



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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