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SENATE BILL 5

**54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

INTRODUCED BY

Joseph Cervantes

AN ACT

RELATING TO DOMESTIC AFFAIRS; CREATING THE EXTREME RISK FIREARM PROTECTION ORDER ACT; PROVIDING FOR THE ISSUANCE OF COURT ORDERS TO REQUIRE THE RELINQUISHMENT OF FIREARMS FOR SOME PERIOD UNDER CERTAIN CIRCUMSTANCES; PROVIDING PENALTIES; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 14 of this act may be cited as the "Extreme Risk Firearm Protection Order Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Extreme Risk Firearm Protection Order Act:

A. "extreme risk firearm protection order" means an order issued by a court pursuant to the Extreme Risk Firearm Protection Order Act;

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1           B. "firearm" means any weapon that will or is  
2 designed to or may readily be converted to expel a projectile  
3 by the action of an explosion; the frame or receiver of any  
4 such weapon; or any firearm muffler or firearm silencer.

5 "Firearm" includes any handgun, rifle or shotgun;

6           C. "household member" means a spouse, former  
7 spouse, parent, present or former stepparent, present or former  
8 parent-in-law, grandparent, grandparent-in-law, child,  
9 stepchild, grandchild, a person who has a child in common with  
10 another person, regardless of whether they have been married or  
11 have lived together at any time, or a person with whom the  
12 petitioner has been in a dating or intimate relationship.  
13 Cohabitation is not necessary to be deemed a household member  
14 for purposes of this section;

15           D. "law enforcement officer" means a public  
16 official or public officer vested by law with a duty to  
17 maintain public order or to make arrests for crime, whether  
18 that duty extends to all crimes or is limited to specific  
19 crimes;

20           E. "petitioner" means a household member as defined  
21 in Subsection C of this section or law enforcement officer as  
22 defined in Subsection D of this section;

23           F. "respondent" means the person identified in an  
24 extreme risk firearm protection order petition, or subject to  
25 an extreme risk firearm protection order, issued pursuant to

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1 the Extreme Risk Firearm Protection Order Act;

2 G. "safety device" means a device that, when  
3 installed on a firearm, is designed to prevent the firearm from  
4 being operated without first deactivating the device; and

5 H. "secure gun storage" means a safe, gun safe, gun  
6 case, lock box or other device that is designed to, or can be  
7 used to, store a firearm and that is designed to be unlocked  
8 only by means of a key, a combination or other similar means.

9 SECTION 3. [NEW MATERIAL] PETITION FOR EXTREME RISK  
10 FIREARM PROTECTION ORDER--CONTENTS--STANDARD FORMS.--

11 A. A petitioner may seek an extreme risk firearm  
12 protection order by filing a petition in the district court of  
13 the judicial district where either the petitioner or respondent  
14 resides or is sheltered. Law enforcement agencies and the  
15 clerk of the court shall make available upon request standard  
16 simplified petition forms with instructions for completion  
17 approved by the administrative office of the courts.

18 B. A petition for an extreme risk firearm  
19 protection order shall be made under oath and shall be  
20 accompanied by a sworn affidavit setting out specific facts  
21 demonstrating the grounds for the order.

22 C. A petition for an extreme risk firearm  
23 protection order shall contain:

24 (1) the name and address of the petitioner;  
25 provided that upon the request of the petitioner, the address

1 shall be redacted from the petition after being disclosed to  
2 the court;

3 (2) if known, the respondent's name and  
4 address;

5 (3) if known or suspected, a description of  
6 the number, types and locations of firearms or ammunition that  
7 the petitioner believes the respondent has custody of,  
8 controls, owns or possesses;

9 (4) a description of the relationship between  
10 the parties;

11 (5) if known, disclosure of whether there has  
12 been issued an extreme risk firearm protection order pursuant  
13 to the Extreme Risk Firearm Protection Order Act, an order of  
14 protection pursuant to the Family Violence Protection Act, a  
15 civil restraining order or a similar order under the laws of  
16 another state between the parties or against the respondent;  
17 and

18 (6) if known, disclosure of whether there is a  
19 pending lawsuit, complaint, petition or other action between  
20 the parties under the laws of this state.

