

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 27

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

AN ACT

RELATING TO FIREARMS; AMENDING THE EXTREME RISK FIREARM
PROTECTION ORDER ACT; INCLUDING HEALTH CARE PROFESSIONALS AND
LAW ENFORCEMENT OFFICERS AS REPORTING PARTIES; MAKING
CONFORMING AMENDMENTS TO THE DEFINITIONS FOR LAW ENFORCEMENT
AGENCY, LAW ENFORCEMENT OFFICER AND PETITIONER; EXPANDING VENUE
FOR ORDER PROCEEDINGS; PROVIDING AN EXPEDITED PROCESS FOR
TEMPORARY ORDERS TO BE ISSUED AT ALL TIMES; REQUIRING IMMEDIATE
RELINQUISHMENT OF FIREARMS UPON SERVICE OF AN ORDER; CLARIFYING
REPORTING REQUIREMENTS; ALLOWING LAW ENFORCEMENT AGENCIES TO
DESTROY, SELL OR TRANSFER UNCLAIMED FIREARMS; MAKING CONFORMING
AMENDMENTS.

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

SECTION 1. Section 40-17-1 NMSA 1978 (being Laws 2020,
Chapter 5, Section 1) is amended to read:

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1 "40-17-1. SHORT TITLE.--~~[Sections 1 through 13 of this~~
2 ~~act]~~ Chapter 40, Article 17 NMSA 1978 may be cited as the
3 "Extreme Risk Firearm Protection Order Act"."

4 SECTION 2. Section 40-17-2 NMSA 1978 (being Laws 2020,
5 Chapter 5, Section 2) is amended to read:

6 "40-17-2. DEFINITIONS.--As used in the Extreme Risk
7 Firearm Protection Order Act:

8 A. "court" means the district court [~~in the county~~
9 ~~in which the respondent resides]~~ where a petition for an
10 extreme risk firearm protection order is filed;

11 B. "extreme risk firearm protection order" means
12 [~~either a temporary extreme risk firearm protection order or a~~
13 ~~one-year extreme risk firearm protection]~~ an order granted
14 pursuant to the Extreme Risk Firearm Protection Order Act and
15 includes a temporary extreme risk firearm protection order;

16 C. "firearm" means [~~any~~] a weapon that is designed
17 to expel a projectile by an explosion or the frame or receiver
18 of any such weapon;

19 D. "health care professional" means a person
20 licensed by the state to provide medical or mental health care
21 services pursuant to the:

22 (1) Medical Practice Act;

23 (2) Nursing Practice Act;

24 (3) Physician Assistant Act;

25 (4) Professional Psychologist Act;

1 (5) Counseling and Therapy Practice Act; and

2 (6) Social Work Practice Act;

3 ~~[D.]~~ E. "law enforcement agency" means the police
4 department of ~~[any city or town]~~ a municipality or university,
5 the sheriff's office of ~~[any]~~ a county and the New Mexico state
6 police; ~~[and a district attorney's office in the state and the~~
7 ~~office of the attorney general;~~

8 ~~E.]~~ F. "law enforcement officer" means a ~~[public~~
9 ~~official or public officer vested by law with the power to~~
10 ~~maintain order, to make arrests for crime or to detain persons~~
11 ~~suspected of committing a crime, whether that duty extends to~~
12 ~~all crimes or is limited to specific crimes and includes an~~
13 ~~attorney employed by a district attorney or the attorney~~
14 ~~general;~~

15 ~~F. "one-year extreme risk firearm protection order"~~
16 ~~means an extreme risk firearm protection order granted for up~~
17 ~~to one year following a hearing pursuant to the provisions of~~
18 ~~Section 7 of the Extreme Risk Firearm Protection Order Act]~~
19 full-time salaried and commissioned or certified law
20 enforcement officer of a police or sheriff's department;

21 G. "petitioner" means a law enforcement officer who
22 files a petition for an extreme risk firearm protection order
23 ~~[petition]~~ and includes an attorney employed by a district
24 attorney or the attorney general when the respondent is a law
25 enforcement officer;

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1 H. "reporting party" means a person who requests
2 that a law enforcement officer file a petition for an extreme
3 risk firearm protection order and includes a:

4 (1) respondent's spouse, former spouse,
5 parent, present or former stepparent, present or former parent-
6 in-law, grandparent, grandparent-in-law, co-parent of a child
7 or child;

8 (2) person with whom a respondent has ~~[or had]~~
9 a continuing personal relationship;

