

LFC Requestor: Sanchez, Scott

2024 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS

Section I: General

Chamber: House

Category: Bill

Number: 0027CPS

Type: Substitution

Date (of THIS analysis): 01/29/2024

Sponsor(s): House Consumer and Public Affairs Committee

Short Title: Extreme Risk Firearm Protection Order Changes

Reviewing Agency: Agency 665 - Department of Health

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Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 24	FY 25		
\$0	\$0	N/A	N/A

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 24	FY 25	FY 26		
\$0	\$0	\$0	N/A	N/A

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 24	FY 25	FY 26	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
Total	\$0	\$0	\$0	\$0	N/A	N/A

Section III: Relationship to other legislation

Duplicates: none

Conflicts with: none

Companion to: none

Relates to: SB12 – Rename Family Violence Protection Act

Duplicates/Relates to an Appropriation in the General Appropriation Act: None

Section IV: Narrative

1. BILL SUMMARY

a) Synopsis

House Consumer and Public Affairs Committee Substitute for House Bill 27, (HB0027CPS) would amend the Extreme Risk Firearm Protection Order Act, established in 2020 with SB5. Eight proposed changes include:

1. Allows both licensed health care professionals and certain law enforcement officers to request petitions for extreme risk firearm protection orders (ERFPO).
2. Allows law enforcement officers to petition the court orally, provided that a written petition be filed within 24 hours of the oral petition.
3. Expands definition of “venue” where an ERFPO shall be filed, heard and determined to include two new options.
4. Requires that law enforcement immediately notify the reporting party when the officer declines to file a requested petition.
5. Provides an expedited process for temporary orders to be issued at all times.
6. Requires immediate relinquishment of firearms upon service of an order.
7. Allows law enforcement officer with probable cause to believe that a respondent is in violation of an ERFPO to request a search warrant from the court that issued the order.
8. Allows law enforcement agencies to destroy, sell or transfer unclaimed firearms.
9. Makes conforming amendments.

Is this an amendment or substitution? Yes No

The House Consumer and Public Affairs Committee changed the introduced version of HB0027 in the following ways:

1. Changed definition of “court”
2. Added an expanded definition of “health care professional”

3. Expanded definition of “law enforcement agency” to include university-based agencies
4. Expanded meaning of venue where ERFPOs shall be filed, heard and determined
5. Clarified and reformatted definition of “reporting party”
6. Changed terms for when a law enforcement offer shall file a petition from “receipt of credible information from a reporting party” to “when the officer has probable cause”
7. Reformatted lists
8. Removed/deleted the addition of option for judge to appoint a domestic violence special commission to also review petitions.
9. Removed the addition of documentation, when appropriate of a sufficient description of the firearm
10. Reworded section describing what a law enforcement agency shall enter about an order into which particular databases and removed words, “and others” in this section to refer only to law enforcement.

Is there an emergency clause? Yes No

b) Significant Issues

HB0027CPS proposes changes to the ERFPO Act which was passed in 2020 with SB5. The Center for Gun Violence Solutions at the Johns Hopkins Bloomberg School of Public Health, states that, “[Extreme Risk Protection Order laws](https://publichealth.jhu.edu/2023/johns-hopkins-center-for-gun-violence-solutions-receives-grant-to-launch-new-extreme-risk-protection-order-resource-center) create a civil process allowing law enforcement and, depending on the state, family members, medical professionals, and other groups to petition a court to temporarily prohibit someone at risk of harming themselves or others from purchasing and possessing firearms. Enacted in 21 states and the District of Columbia, research shows that ERPO laws are a promising solution to addressing firearm suicide and have been successfully used in response to mass shooting threats.” (<https://publichealth.jhu.edu/2023/johns-hopkins-center-for-gun-violence-solutions-receives-grant-to-launch-new-extreme-risk-protection-order-resource-center>)

In 2023, in the United States, there were at least 134 incidents of gunfire on school grounds, resulting in 41 deaths and 90 injuries nationally. In 32% of mass shootings with four or more people killed, the shooter exhibited dangerous warning signs before the shooting (<https://everytownresearch.org/>).