21 D. The court shall not delay granting relief  
22 because of the existence of an order or legal action between  
23 the parties or the requirement to verify the terms of an  
24 existing order.

25 E. Health care information disclosed is

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1 confidential unless released:

2 (1) with the prior written consent of the  
3 person;

4 (2) pursuant to a court order;

5 (3) when necessary to provide treatment,  
6 payment and operations in accordance with the federal Health  
7 Insurance Portability and Accountability Act of 1996; or

8 (4) to law enforcement, when the information  
9 is necessary for law enforcement to fulfill the requirements of  
10 the Extreme Risk Firearm Protection Order Act.

11 F. Aggregate statistical data indicating the number  
12 of extreme risk firearm protection orders issued, renewed,  
13 denied, dissolved or terminated shall be kept by the district  
14 courts or court administrator and shall be available to the  
15 public upon request.

16 G. Remedies granted pursuant to the Extreme Risk  
17 Firearm Protection Order Act are in addition to and shall not  
18 limit other civil or criminal remedies available to the  
19 parties.

20 SECTION 4. [NEW MATERIAL] FORBEARANCE OF COSTS ASSOCIATED  
21 WITH EXTREME RISK FIREARM PROTECTION ORDERS.--A petitioner for  
22 an extreme risk firearm protection order shall not be required  
23 to bear the cost of:

24 A. the filing, issuance or service of a petition  
25 for an extreme risk firearm protection order;

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1 B. the filing, issuance or service of a warrant;

2 C. the filing, issuance or service of a witness  
3 subpoena;

4 D. service of an extreme risk firearm protection  
5 order issued pursuant to the Extreme Risk Firearm Protection  
6 Order Act;

7 E. obtaining law enforcement reports or photographs  
8 or copies of photographs relating to the allegations in the  
9 petition; or

10 F. any cost associated with the confiscation,  
11 storage or destruction of a firearm confiscated pursuant to the  
12 Extreme Risk Firearm Protection Order Act.

13 SECTION 5. [NEW MATERIAL] EMERGENCY EXTREME RISK FIREARM  
14 PROTECTION ORDERS.--

15 A. A district court shall issue an emergency  
16 extreme risk firearm protection order when a law enforcement  
17 officer states in writing to the court, in person or through  
18 reliable electronic means, the need for an emergency extreme  
19 risk firearm protection order if the court finds that there is  
20 probable cause to believe that the respondent poses an  
21 immediate danger of causing personal injury to self or others  
22 by having custody, control or possession of a firearm or  
23 ammunition. The statement shall include the location and  
24 telephone number of the respondent, if known.

25 B. A law enforcement officer who receives a written

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1 emergency extreme risk firearm protection order from the court,  
2 whether in person or through reliable electronic means, shall:

3 (1) if possible, immediately serve a signed  
4 copy of the order on the respondent and complete the  
5 appropriate affidavit of service; and

6 (2) after service, provide the original proof  
7 of service to the court by the close of business on the next  
8 business day.

9 C. A district judge shall be available as  
10 determined by each judicial district to hear petitions for an  
11 emergency extreme risk firearm protection order.

12 D. An emergency extreme risk firearm protection  
13 order shall expire fifteen days after issuance. The court  
14 shall conduct a hearing within fifteen days of the issuance of  
15 an emergency extreme risk firearm protection order to determine  
16 if a one-year extreme risk firearm protection order shall be  
17 issued pursuant to Section 7 of the Extreme Risk Firearm  
18 Protection Order Act. A respondent may seek an extension of  
19 the hearing date at any time before the hearing; provided that  
20 the emergency extreme risk firearm protection order shall  
21 automatically be extended for any extension of time granted the  
22 respondent.