10 (3) respondent's employer; ~~[or]~~

11 (4) public or private school administrator;

12 (5) respondent's health care professional; or

13 (6) a law enforcement officer; and

14 I. "respondent" means the person identified in a
15 reporting party's request or a petitioner's petition or subject
16 to an extreme risk firearm protection order ~~[petition; and~~

17 ~~J. "temporary extreme risk firearm protection~~
18 ~~order" means an extreme risk firearm protection order issued~~
19 ~~prior to a hearing pursuant to the provisions of Section 6 of~~
20 ~~the Extreme Risk Firearm Protection Order Act]."~~

21 SECTION 3. Section 40-17-4 NMSA 1978 (being Laws 2020,
22 Chapter 5, Section 4) is amended to read:

23 "40-17-4. EXTREME RISK FIREARM PROTECTION ORDERS--
24 VENUE.--Proceedings pursuant to the Extreme Risk Firearm
25 Protection Order Act shall be filed, heard and determined in

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1 the district court for the county in which:

2 A. the respondent resides;

3 B. the respondent's conduct gave rise to the facts
4 supporting the petition; or

5 C. the respondent's suspected firearms may be
6 found."

7 SECTION 4. Section 40-17-5 NMSA 1978 (being Laws 2020,
8 Chapter 5, Section 5) is amended to read:

9 "40-17-5. PETITION FOR EXTREME RISK FIREARM PROTECTION
10 ORDER--CONTENTS.--

11 ~~[A. A petition for an extreme risk firearm~~
12 ~~protection order shall be filed only by a law enforcement~~
13 ~~officer employed by a law enforcement agency; provided that, if~~
14 ~~the respondent is a law enforcement officer, the petition shall~~
15 ~~be filed by the district attorney or the attorney general.~~

16 ~~B. A petitioner may file a petition with the court~~
17 ~~requesting an extreme risk firearm protection order that shall~~
18 ~~enjoin the respondent from having in the respondent's~~
19 ~~possession, custody or control any firearm and shall further~~
20 ~~enjoin the respondent from purchasing, receiving or attempting~~
21 ~~to purchase, possess or receive any firearm while the order is~~
22 ~~in effect.~~

23 ~~C. If a law enforcement officer declines to file a~~
24 ~~requested petition for an extreme risk firearm protection~~
25 ~~order, the law enforcement officer shall file with the sheriff~~

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1 of the county in which the respondent resides a notice that the
2 law enforcement officer is declining to file a petition
3 pursuant to this section.

4 ~~D. A law enforcement officer shall file]~~ A. A
5 petition for an extreme risk firearm protection order ~~[upon~~
6 ~~receipt of credible information from a reporting party that~~
7 ~~gives the agency or officer]~~ shall be filed when the petitioner
8 has probable cause to believe that a respondent poses a
9 significant danger of causing imminent personal injury to self
10 or others by having in the respondent's custody or control or
11 by purchasing, possessing or receiving a firearm.

12 B. A petition for an extreme risk firearm
13 protection order shall be filed only by a law enforcement
14 officer employed by a law enforcement agency; provided that, if
15 the respondent is an officer of a police or sheriff's
16 department, the petition shall be filed by an attorney employed
17 by a district attorney or the attorney general.

18 ~~[E.]~~ C. A petition for an extreme risk firearm
19 protection order shall:

20 (1) state the specific statements, actions or
21 facts that support the belief that the respondent poses a
22 significant danger of causing imminent personal injury to self
23 or others by having in the respondent's custody or control or
24 by purchasing, possessing or receiving a firearm;

25 ~~[F. A petition for an extreme risk firearm~~

1 ~~protection order shall]~~

2 (2) be made under oath and ~~[shall be]~~
3 accompanied by a sworn affidavit signed by the reporting party
4 or the petitioner setting forth specific facts supporting the
5 order; and

6 ~~[G. A petition for an extreme risk firearm~~
7 ~~protection order shall]~~

8 (3) include:

9 ~~[(1)]~~ (a) the name and address of the
10 reporting party;

11 ~~[(2)]~~ (b) the name and address of the
12 respondent;

13 ~~[(3)]~~ (c) a description of the number,
14 types and locations of firearms or ammunition that the
15 petitioner believes the respondent has custody of, controls,
16 owns or possesses;

17 ~~[(4)]~~ (d) a description of the
18 relationship between the reporting party and the respondent;
19 and

20 ~~[(5)]~~ (e) a description of any lawsuit,
21 complaint, petition, restraining order, injunction or other
22 legal action between the reporting party and the respondent.

