

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

_____ BILL

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO DOMESTIC AFFAIRS; CREATING THE EXTREME RISK PROTECTION ORDER ACT; PROVIDING FOR THE ISSUANCE OF COURT ORDERS TO REQUIRE THE RELINQUISHMENT OF FIREARMS FOR SOME PERIOD UNDER CERTAIN CIRCUMSTANCES; PROVIDING PENALTIES; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 16 of this act may be cited as the "Extreme Risk Protection Order Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Extreme Risk Protection Order Act:

A. "extreme risk protection order" means an order issued by a court pursuant to Section 5, 6 or 7 of the Extreme Risk Protection Order Act;

.210975.2

underscoring material = new
[bracketed material] = delete

underscoring material = new
~~[bracketed material] = delete~~

1 B. "firearm" means any weapon that will or is
2 designed to or may readily be converted to expel a projectile
3 by the action of an explosion; the frame or receiver of any
4 such weapon; or any firearm muffler or firearm silencer.

5 "Firearm" includes any handgun, rifle or shotgun;

6 C. "household member" means a spouse, former
7 spouse, parent, present or former stepparent, present or former
8 parent-in-law, grandparent, grandparent-in-law, child,
9 stepchild, grandchild, a person who has a child in common with
10 another person, regardless of whether they have been married or
11 have lived together at any time, or a person with whom the
12 petitioner has been in a dating or intimate relationship.
13 Cohabitation is not necessary to be deemed a household member
14 for purposes of this section;

15 D. "law enforcement officer" means a public
16 official or public officer vested by law with a duty to
17 maintain public order or to make arrests for crime, whether
18 that duty extends to all crimes or is limited to specific
19 crimes;

20 E. "petitioner" means a household member as defined
21 in Subsection C of this section or law enforcement officer as
22 defined in Subsection D of this section;

23 F. "respondent" means the person identified in an
24 extreme risk protection order petition, or subject to an
25 extreme risk protection order, issued pursuant to Section 5, 6

.210975.2

underscored material = new
[bracketed material] = delete

1 or 7 of the Extreme Risk Protection Order Act;

2 G. "safety device" means a device that, when
3 installed on a firearm, is designed to prevent the firearm from
4 being operated without first deactivating the device; and

5 H. "secure gun storage" means a safe, gun safe, gun
6 case, lock box or other device that is designed to, or can be
7 used to, store a firearm and that is designed to be unlocked
8 only by means of a key, a combination or other similar means.

9 SECTION 3. [NEW MATERIAL] PETITION FOR EXTREME RISK
10 PROTECTION ORDER--CONTENTS--STANDARD FORMS.--

11 A. A petitioner may seek an extreme risk protection
12 order by filing a petition in the district court of the
13 judicial district where either the petitioner or respondent
14 resides or is sheltered. Law enforcement agencies and the
15 clerk of the court shall make available upon request standard
16 simplified petition forms with instructions for completion
17 approved by the administrative office of the courts.

18 B. A petition for an extreme risk protection order
19 shall be made under oath and shall be accompanied by a sworn
20 affidavit setting out specific facts demonstrating the grounds
21 for the order.

22 C. A petition for an extreme risk protection order
23 shall contain:

24 (1) the name and address of the petitioner;
25 provided that upon the request of the petitioner, the address

.210975.2

1 shall not be listed on the petition but shall be disclosed to
2 the court;

3 (2) if known, the respondent's name and
4 address;

5 (3) if known or suspected, a description of
6 the number, types and locations of firearms or ammunition that
7 the petitioner believes the respondent has custody of,
8 controls, owns or possesses;

9 (4) a description of the relationship between
10 the parties;

11 (5) if known, disclosure of whether there has
12 been issued an extreme risk protection order pursuant to the
13 Extreme Risk Protection Order Act, an order of protection
14 pursuant to the Family Violence Protection Act, a civil
15 restraining order pursuant to Rule 1-066 NMRA or a similar
16 order under the laws of another state between the parties or
17 against the respondent; and

18 (6) if known, disclosure of whether there is a
19 pending lawsuit, complaint, petition or other action between
20 the parties under the laws of this state.

21 D. The court shall not delay granting relief
22 because of the existence of an order or legal action between
23 the parties or the requirement to verify the terms of an
24 existing order.