23 E. An emergency extreme risk firearm protection  
24 order issued by a court pursuant to this section shall include:

25 (1) a statement that the respondent shall not

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1 have custody or control of, purchase, possess or receive or  
2 attempt to purchase or receive a firearm or ammunition while  
3 the order is in effect;

4 (2) a description of the requirements for  
5 relinquishment of firearms and ammunition under Section 10 of  
6 the Extreme Risk Firearm Protection Order Act;

7 (3) a statement of the grounds asserted for  
8 the order;

9 (4) notice of the hearing required under the  
10 Extreme Risk Firearm Protection Order Act to determine whether  
11 the court will issue a one-year extreme risk firearm protection  
12 order, including the address of the court and the date and time  
13 when the hearing is scheduled;

14 (5) a statement that at the hearing the court  
15 may extend the order for one year;

16 (6) a statement that the respondent may seek  
17 the advice of an attorney as to matters connected with the  
18 order and that the attorney should be consulted promptly to  
19 properly assist the respondent; and

20 (7) a statement that any violation of the  
21 order is a misdemeanor punishable pursuant to Section 31-19-1  
22 NMSA 1978.

23 F. An emergency extreme risk firearm protection  
24 order shall be personally served on the respondent by a law  
25 enforcement officer. If a law enforcement officer cannot

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1 personally serve the order, then a law enforcement officer may  
2 serve the order in any manner directed by the court issuing the  
3 order.

4 SECTION 6. [NEW MATERIAL] EX PARTE TEMPORARY EXTREME RISK  
5 FIREARM PROTECTION ORDERS.--

6 A. A petitioner requesting an ex parte temporary  
7 extreme risk firearm protection order shall, in the petition  
8 for a one-year extreme risk firearm protection order, include a  
9 sworn statement with detailed allegations based on personal  
10 knowledge that the respondent poses an immediate danger of  
11 causing personal injury to self or others by having in his or  
12 her custody or control, purchasing, possessing or receiving a  
13 firearm or ammunition.

14 B. A district court shall immediately issue an ex  
15 parte temporary extreme risk firearm protection order if the  
16 court finds that there is probable cause to believe that the  
17 respondent poses an immediate danger of causing personal injury  
18 to self or others by having custody, control or possession of a  
19 firearm or ammunition.

20 C. If an ex parte temporary extreme risk firearm  
21 protection order is granted, the court shall:

22 (1) cause the ex parte temporary extreme risk  
23 firearm protection order along with notice of a hearing to be  
24 served immediately on the respondent;

25 (2) cause a notice of hearing for a one-year

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1 extreme risk firearm protection order to be served immediately  
2 on the respondent; and

3 (3) conduct a hearing within fifteen days of  
4 the issuance of the ex parte temporary extreme risk firearm  
5 protection order to determine if a one-year extreme risk  
6 firearm protection order shall be issued pursuant to Section 7  
7 of the Extreme Risk Firearm Protection Order Act. A respondent  
8 may seek an extension of the hearing date at any time before  
9 the hearing; provided that the ex parte temporary extreme risk  
10 firearm protection order shall automatically be extended for  
11 any extension of time granted the respondent.

12 D. If an ex parte temporary extreme risk firearm  
13 protection order is not granted, the court shall serve notice  
14 to appear upon the parties and hold a hearing on the petition  
15 for an extreme risk firearm protection order pursuant to  
16 Section 7 of the Extreme Risk Firearm Protection Order Act  
17 within ten days of the denial of the ex parte temporary extreme  
18 risk firearm protection order; provided that if notice of  
19 hearing cannot be served within seventy-two hours of issuance,  
20 the emergency extreme risk firearm protection order will be  
21 automatically extended for seventy-two hours. A petitioner may  
22 seek an extension of time before the hearing.

23 E. The court shall consider petitions for ex parte  
24 temporary extreme risk firearm protection orders on the same  
25 day the petition is submitted to the court, unless the petition

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1 is filed too late in the day to permit effective review, in  
2 which case the order shall be issued or denied before the end  
3 of the next business day.

