



What the Bill would accomplish

Require the surrender of firearms for individuals subject to all family violence protection orders.

After the court has issued notice that the restrained party is subject to the provisions the restrained party shall relinquish all firearms in the restrained party's immediate possession or control or subject to the restrained party's possession or control in a safe manner to a law enforcement officer, a law enforcement agency or federal firearms licensee immediately upon service of the order or as directed by the court.

This would bring the family abuse protective order firearm relinquishment in greater alignment with the ERPO firearm relinquishment requirements.

Not at Risk for Second Amendment Challenges

The [9th Circuit](#) has joined the 5th, 6th, and 10th in upholding the federal law prohibiting people subject to certain protective orders that do not include a finding of credible threat, but do, explicitly prohibit the use, attempted use, or threatened use of physical force. Their reasoning closely tracks the other cases - that these provisions are two avenues to the same determination that respondents are dangerous.

There is clear consensus developing at the circuit court level that credible threat is not required to satisfy the Second Amendment.

History of Law in New Mexico

In 2019, New Mexico enacted a law prohibiting individuals convicted of certain domestic violence misdemeanors, including battery against a household member, criminal damage to household member's property, stalking of any person, or a misdemeanor crimes of domestic violence as defined under federal law, from receiving, transporting or possession a firearm. The 2019 law prohibited individuals subject to final family violence protections orders from receiving, transporting, or possessing a firearm. It also required individuals subject to certain orders to surrender any firearm in their possession, care, custody or control in a safe manner to law enforcement or an FFL within 48 hours of being served with the order. For a court to order surrender of firearms, the court must determine that the restrained party presents a credible threat to the physical safety of the petitioner. To order the form indicating that the court finds that the restrained party presents a credible threat to the physical safety of the petitioner and check another box directing the restrained part to surrender the firearms.