23 D. When a law enforcement officer or an attorney
24 employed by a district attorney or the attorney general
25 declines to file a requested petition for an extreme risk

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1 firearm protection order, the officer or attorney shall
2 immediately notify the reporting party of the officer's
3 decision and within forty-eight hours thereafter provide the
4 reporting party with written notice stating the reasons for the
5 decision.

6 E. A district judge shall be available to review a
7 petition for an extreme risk firearm protection order at all
8 times."

9 SECTION 5. Section 40-17-6 NMSA 1978 (being Laws 2020,
10 Chapter 5, Section 6) is amended to read:

11 "40-17-6. [~~PETITION FOR~~] TEMPORARY EXTREME RISK FIREARM
12 PROTECTION ORDER--~~[TEMPORARY]~~ CONTENTS OF ORDERS--
13 PROCEEDINGS.--

14 A. Upon the filing of a petition pursuant to the
15 Extreme Risk Firearm Protection Order Act, the court [~~may~~
16 enter] shall review the petition immediately and shall issue a
17 temporary extreme risk firearm protection order if the court
18 finds from specific facts shown by the petition that there is
19 probable cause to believe that the respondent poses a
20 significant danger of causing imminent personal injury to self
21 or others by having in the respondent's custody or control or
22 by purchasing, possessing or receiving a firearm before notice
23 can be served and a hearing held.

24 B. If the court finds probable cause [~~pursuant to~~
25 Subsection A of this section], the court shall issue a

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1 temporary extreme risk firearm protection order [~~enjoining~~] and
2 shall:

3 (1) enjoin the respondent from having in the
4 respondent's possession, custody or control a firearm; [~~and~~
5 ~~shall further~~]

6 (2) enjoin the respondent from purchasing,
7 receiving or attempting to purchase or receive a firearm [~~while~~
8 ~~the order is in effect~~]; and

9 (3) order the respondent to immediately, upon
10 service of the order, relinquish all firearms in the
11 respondent's custody or control.

12 C. The court shall conduct a hearing on the
13 petition within ten days of the issuance of a temporary extreme
14 risk firearm protection order [~~to determine if a one-year~~
15 ~~extreme risk firearm protection order should be issued pursuant~~
16 ~~to this section~~].

17 D. A temporary extreme risk firearm protection
18 order shall include:

19 (1) a statement of the grounds supporting the
20 issuance of the order;

21 (2) the date and time the order was issued;

22 (3) a statement that the order shall continue
23 until the earlier of ten days or such time as a court considers
24 the petition at a hearing, unless an extension is granted at
25 the request of the respondent pursuant to Subsection E of this

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1 section;

2 (4) the address of the court that issued the
3 order and in which any responsive pleading should be filed;
4 [~~and~~]

5 (5) the date and time of the scheduled
6 hearing, to be held within ten days of the issuance of the
7 order; and

8 (6) notice that a violation of the order is a
9 misdemeanor.

10 E. The court may continue the hearing at the
11 request of the respondent, but the hearing shall be set within
12 thirty days of the respondent's request for continuance.

13 F. A temporary extreme risk firearm protection
14 order shall be served by the petitioner along with supporting
15 documents that formed the basis of the order and the notice of
16 hearing [~~and the petition for a one-year extreme risk firearm~~
17 ~~protection order~~].

18 G. If the court declines to issue a temporary
19 extreme risk firearm protection order, the court shall dismiss
20 the petition without prejudice and enter an order that includes
21 the reasons for the [~~denial~~] dismissal."

22 **SECTION 6.** Section 40-17-7 NMSA 1978 (being Laws 2020,
23 Chapter 5, Section 7) is amended to read:

24 "40-17-7. HEARINGS ON PETITION--GROUNDS FOR ISSUANCE--
25 CONTENTS OF ORDER.--In determining whether grounds for [~~any~~] an

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1 extreme risk firearm protection order exist, the court shall
2 consider, at a minimum, the following:

3 A. any recent act or threat of violence by the
4 respondent against self or others, regardless of whether the
5 act or threat involved a firearm;

6 B. a pattern of acts or threats of violence by the
7 respondent within the past twelve months, including acts or
8 threats of violence against self or others;