4 F. An ex parte temporary extreme risk firearm  
5 protection order issued by the court shall include:

6 (1) a statement that the respondent shall not  
7 have custody or control of, purchase, possess or receive or  
8 attempt to purchase or receive a firearm or ammunition while  
9 the order is in effect;

10 (2) a description of the requirements for  
11 relinquishment of firearms and ammunition under the Extreme  
12 Risk Firearm Protection Order Act;

13 (3) a statement of the grounds asserted for  
14 the order;

15 (4) notice of the hearing required under the  
16 Extreme Risk Firearm Protection Order Act to determine whether  
17 the court will issue a one-year extreme risk firearm protection  
18 order, including the address of the court and the date and time  
19 when the hearing is scheduled;

20 (5) a statement that at the hearing the court  
21 may extend the order for one year;

22 (6) a statement that the respondent may seek  
23 the advice of an attorney as to matters connected with the  
24 order and the attorney should be consulted promptly to properly  
25 assist the respondent; and

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1 (7) a statement that any violation of the  
2 order is a misdemeanor punishable pursuant to Section 31-19-1  
3 NMSA 1978.

4 G. An ex parte temporary extreme risk firearm  
5 protection order shall be personally served on the respondent  
6 by a law enforcement officer. If a law enforcement officer  
7 cannot personally serve the order, then a law enforcement  
8 officer may serve the order in any manner directed by the court  
9 issuing the order.

10 SECTION 7. [NEW MATERIAL] ONE-YEAR EXTREME RISK FIREARM  
11 PROTECTION ORDERS.--

12 A. A petitioner requesting a one-year extreme risk  
13 firearm protection order shall include in the petition detailed  
14 allegations based on personal knowledge that the respondent  
15 poses a significant danger of causing personal injury to self  
16 or others by having in the respondent's custody or control,  
17 purchasing, possessing or receiving a firearm or ammunition.

18 B. Before issuing a one-year extreme risk firearm  
19 protection order, the court shall ensure that reasonable  
20 efforts have been made to conduct a search through existing  
21 databases available to the court for:

22 (1) criminal history records related to the  
23 respondent; and

24 (2) civil orders of protection or restraining  
25 orders related to the respondent.

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1           C. In determining whether to issue a one-year  
2 extreme risk firearm protection order under this section, the  
3 court shall consider all relevant information presented by the  
4 petitioner and shall also consider other relevant information,  
5 including information relating to any:

6                   (1) act or threat of violence against one's  
7 self or another, whether or not involving a firearm;

8                   (2) unlawful, reckless or negligent use,  
9 display, storage, possession or brandishing of a firearm;

10                   (3) violation of an order of protection issued  
11 pursuant to the Family Violence Protection Act, a civil  
12 harassment restraining order or a similar law in another state;

13                   (4) misuse of controlled substances or alcohol  
14 or any arrest for a criminal offense that involves controlled  
15 substances or alcohol; or

16                   (5) the recent acquisition of a firearm,  
17 ammunition or other deadly weapon.

18           D. If the court finds by a preponderance of the  
19 evidence at the hearing that the respondent poses a significant  
20 danger of personal injury to self or others by having custody  
21 or control, purchasing, possessing or receiving a firearm or  
22 ammunition, the court shall issue a one-year extreme risk  
23 firearm protection order.

24           E. The court shall dissolve any emergency or ex  
25 parte temporary extreme risk firearm protection order in effect

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1 against the respondent when the court grants or denies a  
2 one-year extreme risk firearm protection order.

