

HOUSE BILL 67

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

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AN ACT

RELATING TO DOMESTIC AFFAIRS; AMENDING THE FAMILY VIOLENCE
PROTECTION ACT; REQUIRING ALL ORDERS OF PROTECTION TO REQUIRE A
RESTRAINED PARTY TO RELINQUISH FIREARMS OR REFRAIN FROM
POSSESSING FIREARMS; REQUIRING A RESTRAINED PARTY TO RELINQUISH
FIREARMS IMMEDIATELY UPON SERVICE OF AN ORDER OF PROTECTION;
ALLOWING A COURT TO ORDER AN ALTERNATIVE TIME OR METHOD FOR THE
RELINQUISHMENT OF A FIREARM; MAKING CONFORMING AMENDMENTS.

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

SECTION 1. Section 40-13-5 NMSA 1978 (being Laws 1987,
Chapter 286, Section 5, as amended) is amended to read:

"40-13-5. ORDER OF PROTECTION--CONTENTS--REMEDIES--TITLE
TO PROPERTY NOT AFFECTED--MUTUAL ORDER OF PROTECTION.--

A. Upon finding that domestic abuse has occurred or
upon stipulation of the parties, the court shall enter an order

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1 of protection ordering the restrained party to:

2 (1) refrain from abusing the protected party
3 or any other household member; ~~[and]~~

4 (2) ~~[if the order is issued pursuant to this~~
5 ~~section and if the court also determines that the restrained~~
6 ~~party presents a credible threat to the physical safety of the~~
7 ~~household member after the restrained party has received notice~~
8 ~~and had an opportunity to be heard or by stipulation of the~~
9 ~~parties to (a)]~~ deliver any firearm in the restrained party's
10 possession, care, custody or control to a law enforcement
11 agency, law enforcement officer or federal firearms licensee
12 while the order of protection is in effect; and

13 ~~[(b)]~~ (3) refrain from purchasing, receiving,
14 or possessing or attempting to purchase, receive or possess any
15 firearm while the order of protection is in effect.

16 B. ~~[In]~~ An order of protection entered pursuant to
17 Subsection A of this section ~~[the court]~~ shall specifically
18 describe the acts that the court ~~[has ordered]~~ orders the
19 restrained party to do or refrain from doing. As a part of
20 ~~[any]~~ an order of protection, the court may:

21 (1) grant sole possession of the residence or
22 household to the protected party during the period the order of
23 protection is effective or order the restrained party to
24 provide temporary suitable alternative housing for the
25 protected party and any children to whom the restrained party

1 owes a legal obligation of support;

2 (2) if applicable, award temporary custody of
3 ~~[any]~~ children ~~[involved when appropriate]~~ and provide for
4 visitation rights, child support and temporary support for the
5 protected party on a basis that gives primary consideration to
6 the safety of the protected party and the children;

7 (3) order that the restrained party shall not
8 initiate contact with the protected party;

9 (4) restrain a party from transferring,
10 concealing, encumbering or otherwise disposing of the other
11 party's property or the joint property of the parties except in
12 the usual course of business or for the necessities of life and
13 require the parties to account to the court for all such
14 transferences, encumbrances and expenditures made after the
15 order is served or communicated to the restrained party;

16 (5) order the restrained party to reimburse
17 the protected party or any other household member for expenses
18 reasonably related to the occurrence of domestic abuse,
19 including ~~[medical]~~ expenses for medical treatment, counseling,
20 ~~[expenses, the expense of seeking]~~ temporary shelter, ~~[expenses~~
21 ~~for]~~ the replacement or repair of damaged property or ~~[the~~
22 ~~expense of]~~ lost wages;

23 (6) order the restrained party to participate
24 in, at the restrained party's expense, professional counseling
25 programs deemed appropriate by the court, including counseling

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1 programs for perpetrators of domestic abuse, alcohol abuse or
2 abuse of controlled substances; and

3 (7) order other injunctive relief ~~[as]~~ that
4 the court deems necessary for the protection of a party,
5 including orders to law enforcement agencies as provided by
6 this section.

