

LFC Requester:

Scott Sanchez

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

Analysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date 27JAN2024

Bill No: HB27 HCPAC Substitute

Sponsor: Joy Garratt; Christine Chandler
Extreme Fire Risk Protection Order
Changes- HCPAC Substitute

Agency Name and Code 790-Department of Public Safety

Number:

Person Writing Carolyn Huynh

Short Title: _____

Phone: 505-681-2861

Email CarolynN.Huynh@dps.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

This committee substitute seeks to further clarify and expand the scope of extreme risk firearm protection orders (ERFPO) under state law. The substitute cleans up some language from the 2020 statute and 2024 bill by adding licensed health care professionals with clarifying definitions and includes a list of whom is allowed to be a reporting party and removes law enforcement from the addition proposed in the original bill. The substitute, like the original HB27, amends the duration language from a one-year order to a three-hundred and sixty-five-day mandatory expiration period after issuance.

Additionally, the substitute adds university to the list of law enforcement agencies who can file the petition and keeps the bill’s proposed requirement that the district attorney or attorney general’s office file the petition if a law enforcement officer is listed as the respondent on an ERFPO petition. The substitute leaves the original bill’s addition of a forty-eight-hour deadline for written notice to the reporting party when law enforcement declines to file a petition.

The substitute expands the jurisdiction where a petition can be filed, including in district courts where the firearm is located, or the predicate incident(s) occurred. If passed, the substitute, like the original bill expands access to the courts upon the initial filing of the petition by allowing law enforcement to orally petition the court followed by a filing of a written petition within twenty-four hours and requiring a district court to be available at all times to review petitions as they are filed and mandates the issuance of a temporary ERPO if probable cause exists. The substitute removes the original bill’s language proposing to allow for a domestic violence commissioner to be appointed to review petitions and also removes the provision that an order under the statute is a final, appealable order.

Upon a finding of probable cause and along with the issuance of the temporary order by the district court, the substitute includes the bill’s addition to the minimum requirements of the order by ordering respondent to immediately, upon service of the order, relinquish the firearm subject to the order. In addition, a notice that the violation of the order is a misdemeanor shall be included in the order. The substitute removes the original bill’s proposed addition that within the temporary order a sufficient description of the firearm subject to relinquishment must also be included. The substitute clarifies that if the court declines to issue a temporary order, it shall dismiss the petition without prejudice.

If passed, HB27 CPS would require a respondent subject to an ERFPO to immediately upon service of the order or as directed by the court to to relinquish all firearms in their possession and

allows law enforcement to request orally or in writing a search warrant if they believe a respondent is in violation of an ERFPO.

The substitute clarifies the district court clerk's responsibilities with entering orders and renewals into the national instance criminal background check system and with timely removal of the orders as they are termination by expiration or by dismissals but includes additional requirements for law enforcement agencies, who upon receipt of a copy of an order, must enter the order into "national crime information center computerized index and other criminal intelligence systems and databases use by the law enforcement agency."

Further, upon the expiration or termination of an ERFPO, the return of the firearm(s) is predicated upon a request by the respondent. Additionally, the bill would add a provision to the current law to allow for a law enforcement agency in possession of a firearm relinquished pursuant to an ERFPO to destroy, sell, or transfer an unclaimed firearm three hundred and sixty-five days following notice of the agency's intent to sell, destroy or transfer the firearm.

FISCAL IMPLICATIONS

No fiscal impact to DPS.

SIGNIFICANT ISSUES

By not identifying a law enforcement officer as an option for being a reporting party will limit the ability of an officer to petition for an ERPO order as it is a requirement to petition for an order one must have a reporting party.

PERFORMANCE IMPLICATIONS

An attorney with a district attorney's or the attorney general's office is not considered a law enforcement officer and the bill could further clarify that only when a law enforcement officer is a respondent would a prosecutor be able to file a petition with the court.

ADMINISTRATIVE IMPLICATIONS

For DPS and other law enforcement agencies, the forty-eight hour deadline for providing a reporting party with a *written* notice for declining to file a petition would create a burden based upon agency operational needs.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

No conflict, duplication, companionship, or relationship issues to DPS.

TECHNICAL ISSUES

Exec team?

OTHER SUBSTANTIVE ISSUES

No other substantive issues.

ALTERNATIVES

Not applicable as no impact to DPS.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None at this time.