



## **DOMESTIC VIOLENCE FIREARM RELINQUISHMENT BILL**

**1. Makes it a fourth-degree felony to possess a firearm if the person has been convicted of any of the following misdemeanors:**

- N.M. Stat. Ann. § 30-3-15 Battery against a household member.
- N.M. Stat. Ann. § 30-3-16 (B) Aggravated Battery Against a Household Member, painful disfigurement
- N.M. Stat. Ann § 30-3-18 Criminal damage to property of a household member
- N.M. Stat. Ann § 30-3A-3 Stalking

**2. Makes it a fourth-degree felony to possess a firearm while the restrained party is:**

- under a domestic violence order of protection

**3. Requires the restrained party to relinquish all firearms to law enforcement for the duration of the order of protection and prohibits purchasing or receiving a firearm during that time**

- the restrained party may voluntarily relinquish firearms to a peace officer after being served with the order of protection
- the officer may take any firearm belonging to the restrained party that is in plain sight.
- the restrained party has 48 hours after being served to relinquish all firearms to law enforcement
- if the restrained party does not own any firearms they must file a declaration of non-relinquishment with the court
- if the court has probable cause to believe the restrained party has an un-relinquished firearm in violation of the court order, the court may issue a search warrant authorizing law enforcement to seize the firearm

**4. When firearms are relinquished:**

- the law enforcement agency issues a receipt to the restrained party and keeps a copy

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- within 72 hours of relinquishment, law enforcement sends a copy of the receipt to the court
- within 5 days of relinquishment, law enforcement sends a copy of the receipt to the protected party.

**5. A law enforcement agency is immune from civil or criminal liability for any damage or deterioration to any firearm stored or transported**

- unless the damage is due to of recklessness, gross negligence, or intentional misconduct by the law enforcement agency

**6. If the restrained party is required to carry a firearm for employment purposes, the court may allow that person to continue to carry a firearm either on duty or off duty:**

- if the court finds that the restrained person does not pose a threat to the protected party or any other person

**7. Evidence of firearm relinquishment is not admissible in another proceeding**

- any written statements or testimony given by the restrained party acknowledging possession or ownership of a firearm may not be admitted in any unrelated criminal case.

**8. When the order of protection lapses, law enforcement notifies the respondent to pick up the firearm. Law enforcement must return the firearm within 30 days of the request unless:**

- the restrained party is not the lawful owner of the firearm
- the restrained party is prohibited from possessing a firearm under state or federal law, or
- another successive protective order is issued against the restrained party under this section
- a restrained party who is no longer eligible to possess a firearm, may sell or transfer title of the firearm to a licensed firearms dealer
- if a person other than the restrained party is the rightful lawful owner of the firearm, the firearm shall be returned to the rightful owner
- if a firearm is not retrieved within 6 months, the law enforcement agency may dispose of the firearm by transferring it to a federally licensed dealer

**9. Each court clerk's office develops standard receipt forms and declaration of non-relinquishment forms for use under this section.**

**10. Each law enforcement agency develops its own policies for handling relinquishment, storage and return of firearms**

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