7 C. The order of protection shall contain notice
8 that violation of any provision of the order of protection is a
9 violation of state law and that federal law, 18 U.S.C. 922, et
10 seq., prohibits possession of firearms by certain persons and
11 conform with the other requirements of Subsection D of Section
12 40-13-13 NMSA 1978.

13 D. If the order of protection supersedes or alters
14 prior orders of the court ~~[pertaining to]~~ regarding domestic
15 matters between the parties, the order shall ~~[say so]~~ expressly
16 provide for the supersession on its face. If an action
17 relating to child custody or child support is pending or has
18 concluded with entry of an order at the time the petition for
19 an order of protection ~~[was]~~ is filed, the court may enter an
20 initial order of protection, but the portion of the order
21 ~~[dealing with]~~ regarding child custody or child support ~~[will~~
22 ~~then]~~ shall be transferred to the court that has ~~[or continues~~
23 ~~to have]~~ jurisdiction over the pending or prior custody or
24 support action.

25 E. A mutual order of protection shall be issued

1 only in cases where both parties have petitioned the court and
2 the court makes detailed findings of fact indicating that both
3 parties acted primarily as aggressors and that neither party
4 acted primarily in self-defense.

5 F. ~~[No]~~ An order issued under the Family Violence
6 Protection Act shall not affect title to any property or allow
7 a party to transfer, conceal, encumber or otherwise dispose of
8 another party's property or the joint or community property of
9 the parties.

10 G. Either party may request a review hearing to
11 amend an order of protection. An order of protection involving
12 child custody or support may be modified without proof of a
13 substantial or material change of circumstances.

14 H. An order of protection shall not be issued
15 unless a petition or a counter petition has been filed."

16 SECTION 2. Section 40-13-13 NMSA 1978 (being Laws 2019,
17 Chapter 253, Section 4) is amended to read:

18 "40-13-13. RELINQUISHMENT OF FIREARMS--PENALTY.--

19 A. ~~[After the court has issued notice that the~~
20 ~~restrained party is subject to the provisions of Paragraph (2)~~
21 ~~of Subsection A of Section 40-13-5 NMSA 1978, the]~~ Upon service
22 of an order of protection, a restrained party shall immediately
23 relinquish all firearms in the restrained party's ~~[immediate]~~
24 possession or control or subject to the restrained party's
25 possession or control in a safe manner to a law enforcement

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1 officer, a law enforcement agency or federal firearms licensee;
2 ~~[within forty-eight hours of service of the order]~~ provided
3 that a court may otherwise direct the relinquishment of the
4 restrained party's firearms.

5 B. A law enforcement officer or law enforcement
6 agency shall take possession of all firearms ~~[subject to the~~
7 ~~order of protection]~~ that are relinquished by the restrained
8 party pursuant to an order of protection or that are ~~[in plain~~
9 ~~sight or are discovered]~~ seized pursuant to a lawful search.

10 C. A law enforcement officer, ~~[or]~~ law enforcement
11 agency or federal firearms licensee that takes temporary
12 possession of a firearm pursuant to this section shall:

13 (1) prepare a receipt identifying all firearms
14 ~~[that have been]~~ relinquished or ~~[taken]~~ seized;

15 (2) provide a copy of the receipt to the
16 restrained party;

17 (3) provide a copy of the receipt to the
18 petitioner within seventy-two hours of taking possession of the
19 firearm;

20 (4) file the original receipt with the court
21 that issued the order of protection within seventy-two hours of
22 taking possession of the firearm; and

23 (5) ~~[ensure that the law enforcement agency~~
24 ~~retains]~~ retain a copy of the receipt.