3 F. A one-year extreme risk firearm protection order  
4 shall include:

5 (1) a statement that the respondent shall not  
6 have custody or control of, purchase, possess or receive or  
7 attempt to purchase or receive a firearm or ammunition while  
8 the order is in effect;

9 (2) a description of the requirements for  
10 relinquishment of firearms and ammunition under the Extreme  
11 Risk Firearm Protection Order Act;

12 (3) a statement of the grounds for the order;

13 (4) the date and time the order expires;

14 (5) the address of the court that issued the  
15 order;

16 (6) a statement that the respondent shall have  
17 the right to request one hearing to terminate the order at any  
18 time during its effective period;

19 (7) a statement that the respondent may seek  
20 the advice of an attorney as to any matter connected with the  
21 order; and

22 (8) a statement that violation of any  
23 provision of the order is a misdemeanor punishable pursuant to  
24 Section 31-19-1 NMSA 1978.

25 G. If the respondent fails to appear at the

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1 hearing, a one-year extreme risk firearm protection order  
2 issued pursuant to this section shall be personally served on  
3 the respondent by a law enforcement officer. If a law  
4 enforcement officer cannot personally serve the order, then a  
5 law enforcement officer may serve the order in any manner  
6 directed by the court issuing the order.

7 SECTION 8. [NEW MATERIAL] TERMINATION OF ONE-YEAR EXTREME  
8 RISK FIREARM PROTECTION ORDERS.--

9 A. A respondent to a one-year extreme risk firearm  
10 protection order issued under Section 7 of the Extreme Risk  
11 Firearm Protection Order Act may submit one written request for  
12 a hearing to terminate the order at any time during the  
13 effective period of the order.

14 B. Upon receipt of the request for termination, the  
15 court shall set a date for a hearing. Notice of the request  
16 shall be served on the petitioner. The hearing shall occur no  
17 sooner than fourteen days and no later than thirty days from  
18 the date of service of the request upon the petitioner.

19 C. The respondent seeking termination of the one-  
20 year extreme risk firearm protection order shall have the  
21 burden of proving by a preponderance of the evidence that the  
22 respondent does not pose a significant danger of causing  
23 personal injury to self or others by having custody or control  
24 of, purchasing, possessing or receiving a firearm or  
25 ammunition.

1           D. If the court grants the respondent's request,  
2 the court shall terminate the order.

3           SECTION 9. [NEW MATERIAL] EXTENSION OF ONE-YEAR EXTREME  
4 RISK FIREARM PROTECTION ORDERS.--

5           A. A petitioner may request extension of a one-year  
6 extreme risk firearm protection order at any time within the  
7 three months before the expiration of the order.

8           B. Upon receipt of the request for extension, the  
9 court shall set a date for a hearing. Notice of the request  
10 shall be served on the respondent. If a petition to extend an  
11 order is filed within fourteen days prior to the expiration of  
12 a one-year extreme risk firearm protection order, the court  
13 shall set a hearing to occur as soon as is practicable. If the  
14 court is unable to set a hearing on the petition to extend the  
15 extreme risk firearm protection order before the expiration of  
16 the one-year order, the court may extend the one-year order for  
17 thirty days or until the date of the hearing, whichever occurs  
18 first.

19           C. A court may, after notice and hearing, extend a  
20 one-year extreme risk firearm protection order if the court  
21 finds by a preponderance of the evidence that the respondent  
22 continues to pose a significant danger of causing personal  
23 injury to self or others by having in custody or control,  
24 purchasing, possessing or receiving a firearm or ammunition.

25           D. In determining whether to extend a one-year

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1 extreme risk firearm protection order issued under this  
2 section, the court shall consider all relevant information  
3 presented by the petitioner and may also consider other  
4 relevant information, including information related to the  
5 facts identified in Subsection C of Section 7 of the Extreme  
6 Risk Firearm Protection Order Act.

7 E. A one-year extreme risk firearm protection order  
8 extended pursuant to this section shall expire one year from  
9 the date of the order granting the extension, subject to  
10 termination by further order of the court at a hearing held  
11 pursuant to Subsection B of this section.