25 E. Health care information disclosed is

.210975.2

underscored material = new
[bracketed material] = delete

1 confidential unless released:

2 (1) with the prior written consent of the
3 person;

4 (2) pursuant to a court order;

5 (3) when necessary to provide treatment,
6 payment and operations in accordance with the federal Health
7 Insurance Portability and Accountability Act of 1996; or

8 (4) to law enforcement, when the information
9 is necessary for law enforcement to fulfill the requirements of
10 the Extreme Risk Protection Order Act.

11 F. Aggregate statistical data indicating the number
12 of extreme risk protection orders issued, renewed, denied,
13 dissolved or terminated shall be kept by the district courts or
14 court administrator and shall be available to the public upon
15 request.

16 G. Remedies granted pursuant to the Extreme Risk
17 Protection Order Act are in addition to and shall not limit
18 other civil or criminal remedies available to the parties.

19 SECTION 4. [NEW MATERIAL] FORBEARANCE OF COSTS ASSOCIATED
20 WITH EXTREME RISK PROTECTION ORDERS.--A petitioner for an
21 extreme risk protection order shall not be required to bear the
22 cost of:

23 A. the filing, issuance or service of a petition
24 for an extreme risk protection order;

25 B. the filing, issuance or service of a warrant;

.210975.2

underscoring material = new
~~[bracketed material] = delete~~

1 C. the filing, issuance or service of a witness
2 subpoena;

3 D. service of an extreme risk protection order
4 issued pursuant to Section 5, 6 or 7 of the Extreme Risk
5 Protection Order Act;

6 E. obtaining law enforcement reports or photographs
7 or copies of photographs relating to the allegations in the
8 petition; or

9 F. any cost associated with the confiscation,
10 storage or destruction of a firearm confiscated pursuant to the
11 Extreme Risk Protection Order Act.

12 SECTION 5. [NEW MATERIAL] EMERGENCY EXTREME RISK
13 PROTECTION ORDERS.--

14 A. A district court shall issue an emergency
15 extreme risk protection order when a law enforcement officer
16 states to the court, in person or through reliable electronic
17 means, the need for an emergency extreme risk protection order
18 if the court finds that there is probable cause to believe that
19 the respondent poses an immediate danger of causing personal
20 injury to self or others by having custody, control or
21 possession of a firearm or ammunition. The statement shall
22 include the location and telephone number of the respondent, if
23 known.

24 B. A law enforcement officer who receives an
25 emergency extreme risk protection order from the court, whether

.210975.2

1 in writing or through reliable electronic means, shall:

2 (1) if possible, immediately serve a signed
3 copy of the order on the respondent and complete the
4 appropriate affidavit of service; and

5 (2) after service, provide the original order
6 to the court by the close of business on the next business day.

7 C. A district judge shall be available as
8 determined by each judicial district to hear petitions for an
9 emergency extreme risk protection order when the court is
10 closed.

11 D. An emergency extreme risk protection order shall
12 expire ten days after issuance. The court shall conduct a
13 hearing within ten days of the issuance of an emergency extreme
14 risk protection order to determine if a one-year extreme risk
15 protection order shall be issued pursuant to Section 7 of the
16 Extreme Risk Protection Order Act; provided that if notice of
17 hearing cannot be served within seventy-two hours of issuance,
18 the emergency extreme risk protection order shall be
19 automatically extended for ten days. A respondent may seek an
20 extension of the hearing date at any time before the hearing;
21 provided that the emergency extreme risk protection order shall
22 automatically be extended for any extension of time granted the
23 respondent.

24 E. An emergency extreme risk protection order
25 issued by a court pursuant to this section shall include:

.210975.2

underscoring material = new
~~[bracketed material] = delete~~

1 (1) a statement that the respondent shall not
2 have custody or control of, purchase, possess or receive or
3 attempt to purchase or receive a firearm or ammunition while
4 the order is in effect;

5 (2) a description of the requirements for
6 relinquishment of firearms and ammunition under Section 10 of
7 the Extreme Risk Protection Order Act;

8 (3) a statement of the grounds asserted for
9 the order;

10 (4) notice of the hearing required under
11 Section 7 of the Extreme Risk Protection Order Act to determine
12 whether the court will issue a one-year extreme risk protection
13 order, including the address of the court and the date and time
14 when the hearing is scheduled;

15 (5) a statement that at the hearing the court
16 may extend the order for one year;

17 (6) a statement that the respondent may seek
18 the advice of an attorney as to matters connected with the
19 order and that the attorney should be consulted promptly to
20 properly assist the respondent; and

21 (7) a statement that any violation of the
22 order is a misdemeanor punishable pursuant to Section 31-19-1
23 NMSA 1978.

