

**SEARCH Survey: ERPO and Juvenile Records
Responses as of June 25, 2022 (12:00 PM EDT)**

1. Does your state issue Extreme Risk Protection Orders (ERPOs)?

Yes – Nevada, Maine, Illinois, Virginia

No – Montana, Utah, Kansas, Mississippi, Alaska, North Dakota, Nebraska, Missouri, Wyoming, Tennessee, Idaho, Oklahoma, Minnesota, Michigan, Wisconsin, Iowa

Unknown – Arkansas

1a. What year was your ERPO law passed?

Nevada – 2020

Maine – 2019

Illinois – 2018

Virginia – 2020

1b. Does your state enter ERPOs into NCIC, the NICS indices, or both?

Nevada – NICS Indices

Maine – NICS Indices

Illinois – Unknown

Virginia – NICS Indices

1c. What agency is responsible for entering ERPOs?

Nevada – Nevada Department of Public Safety, Brady Point of Contact for NICS Indices entries.

Maine – Maine State Police

Illinois – Sheriff's Office

Virginia – Local agencies

1d. How long are ERPOs effective before they expire?

Nevada – Seven days, can be extended up to one year.

Maine – Determined by the court.

Illinois – Expiration date is set pursuant to court order. Expiration date is a mandatory field.

Virginia – Emergency and Temporary ERPOs are valid for 14 days. A final ERPO is valid for 180 days.

1e. What challenges (if any) does your state face in removing ERPOs from NCIC and/or NICS? Or does your state set an Automatic Expiration Data for ERPOs?

Nevada – Nevada enters the expiration date into the NICS Indices.

Maine – No challenges

Illinois – No response

Virginia – No challenges

1f. How many ERPOs have been ordered since the ERPO law was implemented?

Nevada – 11

Maine – 24

Illinois – 110

Virginia – 155

1g. How many ERPOs have been entered into NCIC or NICS during 2021 (January 1 - December 31, 2021)?

Nevada – 3
Maine – 6
Illinois – unknown
Virginia – 148

1h. Please provide any additional information regarding ERPOs in your state, including a link to policies and/or legislation.

Nevada – https://www.leg.state.nv.us/Session/80th2019/Bills/AB/AB291_EN.pdf

Maine – <https://legislature.maine.gov/legis/statutes/34-B/title34-Bsec3801.html>

Illinois – <https://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=3877&ChapterID=39>

Virginia

<https://law.lis.virginia.gov/vacode/title19.2/chapter9.2/>

<https://law.lis.virginia.gov/vacode/title19.2/chapter9.2/section19.2-152.13/>

<https://law.lis.virginia.gov/vacode/title19.2/chapter9.2/section19.2-152.14/>

<https://law.lis.virginia.gov/vacode/title19.2/chapter9.2/section19.2-152.15/>

<https://law.lis.virginia.gov/vacode/title19.2/chapter9.2/section19.2-152.16/>

<https://law.lis.virginia.gov/vacode/title19.2/chapter9.2/section19.2-152.17/>

2. Are juvenile fingerprints submitted to the state criminal history record repository?

Yes – Arkansas, Kansas, Nevada, Alaska, Missouri, Tennessee, Maine, Idaho, Oklahoma, Minnesota, Michigan, Wisconsin, Illinois, Virginia, Iowa

No – Montana, Utah, Mississippi, North Dakota, Nebraska, Wyoming

2a. Are juvenile arrest records available for in-state purposes only, or are they available for out-of-state inquiries as well?

In-state only – Kansas, Minnesota, Virginia

In-state and out-of-state – Arkansas, Nebraska (In very limited circumstances), Tennessee, Maine, Idaho, Oklahoma, Michigan, Wisconsin, Illinois, Iowa

Neither in-state or out-of-state inquiries – Alaska, Nevada, Missouri

2b. Are juvenile adjudications available to NICS examiners at the FBI?

