

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

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

1 the order is in effect.

2 C. If a law enforcement officer declines to file a
3 requested petition for an extreme risk firearm protection
4 order, the law enforcement officer shall file with the
5 sheriff of the county in which the respondent resides a
6 notice that the law enforcement officer is declining to file
7 a petition pursuant to this section.

8 D. A law enforcement officer shall file a petition
9 for an extreme risk firearm protection order upon receipt of
10 credible information from a reporting party that gives the
11 officer probable cause to believe that a respondent poses a
12 significant danger of causing imminent personal injury to
13 self or others by having in the respondent's custody or
14 control or by purchasing, possessing or receiving a firearm;
15 provided that a law enforcement officer may also file a
16 petition based on credible information that the officer
17 collected while carrying out the officer's official duties.

18 E. A petition for an extreme risk firearm
19 protection order shall state the specific statements, actions
20 or facts that support the belief that the respondent poses a
21 significant danger of causing imminent personal injury to
22 self or others by having in the respondent's custody or
23 control or by purchasing, possessing or receiving a firearm.

24 F. A petition for an extreme risk firearm
25 protection order shall be made under oath and shall be

1 accompanied by a sworn affidavit signed by the reporting
2 party setting forth specific facts supporting the order.

3 G. A petition for an extreme risk firearm
4 protection order filed pursuant to the request of a reporting
5 party shall include:

6 (1) the name and address of the reporting
7 party;

8 (2) the name and address of the respondent;

9 (3) a description of the number, types and
10 locations of firearms or ammunition that the petitioner
11 believes the respondent has custody of, controls, owns or
12 possesses;

13 (4) a description of the relationship
14 between the reporting party and the respondent; and

15 (5) a description of any lawsuit, complaint,
16 petition, restraining order, injunction or other legal action
17 between the reporting party and the respondent.

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

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

23 (2) a description of the number, types and
24 locations of firearms or ammunition that the petitioner
25 believes the respondent has custody of, controls, owns or

1 possesses;

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

5 (4) a statement regarding why the law
6 enforcement officer believes the respondent poses a
7 significant danger of causing imminent personal injury to
8 self or others by having custody or control of or by
9 purchasing, possessing or receiving a firearm."

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

12 "40-17-10. RELINQUISHMENT OF FIREARMS.--

13 A. A respondent who receives a temporary or one-
14 year extreme risk firearm protection order shall relinquish
15 all firearms in the respondent's possession, custody or
16 control or subject to the respondent's possession, custody or
17 control in a safe manner to a law enforcement officer, a law
18 enforcement agency or a federal firearms licensee immediately
19 upon service of the order or as directed by the court.

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

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

25 (2) provide a copy of the receipt to the

1 respondent;

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

5 (4) file the original receipt with the court
6 that issued the temporary or one-year extreme risk firearm
7 protection order within seventy-two hours of taking
8 possession of the firearms; and

9 (5) ensure that the law enforcement agency
10 retains a copy of the receipt." _____

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25