24 F. An emergency extreme risk protection order shall
25 be personally served on the respondent by a law enforcement

.210975.2

underscored material = new
[bracketed material] = delete

1 officer in accordance with Rule 1-004(f) NMRA. If a law
2 enforcement officer cannot personally serve the order, then a
3 law enforcement officer may serve the order in any manner
4 directed by the court issuing the order in accordance with Rule
5 1-004 NMRA.

6 SECTION 6. [NEW MATERIAL] EX PARTE TEMPORARY EXTREME RISK
7 PROTECTION ORDERS.--

8 A. A petitioner requesting an ex parte temporary
9 extreme risk protection order shall, in the petition for a
10 one-year extreme risk protection order, include a sworn
11 statement with detailed allegations based on personal knowledge
12 that the respondent poses an immediate danger of causing
13 personal injury to self or others by having in his or her
14 custody or control, purchasing, possessing or receiving a
15 firearm or ammunition.

16 B. A district court shall immediately issue an ex
17 parte temporary extreme risk protection order if the court
18 finds that there is probable cause to believe that the
19 respondent poses an immediate danger of causing personal injury
20 to self or others by having custody, control or possession of a
21 firearm or ammunition.

22 C. If an ex parte temporary extreme risk protection
23 order is granted, the court shall:

24 (1) cause the ex parte temporary extreme risk
25 protection order along with notice of a hearing to be to be

underscored material = new
~~[bracketed material] = delete~~

1 served immediately on the respondent;

2 (2) cause a notice of hearing for a one-year
3 extreme risk protection order to be served immediately on the
4 respondent; and

5 (3) conduct a hearing within ten days of the
6 issuance of the ex parte temporary extreme risk protection
7 order to determine if a one-year extreme risk protection order
8 shall be issued pursuant to Section 7 of the Extreme Risk
9 Protection Order Act; provided that if notice of hearing cannot
10 be served within seventy-two hours, the ex parte temporary
11 extreme risk protection order shall be automatically extended
12 for ten days. A respondent may seek an extension of the
13 hearing date at any time before the hearing; provided that the
14 ex parte temporary extreme risk protection order shall
15 automatically be extended for any extension of time granted the
16 respondent.

17 D. If an ex parte temporary extreme risk protection
18 order is not granted, the court shall serve notice to appear
19 upon the parties and hold a hearing on the petition for an
20 extreme risk protection order pursuant to Section 7 of the
21 Extreme Risk Protection Order Act within ten days of the denial
22 of the ex parte temporary extreme risk protection order. A
23 petitioner may seek an extension of time before the hearing.

24 E. The court shall hear petitions for ex parte
25 temporary extreme risk protection orders on the same day the

.210975.2

underscoring material = new
~~[bracketed material] = delete~~

1 petition is submitted to the court, unless the petition is
2 filed too late in the day to permit effective review, in which
3 case the order shall be issued or denied before the end of the
4 next business day.

5 F. An ex parte temporary extreme risk protection
6 order issued by the court shall include:

7 (1) a statement that the respondent shall not
8 have custody or control of, purchase, possess or receive or
9 attempt to purchase or receive a firearm or ammunition while
10 the order is in effect;

11 (2) a description of the requirements for
12 relinquishment of firearms and ammunition under Section 10 of
13 the Extreme Risk Protection Order Act;

14 (3) a statement of the grounds asserted for
15 the order;

16 (4) notice of the hearing required under
17 Section 7 of the Extreme Risk Protection Order Act to determine
18 whether the court will issue a one-year extreme risk protection
19 order, including the address of the court and the date and time
20 when the hearing is scheduled;

21 (5) a statement that at the hearing the court
22 may extend the order for one year;

23 (6) a statement that the respondent may seek
24 the advice of an attorney as to matters connected with the
25 order and the attorney should be consulted promptly to properly

.210975.2

underscoring material = new
[bracketed material] = delete

1 assist the respondent; and

2 (7) a statement that any violation of the
3 order is a misdemeanor punishable pursuant to Section 31-19-1
4 NMSA 1978.