Yes – Arkansas, Tennessee, Maine, Minnesota, Michigan, Illinois, Iowa

No – Kansas, Alaska, Nevada, Nebraska, Missouri, Idaho, Oklahoma, Wisconsin, Virginia

2c. If your state is a Point-of-Contact state, do state NICS examiners have access to juvenile adjudications?

Yes – Tennessee, Maine, Minnesota, Wisconsin, Illinois, Virginia, Iowa

No – Kansas, Alaska, Nevada, Nebraska, Missouri, Oklahoma

Unknown – Arkansas, Idaho, Michigan

3. Are there certain offenses which would allow a juvenile to be tried as an adult?

Yes – Montana, Arkansas, Utah, Kansas, Mississippi, Alaska, North Dakota, Missouri, Wyoming, Maine, Idaho, Oklahoma, Minnesota, Michigan, Wisconsin, Illinois, Virginia, Iowa

No – None

Unknown – Nevada, Nebraska

3a. If so, what offenses could qualify a juvenile to be tried as an adult?

(See below for specific offenses)

3b. If a juvenile is tried as an adult, are their conviction records available to NICS examiners?

Yes – Montana, Arkansas, Utah, Kansas, Mississippi, Alaska, North Dakota, Missouri, Wyoming, Tennessee, Maine, Idaho, Minnesota, Michigan, Wisconsin, Illinois, Virginia, Iowa

No – None

3c. If a juvenile is adjudicated for an offense that would be considered a felony if the person was an adult, are these records available for firearms checks?

Yes – Utah, North Dakota, Tennessee, Maine, Minnesota, Michigan, Wisconsin, Illinois, Virginia, Iowa

No – Montana, Mississippi, Arkansas, Kansas, Mississippi, Alaska, Missouri, Wyoming, Oklahoma

Unknown – Idaho

4. Does your state submit involuntary mental health commitment records related to juveniles to the NICS Indices?

Yes – Arkansas, Tennessee, Idaho, Wisconsin, Virginia, Iowa

No – Montana, Kansas, Alaska, Nevada, Nebraska, Missouri, Wyoming, Maine, Michigan

Unknown – Utah, Mississippi, North Dakota, Oklahoma, Minnesota, Illinois

4a. If so, how many juvenile mental health records were submitted to the NICS Indices in 2021?

Idaho – 8

Virginia – 10

Iowa – 154

4b. Please provide any information regarding juvenile mental health adjudications that have been expunged.

Tennessee – N/A. The state has not expunged any juvenile mental health adjudications.

Idaho – The juvenile would be able to seek a relief of disability under state law but the adjudication would not be eligible to be expunged. Juvenile records in Idaho are sealed from public disclosure.

Wisconsin – No information available

Virginia – Does not have an expungement process for juvenile mental health orders. However, on original mental health order can be rescinded by a subsequent court order.

3a. Are there certain offenses which would allow a juvenile to be tried as an adult? (Detailed responses)

Montana

- (i) sexual intercourse without consent as defined in 45-5-503;
 - (ii) deliberate homicide as defined in 45-5-102;
 - (iii) mitigated deliberate homicide as defined in 45-5-103;
 - (iv) assault on a peace officer or judicial officer as defined in 45-5-210; or
 - (v) the attempt, as defined in 45-4-103, of or accountability, as provided in 45-2-301, for either deliberate or mitigated deliberate homicide; or
- (b) the youth charged was 16 years of age or older at the time of the conduct alleged to be unlawful and the unlawful act is one or more of the following:
- (i) negligent homicide as defined in 45-5-104;
 - (ii) arson as defined in 45-6-103;
 - (iii) aggravated assault as defined in 45-5-202;
 - (iv) sexual assault as provided in 45-5-502(3);
 - (v) assault with a weapon as defined in 45-5-213;
 - (vi) robbery as defined in 45-5-401;
 - (vii) burglary or aggravated burglary as defined in 45-6-204;
 - (viii) aggravated kidnapping as defined in 45-5-303;
 - (ix) possession of explosives as defined in 45-8-335;
 - (x) criminal distribution of dangerous drugs as defined in 45-9-101;
 - (xi) criminal possession of dangerous drugs as defined in 45-9-102(3);
 - (xii) criminal possession with intent to distribute as defined in 45-9-103(1);
 - (xiii) criminal production or manufacture of dangerous drugs as defined in 45-9-110;
 - (xiv) use of threat to coerce criminal street gang membership or use of violence to coerce criminal street gang membership as defined in 45-8-403;
 - (xv) escape as defined in 45-7-306;