- In 2022, 550 New Mexicans died from firearm related injuries. This is a 2.1% decrease from 2021 (562) but a 14.3% increase from 2020 (481) (Unpublished data, New Mexico Bureau of Vital Records and Health Statistics, NM BVRHS).
- In 2022, New Mexico had the third highest age-adjusted rate of firearm-involved death among all states in the United States ([Multiple Cause of Death Data on CDC WONDER](#)).
 - The New Mexico rate (26.5 deaths per 100,000 persons, age-adjusted; Unpublished data, NM BVRHS) was almost twice the United States rate (14.4 deaths per 100,000 persons; [Multiple Cause of Death Data on CDC WONDER](#)).
- If firearm-involved death was considered a leading cause of death category, it would be the 10th leading cause of death during 2021 in New Mexico (<https://ibis.doh.nm.gov/query/result/mort/MortCnty/LCDAgeRate.html>).

- In New Mexico, the rate of firearm-involved deaths increased 75% from 2012 to 2022 (NM BVRHS), compared to a 37% increase nationwide (2012 US data: [WISQARS Fatal and Nonfatal Injury Reports \(cdc.gov\)](#); 2022 US data: [Multiple Cause of Death Data on CDC WONDER](#)).
 - This means that in 2022 there were 233 more gun-related deaths in New Mexico than in 2012.
- In New Mexico, the rate of gun suicide increased 25% and gun homicide increased 164% from 2012 to 2022 (NM BVRHS), compared to a 22% increase and 63% increase nationwide, respectively (2012 US data: [WISQARS Fatal and Nonfatal Injury Reports \(cdc.gov\)](#); 2022 US data: [Multiple Cause of Death Data on CDC WONDER](#)).
- Death from gun violence cost New Mexico \$6.3 billion in 2021, of which \$2.8 million was paid as medical cost associated with firearm injury deaths, yet does not include cost related to firearm injury where the patient does not die (<https://www.cdc.gov/injury/wisqars/index.html>).

According to Everytown for Gun Safety, in an average year, 492 people die and 618 are wounded by guns in New Mexico. In New Mexico, 60% of gun deaths are suicides and 34% are homicides. This is compared to 57% and 40% nationwide, respectively. Every year, an average of 293 people in New Mexico die by gun suicides and 32 are wounded by gun suicide attempts—a rate of 13.2 suicides and 1.5 suicide attempts per 100,000 people. New Mexico has the 4th-highest rate of gun suicides and gun suicide attempts in the US. Every year, an average of 186 people in New Mexico die by gun homicides and 194 are wounded by gun assaults—a rate of 9.5 homicides and 9.3 assaults per 100,000 people. New Mexico has the 7th highest rate of gun homicides and gun assaults in the US. In New Mexico, 71% of all homicides involve a gun, compared to 78% nationwide (Updated: May 2023 <https://everystat.org/>).

“When a person is in crisis and considering harming themselves or others, family members and law enforcement are often the first people to see the warning signs. Extreme Risk laws, sometimes referred to as “Red Flag” laws, allow loved ones or law enforcement to intervene by petitioning a court for an order to temporarily prevent someone in crisis from accessing guns. These laws can help de-escalate emergency situations. Extreme Risk laws are a proven way to intervene before gun violence—such as a [gun suicide](#) or [mass shooting](#)—takes more lives.” (<https://www.everytown.org/solutions/extreme-risk-laws/>)

The changes proposed in HB0027CPS (and listed in the synopsis) collectively increase the number of people and occupations allowed to request petitions for ERFPOs. The bill:

- increases the allowable methods for petitioning, requires immediate notification to requesting party when law enforcement declines to file a petition,
- decreases the time frame for processing petitions by requiring district judges to be available at all times to issue temporary ERFPOs,
- requires immediate relinquishment of firearms by the respondent upon service of an order thus decreasing the time during which the respondent maintains possession of a firearm,
- allows for search warrants to be requested by law enforcement officers, and
- provides a regulatory process for destruction, sale, or transfer of unclaimed firearms.

These changes strengthen the ERFPO Act by increasing the number of people who can file reports, easing the petition process, and expediting the issuance of orders and removal of firearms.