5 G. An ex parte temporary extreme risk protection
6 order shall be personally served on the respondent by a law
7 enforcement officer in accordance with Rule 1-004(f) NMRA. If
8 a law enforcement officer cannot personally serve the order,
9 then a law enforcement officer may serve the order in any
10 manner directed by the court issuing the order in accordance
11 with Rule 1-004 NMRA.

12 SECTION 7. [NEW MATERIAL] ONE-YEAR EXTREME RISK
13 PROTECTION ORDERS.--

14 A. A petitioner requesting a one-year extreme risk
15 protection order shall include in the petition detailed
16 allegations based on personal knowledge that the respondent
17 poses a significant danger of causing personal injury to self
18 or others by having in the respondent's custody or control,
19 purchasing, possessing or receiving a firearm or ammunition.

20 B. Before issuing a one-year extreme risk
21 protection order, the court shall ensure that a reasonable
22 search has been conducted for:

- 23 (1) criminal history records related to the
24 respondent; and
- 25 (2) civil orders of protection or restraining

underscoring material = new
~~[bracketed material] = delete~~

1 orders related to the respondent.

2 C. In determining whether to issue a one-year
3 extreme risk protection order under this section, the court
4 shall consider all relevant information presented by the
5 petitioner and shall also consider other relevant information,
6 including information relating to any:

7 (1) act or threat of violence against one's
8 self or another, whether or not involving a firearm;

9 (2) unlawful, reckless or negligent use,
10 display, storage, possession or brandishing of a firearm;

11 (3) violation of an order of protection issued
12 pursuant to the Family Violence Protection Act, a civil
13 harassment restraining order issued pursuant to Rule 1-066 NMRA
14 or a similar law in another state;

15 (4) misuse of controlled substances or alcohol
16 or any arrest for a criminal offense that involves controlled
17 substances or alcohol; or

18 (5) the recent acquisition of a firearm,
19 ammunition or other deadly weapon.

20 D. If the court finds by a preponderance of the
21 evidence at the hearing that the respondent poses a significant
22 danger of personal injury to self or others by having custody
23 or control, purchasing, possessing or receiving a firearm or
24 ammunition, the court shall issue a one-year extreme risk
25 protection order.

.210975.2

underscoring material = new
~~[bracketed material] = delete~~

1 E. The court shall dissolve any emergency or ex
2 parte temporary extreme risk protection order in effect against
3 the respondent when the court grants or denies a one-year
4 extreme risk protection order.

5 F. A one-year extreme risk protection order shall
6 include:

7 (1) a statement that the respondent shall not
8 have custody or control of, purchase, possess or receive or
9 attempt to purchase or receive a firearm or ammunition while
10 the order is in effect;

11 (2) a description of the requirements for
12 relinquishment of firearms and ammunition under Section 10 of
13 the Extreme Risk Protection Order Act;

14 (3) a statement of the grounds for the order;

15 (4) the date and time the order expires;

16 (5) the address of the court that issued the
17 order;

18 (6) a statement that the respondent shall have
19 the right to request one hearing to terminate the order at any
20 time during its effective period;

21 (7) a statement that the respondent may seek
22 the advice of an attorney as to any matter connected with the
23 order; and

24 (8) a statement that violation of any
25 provision of the order is a misdemeanor punishable pursuant to

.210975.2

underscoring material = new
[bracketed material] = delete

1 Section 31-19-1 NMSA 1978.

2 G. If the respondent fails to appear at the
3 hearing, a one-year extreme risk protection order issued
4 pursuant to this section shall be personally served on the
5 respondent by a law enforcement officer in accordance with Rule
6 1-004(f) NMRA. If a law enforcement officer cannot personally
7 serve the order, then a law enforcement officer may serve the
8 order in any manner directed by the court issuing the order in
9 accordance with Rule 1-004 NMRA.

10 SECTION 8. [NEW MATERIAL] TERMINATION OF ONE-YEAR EXTREME
11 RISK PROTECTION ORDERS.--

12 A. A respondent to a one-year extreme risk
13 protection order issued under Section 7 of the Extreme Risk
14 Protection Order Act may submit one written request for a
15 hearing to terminate the order at any time during the effective
16 period of the order.