Arkansas

Any offense could be tried as an adult if the juvenile is over 14. A prosecutor makes the initial decision as to whether or not to charge a juvenile as an adult and a Judge may review that decision.

Utah

Murder and Aggravated Murder

Kansas

Felony crimes against a person

Mississippi

Miss. Code Ann. 43-21-151

- Any act attempted or committed by a child, which if committed by an adult would be punishable under state or federal law by life imprisonment or death, will be in the original jurisdiction of the circuit court;
- (b) Any act attempted or committed by a child with the use of a deadly weapon, the carrying of which concealed is prohibited by [Section 97-37-1](#), or a shotgun or a rifle, which would be a felony if committed by an adult, will be in the original jurisdiction of the circuit court;

Miss. Code Ann. 43-21-157

- Outlines factors the youth court may consider prior to transferring a case to adult court.

Alaska

This is outlined in state law under Alaska Statute (AS) 47.12.030 and AS 47.12.100

Alaska Statute (AS) 47.12.030

- Unclassified felony or a class A felony and the felony is a crime against a person;
- Arson in the first degree;
- An offense that is a class B felony and the felony is a crime against a person in which the minor is alleged to have used a deadly weapon in the commission of the offense and the minor was previously adjudicated as a delinquent or convicted as an adult as a result of an offense that involved use of a deadly weapon in the commission of a crime against a person or an offense in another jurisdiction having elements substantially identical to those of a crime against a person, and the previous offense was punishable as a felony.
- Misconduct involving weapons in the first degree
- AS 47.12.100
 - Outline procedures for transferring a juvenile to an adult court

North Dakota

NDCC section 27-20.4-21 addresses transfer of juvenile cases to adult court. A petition must be filed alleging delinquency based on conduct that is a crime or public offense under the laws of this state. The court before hearing the petition on the merits shall transfer the offense for prosecution to the appropriate court having jurisdiction if:

1(a) – the child is over 16 years and requests the transfer

1(b) – the child is 14 or older at the time of the conduct and the court finds probable cause that the child committed the delinquent act and the act involves murder or attempted murder; GSI or attempted GSI of a victim by force or by threat of imminent death, serious bodily injury, or kidnapping

1(c) – the child is 14 or older and the court finds reasonable grounds to believe the child committed the delinquent act, the child is not amenable to treatment as a child, the interests of the community require

the child be placed under legal restraint or discipline; and if the child is 14 or 15, the child committed a delinquent act involving the infliction or threat of serious bodily harm.

Missouri

Felony offenses

Wyoming

Violent felony offenses

Tennessee

A juvenile that is at least seventeen may be transferred for any offense.

Other:

(a) After a petition has been filed alleging delinquency based on conduct that is designated a crime or public offense under the laws, including local ordinances, of this state, the court, before hearing the petition on the merits, may transfer the child to the sheriff of the county to be held according to law and to be dealt with as an adult in the criminal court of competent jurisdiction. The disposition of the child shall be as if the child were an adult if:

(1)(A) The child was:

(i) Less than fourteen (14) years of age at the time of the alleged conduct and charged with first degree murder or second degree murder or attempted first or second degree murder;