25 D. An order of protection issued pursuant to

1 Section 40-13-5 NMSA 1978 shall include:

2 (1) a statement that the restrained party
3 shall not purchase, receive, transport, possess or have custody
4 or control of a firearm while the order of protection is in
5 effect;

6 (2) a description of the requirements for the
7 relinquishment of firearms as provided in this section;

8 (3) a statement that within seventy-two hours
9 of the issuance of the order of protection the restrained party
10 ~~[must]~~ shall file with the court issuing the order:

11 (a) a receipt identifying all firearms
12 that have been relinquished ~~[or taken by]~~ to a law enforcement
13 officer, ~~[or]~~ law enforcement agency or federal firearms
14 licensee or seized by a law enforcement officer or law
15 enforcement agency; or

16 (b) a declaration of non-relinquishment;

17 (4) the expiration date of relinquishment;

18 (5) the address of the court that issued the
19 order of protection; and

20 (6) a statement that violation of any
21 provision of the order of protection is a violation of state
22 law and that federal law, 18 U.S.C. 922, et seq., prohibits the
23 possession of firearms by certain persons.

24 E. If ~~[the respondent]~~ a restrained party is
25 present at the hearing on the order of protection, the court

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1 shall provide the [~~respondent~~] restrained party with a receipt
2 form to identify all firearms [~~to be surrendered~~] subject to
3 relinquishment or, if the [~~respondent~~] restrained party has no
4 firearms to relinquish, a declaration of non-relinquishment.
5 The court shall accept the completed form or declaration from
6 the [~~respondent~~] restrained party for immediate filing.

7 F. Evidence establishing ownership or possession of
8 a firearm that is created or gathered pursuant to this section
9 shall not be admissible as evidence in [~~any~~] a criminal
10 proceeding.

11 G. If a person who was a restrained party becomes
12 eligible to possess firearms, the law enforcement agency or
13 federal firearms licensee with custody of a [~~surrendered~~]
14 relinquished or seized firearm shall make the firearm available
15 to [~~a formerly restrained party~~] the person within three
16 business days of [~~receipt of~~] receiving a request from [~~a~~
17 ~~formerly restrained party who is then currently eligible to own~~
18 ~~and possess a firearm~~] the party.

19 H. A [~~formerly~~] person who was a restrained party
20 [~~who has surrendered or had firearms taken by a law enforcement~~
21 ~~officer or law enforcement agency pursuant to this section~~]
22 whose firearm was relinquished or seized and who does not
23 [~~wish~~] want the firearm returned or [~~who is no longer eligible~~]
24 otherwise remains ineligible to possess a firearm may sell or
25 transfer the firearm to a federal firearms licensee; [~~The~~]

1 provided that a law enforcement agency shall not release the
2 firearm to [a] the federal firearms licensee until:

3 (1) the federal firearms licensee has
4 displayed proof that the [~~formerly restrained~~] party has
5 transferred the firearm to the licensee; and

6 (2) the law enforcement agency has verified
7 the transfer with the [~~formerly restrained~~] party.

8 I. After an order of protection issued pursuant to
9 Section 40-13-5 NMSA 1978 expires or is otherwise not in
10 effect, a law enforcement agency holding a firearm relinquished
11 pursuant to [~~this section~~] the order may dispose of the firearm
12 after twelve months from the date [~~of proper~~] notice [~~to the~~
13 ~~formerly restrained party~~] of the agency's intent to dispose of
14 the firearm [~~unless another person claiming to be the lawful~~
15 ~~owner presents written proof of ownership~~] is given to the
16 owner. If the firearm remains unclaimed after twelve months
17 from the date of notice, no [~~party~~] person shall [~~assert~~
18 ~~ownership~~] claim the firearm and the law enforcement agency may
19 dispose of the firearm. For the purposes of this subsection:

20 (1) "dispose" means to destroy a firearm or
21 sell or transfer the firearm to a federal firearms licensee;
22 and

23 (2) "owner" means a person who was a
24 restrained party or another person who claims lawful ownership
25 of a firearm and provides a law enforcement agency with written

1 proof of that ownership.

2 J. The provisions of this section shall not be
3 interpreted to require a federal firearms licensee to purchase
4 or accept possession of a firearm from a restrained party.

5 K. The administrative office of the courts
6 shall develop a standard receipt form and declaration of
7 non-relinquishment form for use [~~under~~] pursuant to this
8 section."

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