17 B. Upon receipt of the request for termination, the
18 court shall set a date for a hearing. Notice of the request
19 shall be served on the petitioner in accordance with Rule 1-004
20 NMRA. The hearing shall occur no sooner than fourteen days and
21 no later than thirty days from the date of service of the
22 request upon the petitioner.

23 C. The respondent seeking termination of the one-
24 year extreme risk protection order shall have the burden of
25 proving by a preponderance of the evidence that the respondent

.210975.2

underscoring material = new
~~[bracketed material] = delete~~

1 does not pose a significant danger of causing personal injury
2 to self or others by having custody or control of, purchasing,
3 possessing or receiving a firearm or ammunition.

4 D. If the court grants the respondent's request,
5 the court shall terminate the order.

6 SECTION 9. [NEW MATERIAL] EXTENSION OF ONE-YEAR EXTREME
7 RISK PROTECTION ORDERS.--

8 A. A petitioner may request extension of a one-year
9 extreme risk protection order at any time within the three
10 months before the expiration of the order.

11 B. Upon receipt of the request for extension, the
12 court shall set a date for a hearing. Notice of the request
13 shall be served on the respondent in accordance with Rule 1-004
14 NMRA. If a petition to extend an order is filed within
15 fourteen days prior to the expiration of a one-year extreme
16 risk protection order, the court shall set a hearing to occur
17 as soon as is practicable. If the court is unable to set a
18 hearing on the petition to extend the extreme risk protection
19 order before the expiration of the one-year order, the court
20 may extend the one-year order for thirty days or until the date
21 of the hearing, whichever occurs first.

22 C. A court may, after notice and hearing, extend a
23 one-year extreme risk protection order if the court finds by a
24 preponderance of the evidence that the respondent continues to
25 pose a significant danger of causing personal injury to self or

.210975.2

underscored material = new
[bracketed material] = delete

1 another by having in custody or control, purchasing, possessing
2 or receiving a firearm or ammunition.

3 D. In determining whether to extend a one-year
4 extreme risk protection order issued under this section, the
5 court shall consider all relevant information presented by the
6 petitioner and may also consider other relevant information,
7 including information related to the facts identified in
8 Subsection C of Section 7 of the Extreme Risk Protection Order
9 Act.

10 E. A one-year extreme risk protection order
11 extended pursuant to this section shall expire one year from
12 the date of the order granting the extension, subject to
13 termination by further order of the court at a hearing held
14 pursuant to Subsection B of this section.

15 SECTION 10. [NEW MATERIAL] RELINQUISHMENT OF FIREARMS AND
16 AMMUNITION.--

17 A. Upon issuance of any extreme risk protection
18 order and a finding of probable cause that the respondent has
19 custody or control of, owns or possesses a firearm or
20 ammunition, the court shall issue, and there shall be executed,
21 a search warrant pursuant to Rule 5-211 NMRA describing the
22 firearm or ammunition and authorizing a search of the location
23 where the firearm or ammunition is reasonably believed to be
24 and authorizing the seizure of any firearm or ammunition
25 discovered pursuant to the search.

.210975.2

underscoring material = new
~~[bracketed material] = delete~~

1 B. A law enforcement officer serving any extreme
2 risk protection order shall request that all firearms and
3 ammunition in the respondent's custody or control or that the
4 respondent possesses or owns be immediately surrendered. The
5 officer shall take possession of all firearms and ammunition
6 that are surrendered, in plain sight or discovered pursuant to
7 a lawful search.

8 C. A law enforcement officer taking possession of
9 firearms or ammunition pursuant to an extreme risk protection
10 order shall give to the respondent a copy of the inventory of
11 firearms and ammunition taken. Within seventy-two hours of
12 serving the respondent with the order, the law enforcement
13 officer serving the order shall file the original inventory
14 with the court that issued the one-year extreme risk protection
15 order and shall ensure that the law enforcement agency retains
16 a copy of the inventory.

17 D. A court that has probable cause to believe a
18 respondent has custody or control of, owns or possesses
19 firearms or ammunition that the respondent failed to surrender
20 pursuant to this section, or who has received or purchased a
21 firearm or ammunition while subject to an extreme risk
22 protection order, shall issue, and there shall be executed, a
23 search warrant pursuant to Rule 5-211 NMRA describing the
24 firearm or ammunition and authorizing a search of the location
25 where the firearm or ammunition is reasonably believed to be

.210975.2

underscored material = new
[bracketed material] = delete

1 and authorizing the seizure of any firearm or ammunition
2 discovered pursuant to the search.