(ii) Fourteen (14) years of age or more but less than seventeen (17) years of age at the time of the alleged conduct and charged with the offense of first degree murder, second degree murder, rape, aggravated rape, rape of a child, aggravated rape of a child, aggravated robbery, especially aggravated robbery, aggravated burglary, especially aggravated burglary, kidnapping, aggravated kidnapping, especially aggravated kidnapping, commission of an act of terrorism, carjacking, or an attempt to commit any such offenses;

(iii) Sixteen (16) years of age or more at the time of the alleged conduct and charged with the offense of robbery or attempt to commit robbery; or

(iv) Seventeen (17) years of age or more at the time of the alleged conduct

Maine

It depends on the DA and court proceeding what is determined

Idaho

(a) Murder of any degree or attempted murder;

(b) Robbery;

(c) Rape as defined in section 18-6101, Idaho Code;

(d) Forcible sexual penetration by the use of a foreign object;

(e) Infamous crimes against nature, committed by force or violence;

(f) Mayhem;

(g) Assault or battery with the intent to commit any of the above serious felonies(h) A violation of the provisions of section 37-2732(a)(1)(A), (B) or (C), Idaho Code, when the violation occurred on or within one thousand (1,000) feet of the property of any public or private primary or secondary school, or in

those portions of any building, park, stadium or other structure or grounds which were, at the time of the violation, being used for an activity sponsored by or through such a school;

(i) Arson in the first degree and aggravated arson;

shall be charged, arrested and proceeded against by complaint, indictment or information as an adult.

All other felonies or misdemeanors charged in the complaint, indictment or information, which are

based on the same act or transaction or on one (1) or more acts or transactions as the violent or

controlled substances offense shall similarly be charged, arrested and proceeded against as an adult.

Any juvenile proceeded against pursuant to this section shall be accorded all constitutional rights,

including bail and trial by jury, and procedural safeguards as if that juvenile were an adult defendant.

Oklahoma

Primarily first degree murder and rape or attempts thereof.

Minnesota

Felony level offenses, murder, sex crimes, robbery and burglary

Michigan

[https://legislature.mi.gov/\(S\(01j4jp3nabcr50yw2u2n1vmr\)\)/mileg.aspx?page=getObject&objectName=](https://legislature.mi.gov/(S(01j4jp3nabcr50yw2u2n1vmr))/mileg.aspx?page=getObject&objectName=)

mcl-769-1 (Authority and power of court; crimes for which juvenile to be sentenced as adult)

(a) Arson of a dwelling

(b) Assault with intent to commit murder

(c) Assault with intent to maim in violation

(d) Attempted murder

(e) Conspiracy to commit murder

(f) Solicitation to commit murder

(g) First degree murder

(h) Second degree murder

(i) Kidnapping

(j) First degree criminal sexual conduct

(k) Armed robbery

(l) Carjacking

[https://legislature.mi.gov/\(S\(jwbxttjupdyp3urjniuzvrc\)\)/mileg.aspx?page=getObject&objectName=mcl-](https://legislature.mi.gov/(S(jwbxttjupdyp3urjniuzvrc))/mileg.aspx?page=getObject&objectName=mcl-)

712A-4 (Waiver of jurisdiction when child of 14 or older accused of felony)

Wisconsin

Illinois

(705 ILCS 405/5-130)

Sec. 5-130. Excluded jurisdiction.

(1)(a) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who at the time of an offense was at least 16 years of age and who is charged with: (i) first degree murder, (ii) aggravated criminal sexual assault, or (iii) aggravated battery with a firearm as described in Section 12-4.2 or subdivision (e)(1), (e)(2), (e)(3), or (e)(4) of Section 12-3.05 where the minor personally discharged a firearm as defined in Section 2-15.5 of the Criminal Code of 1961 or the Criminal Code of 2012.

These charges and all other charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

<https://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=070504050K5-130>

Virginia

If 14 years of age or older, any offense that would be a felony if committed by an adult. Virginia has an extensive list for those over 16 years of age enunciated in 16.1-269.1 (B) & (C):

<https://law.lis.virginia.gov/vacode/title16.1/chapter11/section16.1-269.1/>