9 C. the respondent's mental health history;

10 D. the respondent's abuse of controlled substances
11 or alcohol;

12 E. the respondent's previous violations of any
13 court order;

14 F. previous extreme risk firearm protection orders
15 issued against the respondent;

16 G. the respondent's criminal history, including
17 arrests and convictions for violent felony offenses, violent
18 misdemeanor offenses, crimes involving domestic violence or
19 stalking;

20 H. the respondent's history of the use, attempted
21 use or threatened use of physical violence against another
22 person; of stalking another person; or of cruelty to animals;
23 and

24 I. any recent acquisition or attempts at
25 acquisition of a firearm by the respondent."

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1 SECTION 7. Section 40-17-8 NMSA 1978 (being Laws 2020,
2 Chapter 5, Section 8) is amended to read:

3 "40-17-8. [~~ONE-YEAR~~] EXTREME RISK FIREARM PROTECTION
4 ORDER--GROUNDS FOR ISSUANCE--CONTENTS OF ORDER--TERMINATION--
5 EXPIRATION--RENEWAL OF ORDERS.--

6 A. If, after hearing the matter, the court finds by
7 a preponderance of the evidence that the respondent poses a
8 significant danger of causing imminent personal injury to self
9 or others by having in the respondent's custody or control or
10 by purchasing, possessing or receiving a firearm, the court
11 shall issue [~~a one-year~~] an extreme risk firearm protection
12 order.

13 B. An extreme risk firearm protection order shall
14 expire three hundred sixty-five days after issuance.

15 [~~B. A one-year~~] C. An extreme risk firearm
16 protection order shall include:

17 (1) a statement of the grounds supporting the
18 issuance of the order;

19 (2) the date and time the order was issued;

20 (3) the date and time the order expires;

21 (4) information pertaining to any
22 recommendation by the court for mental health or substance
23 abuse evaluations, if applicable;

24 (5) the address of the court that issued the
25 order; [~~and~~]

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1 (6) notice that the respondent is entitled to
 2 request termination of the order prior to the expiration of the
 3 order; and

4 (7) notice that a violation of the order is a
 5 misdemeanor.

6 [~~G.~~] D. If the court declines to issue [~~a one-year~~]
 7 an extreme risk firearm protection order, the court shall state
 8 in writing the reasons for the court's denial and shall order
 9 the return of any firearms to the respondent.

10 [~~D.~~] E. A respondent may request that the court
 11 terminate [~~a one-year~~] an extreme risk firearm protection order
 12 at any time prior to the expiration of the order. Upon a
 13 respondent's request to terminate an order, the court shall
 14 schedule a hearing and issue notice of the hearing to the
 15 parties.

16 [~~E.~~] F. At any time not less than one month prior
 17 to the expiration of [~~a one-year~~] an extreme risk firearm
 18 protection order, a petitioner may petition the court to extend
 19 the order. Each extension of the order shall not exceed [~~one~~
 20 year] three hundred sixty-five days. A petition [~~filed~~
 21 ~~pursuant to this subsection shall comply with the provisions of~~
 22 ~~Subsections E and F of Section 5 of the Extreme Risk Firearm~~
 23 ~~Protection Order Act and shall be served on the respondent as~~
 24 ~~provided in Section 9 of that act.~~

25 ~~F. A one-year extreme risk firearm protection order~~

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1 ~~is a final, immediately appealable order]~~ for an extension of
2 the order shall meet the same requirements as the original
3 petition."

4 SECTION 8. Section 40-17-9 NMSA 1978 (being Laws 2020,
5 Chapter 5, Section 9) is amended to read:

6 "40-17-9. SERVICE OF EXTREME RISK FIREARM PROTECTION
7 ORDERS.--~~[A one-year extreme risk firearm protection]~~ An order
8 issued pursuant to the Extreme Risk Firearm Protection Order
9 Act shall be personally served upon the respondent by the
10 sheriff's office in the county in which the respondent resides;
11 provided that if the respondent resides in a ~~[city or town]~~
12 municipality that has a police department, the police
13 department shall serve the order."

14 SECTION 9. Section 40-17-10 NMSA 1978 (being Laws 2020,
15 Chapter 5, Section 10) is amended to read:

16 "40-17-10. RELINQUISHMENT OF FIREARMS.--

17 A. A respondent ~~[who receives a temporary or one-~~
18 ~~year extreme risk firearm protection]~~ subject to an extreme
19 risk firearm protection order shall relinquish all firearms in
20 the respondent's possession, custody or control or subject to
21 the respondent's possession, custody or control in a safe
22 manner to a law enforcement officer, a law enforcement agency
23 or a federal firearms licensee ~~[within forty-eight hours of]~~
24 immediately upon service of the order or ~~[sooner at the~~
25 ~~discretion of]~~ as directed by the court.