3 E. A law enforcement agency may charge the
4 respondent a reasonable fee not to exceed the actual cost
5 incurred by the law enforcement agency for storing a firearm or
6 ammunition surrendered pursuant to this section for the
7 duration of the extreme risk protection order and any
8 additional periods necessary to comply with the requirements of
9 the Extreme Risk Protection Order Act or as directed by the
10 court. The law enforcement agency may retain the firearm and
11 ammunition until the fee is paid.

12 F. Evidence establishing ownership or possession of
13 a firearm relinquished or seized pursuant to this section shall
14 not be admissible as evidence in any unrelated criminal
15 proceeding.

16 SECTION 11. [NEW MATERIAL] RETURN AND DISPOSAL OF
17 FIREARMS AND AMMUNITION.--

18 A. Thirty days prior to the expiration of a one-
19 year extreme risk protection order, the law enforcement agency
20 holding a firearm or ammunition relinquished pursuant to the
21 order shall notify the petitioner of the date that the order
22 will expire. The notice shall advise the petitioner of the
23 procedures for seeking an extension of the order pursuant to
24 Section 9 of the Extreme Risk Protection Order Act.

25 B. The law enforcement agency shall make a

1 firearm available within thirty days of receipt of a request
2 from a respondent who is then currently eligible to own
3 and possess a firearm.

4 C. A respondent who has relinquished a firearm or
5 ammunition to a law enforcement agency pursuant to the Extreme
6 Risk Protection Order Act and who does not wish the firearm or
7 ammunition returned or who is no longer eligible to own or
8 possess a firearm or ammunition may sell or transfer the
9 firearm or ammunition to a licensed firearms dealer. The law
10 enforcement agency shall not release the firearm or ammunition
11 to a licensed firearms dealer until:

12 (1) the licensed firearms dealer has displayed
13 proof that the respondent has transferred the firearm or
14 ammunition to the dealer; and

15 (2) the law enforcement agency has verified
16 the transfer with the respondent.

17 D. If a person other than the respondent claims
18 ownership of a firearm or ammunition relinquished pursuant to
19 the Extreme Risk Protection Order Act and the law enforcement
20 agency determines that the person is the lawful owner of the
21 firearm or ammunition, the firearm or ammunition shall be
22 released to that person.

23 E. A law enforcement agency holding a firearm or
24 ammunition relinquished pursuant to the Extreme Risk Protection
25 Order Act may dispose of the firearm or ammunition six months

underscoring material = new
[bracketed material] = delete

1 from the date of proper notice to the respondent of the intent
2 to dispose of the firearm or ammunition unless the firearm or
3 ammunition is claimed by the lawful owner. If the firearm or
4 ammunition remains unclaimed after six months from the date of
5 notice, no party may assert ownership and the law enforcement
6 agency may dispose of the firearm or ammunition.

7 F. For the purposes of this section:

8 (1) "dispose" means to destroy a firearm or
9 ammunition or to sell or transfer the firearm or ammunition to
10 a licensed firearms dealer; and

11 (2) "licensed firearms dealer" means a person
12 licensed pursuant to 18 U.S.C. Section 921, et seq.

13 SECTION 12. [NEW MATERIAL] REPORTING OF EXTREME RISK
14 PROTECTION ORDERS.--No later than one business day after a
15 court issues, extends, dissolves or terminates an emergency, ex
16 parte temporary or one-year extreme risk protection order
17 relating to an adult respondent, the administrative office of
18 the courts or other authorized entity shall obtain and
19 electronically transmit information from the court proceedings
20 relating to the respondent's eligibility to receive or possess
21 a firearm or ammunition to the federal bureau of
22 investigation's national instant criminal background check
23 system.

24 SECTION 13. [NEW MATERIAL] PENALTIES.--

25 A. A person who files a petition, provides

.210975.2

underscored material = new
[bracketed material] = delete

1 information or otherwise participates in proceedings authorized
2 by the Extreme Risk Protection Order Act shall be immune from
3 civil or criminal liability unless the person acted in bad
4 faith or with malicious purpose.