2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?
 Yes No
- Is this proposal related to the NMDOH Strategic Plan? Yes No
 - Goal 1:** We expand equitable access to services for all New Mexicans
 - Goal 2:** We ensure safety in New Mexico healthcare environments
 - Goal 3:** We improve health status for all New Mexicans
 - Goal 4:** We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?
 Yes No N/A
- If there is an appropriation, is it included in the LFC Budget Request?
 Yes No N/A
- Does this bill have a fiscal impact on NMDOH? Yes No

4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH? Yes No

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

HB0027CSP relates to SB12- Rename Family Violence Protection Act as both bills involve Acts pertaining to filing orders of protection. There are a few items proposed in SB12 that support petitioning for an order of protection that could be considered for addition in HB0027CSP, including provision of services for people who are limited English speakers and for minors who want to petition. In addition, SB12 incorporates electronic means for requesting and receiving emergency orders, while HB0027CSP only incorporates oral petitioning. Adding these provisions to HB0027CSP will make the two bills more alike, which will make the processes more similar for law enforcement.

6. TECHNICAL ISSUES

Are there technical issues with the bill? Yes No

1. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written? Yes No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)? Yes No
- Does this bill conflict with federal grant requirements or associated regulations?
 Yes No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs? Yes No

8. DISPARITIES ISSUES

All populations, including those listed with health disparities below, will be served by this legislation.

- Firearms are the 2nd-leading cause of death among children and teens in New Mexico.
 - In New Mexico, an average of 40 children and teens die by guns every year, 48% of these deaths are suicides and 47% are homicides.
 - In the US, 33% of all gun deaths among children and teens are suicides and 62% are homicides (Updated: May 2023 <https://everystat.org/>).
- 30% of Gunfire on school grounds occurs most often at schools with a majority of students of color—disproportionately affecting Black students. Although Black students represent approximately 15 percent of the total K–12 school population in America, they make up 30 percent of the average population at schools that have been impacted by a fatal shooting (<https://everytownresearch.org/>).
- Intimate partner homicides: In 2020, fewer than 10 women were fatally shot by an intimate partner in New Mexico. 70% of female intimate partner homicide victims were killed with a gun, compared to 66% nationwide (Updated: May 2023 <https://everystat.org/>).

In 2022, in New Mexico:

- American Indians and Alaska Natives (AI/AN) were 21.4% more likely (30.6 deaths per 100,000 persons, age-adjusted) to have a firearm involved death than White residents (25.2 deaths per 100,000 persons; age-adjusted) [Unpublished data, NM BVRHS].
- Asians and Pacific Islanders (API) and AI/AN were almost three times as likely (API: 16.9 deaths per 100,000 persons; AI/AN: 17.1 deaths per 100,000 persons; age-adjusted) to die in a firearm involved homicide than White residents in New Mexico (6.3 deaths per 100,000 persons, age-adjusted).
- Hispanic and Black residents were almost two times as likely (Hispanic: 12.6 deaths per 100,000 persons; Black: 11.1 deaths per 100,000 persons; age-adjusted) to die in a firearm involved homicide than White residents.
- However, White residents were more likely (17.7 deaths per 100,000 persons) to die in a firearm involved suicide than other racial or ethnic groups (AI/AN: 9.8 deaths per 100,000 persons; Hispanic: 9.7 deaths per 100,000 persons; Black: 11.2 deaths per 100,000 persons; API: 2.0 deaths per 100,000 persons; age-adjusted).
- Male New Mexican residents were nearly five times as likely (44.2 deaths per 100,000 persons; age-adjusted) to have a firearm-involved death than females (9.0 deaths per 100,000 persons; age-adjusted).
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9. HEALTH IMPACT(S)

The Extreme Risk Firearm Protection Order Act was already passed. HB0027CPS proposes to strengthen the Act by increasing the number of people who can file reports, easing the petition process, and expediting the issuance of orders and removal of firearms. This could provide greater health impacts (reduced violence).

10. ALTERNATIVES

None

11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

If HB0027CPS is not enacted, then no changes would be made to the current ERFPO Act.

12. AMENDMENTS

1. Page 14, line 4: add words “or university” after municipality per new wording provided on Page 3 line 2
2. Page 15, line 4: delete words “one-year”
3. Page 15, lines 18 & 19: In SECTION 9- PENALTIES- a person in violation of either a temporary or an ERFPO is guilty of a misdemeanor. The deleted section cut the words “a temporary”, which needs to be added back in. Change line 18 & 19 to: in violation of a temporary [extreme risk firearm protection order] or [a one year] an extreme...
4. Page 18 line 22 to Page 19 line 4: change to: A. [Any] A firearm relinquished in accordance with the Extreme Risk Firearm Protection Order Act shall be returned within ten days to the respondent following upon the expiration or termination of [an] the extreme risk firearm protection order within ten days following the respondent’s written request.