12 SECTION 10. [NEW MATERIAL] RELINQUISHMENT OF FIREARMS AND  
13 AMMUNITION.--

14 A. Upon issuance of any extreme risk firearm  
15 protection order and a finding of probable cause that the  
16 respondent has custody or control of, owns or possesses a  
17 firearm or ammunition, the court shall issue, and there shall  
18 be executed, a search warrant describing the firearm or  
19 ammunition and authorizing a search of the location where the  
20 firearm or ammunition is reasonably believed to be and  
21 authorizing the seizure of any firearm or ammunition discovered  
22 pursuant to the search.

23 B. A law enforcement officer serving any extreme  
24 risk firearm protection order shall request that all firearms  
25 and ammunition in the respondent's custody or control or that

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1 the respondent possesses or owns be immediately relinquished.  
2 The law enforcement officer shall take possession of all  
3 firearms and ammunition that are relinquished, in plain sight  
4 or discovered pursuant to a lawful search.

5 C. A law enforcement officer taking possession of  
6 firearms or ammunition pursuant to an extreme risk firearm  
7 protection order shall give to the respondent a copy of the  
8 inventory of firearms and ammunition taken. Within seventy-two  
9 hours of serving the respondent with the order, the law  
10 enforcement officer serving the order shall file the original  
11 inventory with the court that issued the extreme risk firearm  
12 protection order and shall ensure that the law enforcement  
13 agency retains a copy of the inventory.

14 D. When a court receives information that gives it  
15 probable cause to believe a respondent has custody or control  
16 of, owns or possesses firearms or ammunition that the  
17 respondent failed to relinquish pursuant to this section, or  
18 who has received or purchased a firearm or ammunition while  
19 subject to an extreme risk firearm protection order, shall  
20 issue, and there shall be executed, a search warrant describing  
21 the firearm or ammunition and authorizing a search of the  
22 location where the firearm or ammunition is reasonably believed  
23 to be and authorizing the seizure of any firearm or ammunition  
24 discovered pursuant to the search.

25 E. A law enforcement agency may not charge the

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1 respondent any fee for storing a firearm or ammunition  
2 relinquished pursuant to this section for the duration of the  
3 extreme risk firearm protection order and any additional  
4 periods necessary to comply with the requirements of the  
5 Extreme Risk Firearm Protection Order Act or as directed by the  
6 court.

7 F. Evidence establishing ownership or possession of  
8 a firearm relinquished or seized pursuant to this section shall  
9 not be admissible as evidence in any unrelated criminal  
10 proceeding.

11 SECTION 11. [NEW MATERIAL] RETURN AND DISPOSAL OF  
12 FIREARMS AND AMMUNITION.--

13 A. Thirty days prior to the expiration of a one-  
14 year extreme risk firearm protection order, the law enforcement  
15 agency holding a firearm or ammunition relinquished pursuant to  
16 the order shall notify the petitioner at the last address  
17 provided to the court of the date that the order will expire.  
18 The notice shall advise the petitioner of the procedures for  
19 seeking an extension of the order pursuant to Section 9 of the  
20 Extreme Risk Firearm Protection Order Act.

21 B. The law enforcement agency shall make a  
22 firearm and ammunition available within thirty days of receipt  
23 of a request from a respondent who is then currently eligible  
24 to own and possess a firearm.

25 C. A respondent who has relinquished a firearm or

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1 ammunition to a law enforcement agency pursuant to the Extreme  
2 Risk Firearm Protection Order Act and who does not wish the  
3 firearm or ammunition returned or who is no longer eligible to  
4 own or possess a firearm or ammunition may sell or transfer the  
5 firearm or ammunition to a licensed firearms dealer. The law  
6 enforcement agency shall not release the firearm or ammunition  
7 to a licensed firearms dealer until:

8 (1) the licensed firearms dealer has displayed  
9 proof that the respondent has transferred the firearm or  
10 ammunition to the dealer; and

11 (2) the law enforcement agency has verified  
12 the transfer with the respondent.