5 B. A person who has custody or control of, owns,
6 purchases, possesses or receives a firearm or ammunition in
7 violation of an extreme risk protection order is guilty of a
8 misdemeanor punishable pursuant to Section 31-19-1 NMSA 1978
9 and upon conviction shall be prohibited under state law from
10 having custody or control of, owning, purchasing, possessing or
11 receiving or attempting to purchase or receive a firearm or
12 ammunition for a period of five years from the date of
13 conviction.

14 SECTION 14. [NEW MATERIAL] OTHER AUTHORITY.--The Extreme
15 Risk Protection Order Act shall not affect the authority to
16 remove a firearm or ammunition from a person pursuant to other
17 lawful authority.

18 SECTION 15. [NEW MATERIAL] LACK OF LIABILITY FOR FAILURE
19 TO SEEK ORDER.--The Extreme Risk Protection Order Act shall not
20 be construed to impose criminal or civil liability on a person
21 who does not seek an extreme risk protection order pursuant to
22 that act.

23 SECTION 16. [NEW MATERIAL] SAFE STORAGE OF FIREARMS.--

24 A. A person who has custody of, controls or
25 possesses a firearm and who resides with a respondent subject

.210975.2

underscoring material = new
[bracketed material] = delete

1 to an extreme risk protection order issued under the Extreme
2 Risk Protection Order Act or the laws of another state shall
3 safely secure the firearm by:

4 (1) locking the firearm in a secure gun
5 storage or rendering the firearm inoperable by the use of a
6 safety device; or

7 (2) having the firearm on the person or in
8 close proximity so that the firearm is readily accessible for
9 use by the person and is not readily accessible by the
10 respondent.

11 B. A person who violates this section is guilty of
12 a misdemeanor.

13 SECTION 17. Section 29-19-4 NMSA 1978 (being Laws 2003,
14 Chapter 255, Section 4, as amended) is amended to read:

15 "29-19-4. APPLICANT QUALIFICATIONS.--

16 A. The department shall issue a concealed handgun
17 license to an applicant who:

18 (1) is a citizen of the United States;

19 (2) is a resident of New Mexico or is a member
20 of the armed forces whose permanent duty station is located in
21 New Mexico or is a dependent of such a member;

22 (3) is twenty-one years of age or older;

23 (4) is not a fugitive from justice;

24 (5) has not been convicted of a felony in New

25 Mexico or any other state or pursuant to the laws of the United

.210975.2

underscored material = new
[bracketed material] = delete

1 States or any other jurisdiction;

2 (6) is not currently under indictment for a
3 felony criminal offense in New Mexico or any other state or
4 pursuant to the laws of the United States or any other
5 jurisdiction;

6 (7) is not otherwise prohibited by federal law
7 or the law of any other jurisdiction from purchasing or
8 possessing a firearm;

9 (8) has not been adjudicated mentally
10 incompetent or committed to a mental institution;

11 (9) is not addicted to alcohol or controlled
12 substances; ~~and~~

13 (10) has satisfactorily completed a firearms
14 training course approved by the department for the category and
15 the largest caliber of handgun that the applicant wants to be
16 licensed to carry as a concealed handgun; and

17 (11) is not subject to an extreme risk
18 protection order issued pursuant to the Extreme Risk Protection
19 Order Act.

20 B. The department shall deny a concealed handgun
21 license to an applicant who has:

22 (1) received a conditional discharge, a
23 diversion or a deferment or has been convicted of, pled guilty
24 to or entered a plea of nolo contendere to a misdemeanor
25 offense involving a crime of violence within ten years

.210975.2

underscoring material = new
~~[bracketed material] = delete~~

1 immediately preceding the application;

2 (2) been convicted of a misdemeanor offense
3 involving driving while under the influence of intoxicating
4 liquor or drugs within five years immediately preceding the
5 application for a concealed handgun license;

6 (3) been convicted of a misdemeanor offense
7 involving the possession or abuse of a controlled substance
8 within ten years immediately preceding the application; or

9 (4) been convicted of a misdemeanor offense
10 involving assault, battery or battery against a household
11 member.

12 C. Firearms training course instructors who are
13 approved by the department shall not be required to complete a
14 firearms training course pursuant to Paragraph (10) of
15 Subsection A of this section."

16 SECTION 18. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2019.

18 - 25 -

19
20
21
22
23
24
25