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HOUSE BILL 12

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Joy Garratt

AN ACT

RELATING TO FIREARMS; AMENDING THE EXTREME RISK FIREARM PROTECTION ORDER ACT TO ALLOW A LAW ENFORCEMENT OFFICER TO FILE A PETITION BASED ON INFORMATION COLLECTED WHILE CARRYING OUT THE OFFICER'S OFFICIAL DUTIES; REQUIRING A RESPONDENT TO RELINQUISH FIREARMS IMMEDIATELY UPON SERVICE OF AN EXTREME RISK FIREARM PROTECTION ORDER; MAKING CONFORMING AMENDMENTS.

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

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

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

A. A petition for an extreme risk firearm protection order shall be filed only by a law enforcement officer employed by a law enforcement agency; provided that, if

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1 the respondent is a law enforcement officer, the petition shall
2 be filed by the district attorney or the attorney general.

3 B. A petitioner may file a petition with the court
4 requesting an extreme risk firearm protection order that shall
5 enjoin the respondent from having in the respondent's
6 possession, custody or control any firearm and shall further
7 enjoin the respondent from purchasing, receiving or attempting
8 to purchase, possess or receive any firearm while the order is
9 in effect.

10 C. If a law enforcement officer declines to file a
11 requested petition for an extreme risk firearm protection
12 order, the law enforcement officer shall file with the sheriff
13 of the county in which the respondent resides a notice that the
14 law enforcement officer is declining to file a petition
15 pursuant to this section.

16 D. A law enforcement officer shall file a petition
17 for an extreme risk firearm protection order upon receipt of
18 credible information from a reporting party that gives the
19 ~~[agency or]~~ officer probable cause to believe that a respondent
20 poses a significant danger of causing imminent personal injury
21 to self or others by having in the respondent's custody or
22 control or by purchasing, possessing or receiving a firearm;
23 provided that a law enforcement officer may also file a
24 petition based on credible information that the officer
25 collected while carrying out the officer's official duties.

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1 E. A petition for an extreme risk firearm
2 protection order shall state the specific statements, actions
3 or facts that support the belief that the respondent poses a
4 significant danger of causing imminent personal injury to self
5 or others by having in the respondent's custody or control or
6 by purchasing, possessing or receiving a firearm.

7 F. A petition for an extreme risk firearm
8 protection order shall be made under oath and shall be
9 accompanied by a sworn affidavit signed by the reporting party
10 setting forth specific facts supporting the order.

11 G. A petition for an extreme risk firearm
12 protection order filed pursuant to the request of a reporting
13 party shall include:

- 14 (1) the name and address of the reporting
15 party;
- 16 (2) the name and address of the respondent;
- 17 (3) a description of the number, types and
18 locations of firearms or ammunition that the petitioner
19 believes the respondent has custody of, controls, owns or
20 possesses;
- 21 (4) a description of the relationship between
22 the reporting party and the respondent; and
- 23 (5) a description of any lawsuit, complaint,
24 petition, restraining order, injunction or other legal action
25 between the reporting party and the respondent.

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1 H. A petition for an extreme risk firearm
2 protection order filed based upon credible information that a
3 law enforcement officer collected while carrying out the
4 officer's official duties shall include:

5 (1) the name and address of the respondent;

6 (2) a description of the number, types and
7 locations of firearms or ammunition that the petitioner
8 believes the respondent has custody of, controls, owns or
9 possesses;

10 (3) a description of the circumstances under
11 which the petitioner collected the credible information that
12 gave rise to the petition; and

13 (4) a statement regarding why the law
14 enforcement officer believes the respondent poses a significant
15 danger of causing imminent personal injury to self or others by
16 having custody or control of or by purchasing, possessing or
17 receiving a firearm."

18 SECTION 2. Section 40-17-10 NMSA 1978 (being Laws 2020,
19 Chapter 5, Section 10) is amended to read:

20 "40-17-10. RELINQUISHMENT OF FIREARMS.--

21 A. A respondent who receives a temporary or one-
22 year extreme risk firearm protection order shall relinquish all
23 firearms in the respondent's possession, custody or control or
24 subject to the respondent's possession, custody or control in a
25 safe manner to a law enforcement officer, a law enforcement

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1 agency or a federal firearms licensee [~~within forty-eight hours~~
2 ~~of~~] immediately upon service of the order or [~~sooner at the~~
3 ~~discretion of~~] as directed by the court.

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

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

9 (2) provide a copy of the receipt to the
10 respondent;

11 (3) provide a copy of the receipt to the
12 petitioner within seventy-two hours of taking possession of the
13 firearms;

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

18 (5) ensure that the law enforcement agency
19 retains a copy of the receipt."