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1 B. A law enforcement officer, law enforcement
2 agency or federal firearms licensee that takes temporary
3 possession of a firearm pursuant to this section shall:

4 (1) prepare a receipt identifying all firearms
5 that have been relinquished or taken;

6 (2) provide a copy of the receipt to the
7 respondent;

8 (3) provide a copy of the receipt to the
9 petitioner within seventy-two hours of taking possession of the
10 firearms;

11 (4) file the original receipt with the court
12 that issued the temporary or one-year extreme risk firearm
13 protection order within seventy-two hours of taking possession
14 of the firearms; and

15 (5) ensure that the law enforcement agency
16 retains a copy of the receipt.

17 C. If a law enforcement officer has probable cause
18 to believe that a respondent is in violation of an extreme risk
19 firearm protection order, the officer may request a search
20 warrant from the court that issued the order."

21 SECTION 10. Section 40-17-11 NMSA 1978 (being Laws 2020,
22 Chapter 5, Section 11) is amended to read:

23 "40-17-11. PENALTIES.--A person who fails to relinquish,
24 or who possesses or has custody or control over, [~~any~~] a
25 firearm or who purchases, receives or attempts to purchase,

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1 possess or receive [~~any~~] a firearm, in violation of [~~a~~
2 ~~temporary extreme risk firearm protection order or a one-year~~
3 an extreme risk firearm protection order is guilty of a
4 misdemeanor punishable pursuant to Section 31-19-1 NMSA 1978."

5 SECTION 11. Section 40-17-12 NMSA 1978 (being Laws 2020,
6 Chapter 5, Section 12) is amended to read:

7 "40-17-12. EXTREME RISK FIREARM PROTECTION ORDER--
8 REPORTING OF ORDERS--AVAILABILITY OF DATA.--

9 [~~A. The clerk of the court shall provide a copy of~~
10 ~~a one-year extreme risk firearm protection order or temporary~~
11 ~~extreme risk firearm protection order issued pursuant to the~~
12 ~~Extreme Risk Firearm Protection Order Act to any law~~
13 ~~enforcement agency designated to provide information to the~~
14 ~~national instant criminal background check system.~~

15 [~~B. The clerk of the court shall forward a copy of~~
16 ~~any order issued, renewed or terminated pursuant to the Extreme~~
17 ~~Risk Firearm Protection Order Act to the petitioner and to the~~
18 ~~law enforcement agency specified in Subsection A of this~~
19 ~~section.~~

20 G.] A. Upon [receipt of a copy of a one-year
21 ~~extreme risk firearm protection order or temporary extreme risk~~
22 ~~firearm protection order, the law enforcement agency specified~~
23 ~~in Subsection A of this section] issuance of an order pursuant
24 to the Extreme Risk Firearm Protection Order Act, the court
25 shall enter the order into [~~(+)~~] the national instant criminal~~

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1 background check system.

2 ~~[(2) all federal or state computer-based~~
3 ~~systems and databases used by law enforcement or others to~~
4 ~~identify prohibited purchasers of firearms; and~~

5 ~~(3) all computer-based criminal intelligence~~
6 ~~information systems and databases available in this state used~~
7 ~~by law enforcement agencies]~~

8 B. Upon receipt of a copy of an extreme risk
9 firearm protection order, a petitioner shall notify the
10 department of public safety and have the order entered in the
11 national crime information center computerized index and other
12 criminal intelligence systems used by the department of public
13 safety.

14 ~~[D.]~~ C. An extreme risk firearm protection order
15 shall remain in each state system for the period stated in the
16 order. Entry into the computer-based criminal intelligence
17 information system constitutes notice to all law enforcement
18 agencies of the existence of the order. The extreme risk
19 firearm protection order shall be fully enforceable in any
20 county ~~[city or town]~~ or municipality in the state.

