9news.com. Call or text is preferred over email.

Contact 9Wants to Know investigator Kevin Vaughan with tips about this or any story: kevin.vaughan@9news.com or 303-871-1862.

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