21 ~~[E.]~~ D. Upon the expiration ~~[of or upon receiving~~
22 ~~notice of the]~~ or termination of an extreme risk firearm
23 protection order: ~~[issued pursuant to the Extreme Risk Firearm~~
24 ~~Protection Order Act, the law enforcement agency specified in~~
25 ~~Subsection A of this section shall promptly remove the order~~

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1 ~~from any state computer-based system into which it was entered~~
2 ~~pursuant to Subsection C of this section and shall notify the~~
3 ~~national instant criminal background check system and all~~
4 ~~federal computer-based systems and databases used by law~~
5 ~~enforcement or others to identify prohibited purchasers of~~
6 ~~firearms.~~

7 ~~F. Following the expiration or termination of an~~
8 ~~order issued pursuant to the Extreme Risk Firearm Protection~~
9 ~~Order Act and upon written request, the law enforcement agency~~
10 ~~specified in Subsection A of this section shall provide a sworn~~
11 ~~affidavit to the respondent affirming that the information~~
12 ~~contained within the order has been removed from all state~~
13 ~~databases and systems identified in Subsection C of this~~
14 ~~section and any other state databases into which information~~
15 ~~about the order was entered and that the law enforcement agency~~
16 ~~has notified the national instant criminal background check~~
17 ~~system and all federal computer-based systems and databases~~
18 ~~used by law enforcement or others to identify prohibited~~
19 ~~purchasers of firearms. The affidavit shall be provided to the~~
20 ~~respondent within five days of the receipt of the request.]~~

21 (1) the court shall remove the order from the
22 national instant criminal background check system; and

23 (2) the petitioner shall promptly notify the
24 department of public safety and have the order removed from the
25 national crime information center computerized index and any

1 other criminal intelligence system used by the department of
 2 public safety.

3 ~~[G.]~~ E. If ~~[any]~~ an extreme risk firearm protection
 4 order is terminated before its expiration date, the clerk of
 5 the court shall forward a copy of the termination order to the
 6 ~~[office of the attorney general and the]~~ petitioner.

7 ~~[H.]~~ F. Aggregate statistical data indicating the
 8 number of extreme risk firearm protection orders issued,
 9 renewed, denied or terminated shall be maintained by the
 10 issuing court and the administrative office of the courts and
 11 shall be available to the public ~~[upon request]."~~

12 **SECTION 12.** Section 40-17-13 NMSA 1978 (being Laws 2020,
 13 Chapter 5, Section 13) is amended to read:

14 "40-17-13. EXTREME RISK FIREARM PROTECTION ORDERS--
 15 FIREARMS RETURN--DISPOSITION.--

16 A. ~~[Any]~~ A firearm relinquished in accordance with
 17 the Extreme Risk Firearm Protection Order Act shall be returned
 18 to the respondent within ten days following the expiration or
 19 termination of ~~[an]~~ the extreme risk firearm protection order
 20 upon the respondent's request.

21 B. A respondent shall not be required to acquire
 22 ~~[any]~~ a court order granting the return of relinquished
 23 firearms.

24 C. The law enforcement agency in possession of the
 25 firearms shall conduct a national criminal records check and

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1 shall return the firearms if the agency determines that the
2 respondent is not prohibited from possessing firearms pursuant
3 to state or federal law.

4 D. Upon written request of the respondent, the law
5 enforcement agency storing a firearm shall transfer possession
6 of the respondent's firearm to a federally licensed firearms
7 dealer or lawful private party purchaser designated by the
8 respondent; provided that, if the transfer is the result of a
9 sale, ~~[that]~~ the transferee ~~[is]~~ shall be the actual owner of
10 the firearm thereafter and, except in the case of a federally
11 licensed firearms dealer, prior to the transfer, the law
12 enforcement agency ~~[has conducted]~~ shall conduct a national
13 criminal records check ~~[and determined]~~ to determine that the
14 transferee is not prohibited from possessing a firearm pursuant
15 to state or federal law.

16 E. No fee shall be charged for ~~[background]~~
17 national criminal records checks required pursuant to
18 ~~[Subsections C and D of]~~ this section.

19 F. The law enforcement agency transferring
20 possession of a firearm to a transferee shall notify the
21 transferee that it is unlawful to transfer or return the
22 firearm to the respondent while the extreme risk firearm
23 protection order is in effect. A transferee who violates this
24 subsection is guilty of a misdemeanor and may be punished
25 pursuant to Section 31-19-1 NMSA 1978.

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1 G. A law enforcement agency in possession of a
2 firearm pursuant to this section may destroy, sell or otherwise
3 transfer the firearm if it remains unclaimed after three
4 hundred sixty-five days from the date of the notice to the
5 respondent of the agency's intent to destroy, sell or otherwise
6 transfer the firearm. If a person other than the respondent
7 claims to be the lawful owner of the firearm, the agency shall
8 provide the firearm to that person only upon receipt of written
9 proof of ownership."

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