13 D. If a person other than the respondent claims  
14 ownership of a firearm or ammunition relinquished pursuant to  
15 the Extreme Risk Firearm Protection Order Act and the law  
16 enforcement agency determines that the person is the lawful  
17 owner of the firearm or ammunition, the firearm or ammunition  
18 shall be released to that person.

19 E. A law enforcement agency holding a firearm or  
20 ammunition relinquished pursuant to the Extreme Risk Firearm  
21 Protection Order Act may dispose of the firearm or ammunition  
22 six months from the date of proper notice to the respondent of  
23 the intent to dispose of the firearm or ammunition unless the  
24 firearm or ammunition is claimed by the lawful owner. If the  
25 firearm or ammunition remains unclaimed after six months from

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1 the date of notice, no party may assert ownership and the law  
2 enforcement agency may dispose of the firearm or ammunition.

3 F. For the purposes of this section:

4 (1) "dispose" means to destroy a firearm or  
5 ammunition or to sell or transfer the firearm or ammunition to  
6 a licensed firearms dealer; and

7 (2) "licensed firearms dealer" means a person  
8 licensed pursuant to 18 U.S.C. Section 921, et seq.

9 SECTION 12. [NEW MATERIAL] REPORTING OF EXTREME RISK  
10 FIREARM PROTECTION ORDERS.--No later than one business day  
11 after a court issues, extends, dissolves or terminates an  
12 emergency, ex parte temporary or one-year extreme risk firearm  
13 protection order relating to an adult respondent, the  
14 administrative office of the courts or other authorized entity  
15 shall obtain and electronically transmit information from the  
16 court proceedings relating to the respondent's eligibility to  
17 receive or possess a firearm or ammunition to the federal  
18 bureau of investigation's national instant criminal background  
19 check system.

20 SECTION 13. [NEW MATERIAL] PENALTIES.--

21 A. A person who files a petition, provides  
22 information or otherwise participates in proceedings authorized  
23 by the Extreme Risk Firearm Protection Order Act shall be  
24 immune from civil or criminal liability if the person acted  
25 with reasonable care.

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1           B. A person who has custody or control of, owns,  
2 purchases, possesses or receives a firearm or ammunition in  
3 violation of an extreme risk firearm protection order is guilty  
4 of a misdemeanor punishable pursuant to Section 31-19-1 NMSA  
5 1978 and upon conviction shall be prohibited under state law  
6 from having custody or control of, owning, purchasing,  
7 possessing or receiving or attempting to purchase or receive a  
8 firearm or ammunition for a period of five years from the date  
9 of conviction.

10           SECTION 14. [NEW MATERIAL] SAFE STORAGE OF FIREARMS.--

11           A. A person who has custody of, controls or  
12 possesses a firearm and who resides with a respondent subject  
13 to an extreme risk firearm protection order issued under the  
14 Extreme Risk Firearm Protection Order Act or the laws of  
15 another state shall safely secure the firearm by:

16                   (1) locking the firearm in a secure gun  
17 storage or rendering the firearm inoperable by the use of a  
18 safety device; or

19                   (2) having the firearm on the person or in  
20 close proximity so that the firearm is readily accessible for  
21 use by the person and is not readily accessible by the  
22 respondent.

23           B. A person who violates this section is guilty of  
24 a misdemeanor.

25           SECTION 15. Section 29-19-4 NMSA 1978 (being Laws 2003,

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1 Chapter 255, Section 4, as amended) is amended to read:

2 "29-19-4. APPLICANT QUALIFICATIONS.--

3 A. The department shall issue a concealed handgun  
4 license to an applicant who:

5 (1) is a citizen of the United States;

6 (2) is a resident of New Mexico or is a member  
7 of the armed forces whose permanent duty station is located in  
8 New Mexico or is a dependent of such a member;

9 (3) is twenty-one years of age or older;

10 (4) is not a fugitive from justice;

11 (5) has not been convicted of a felony in New  
12 Mexico or any other state or pursuant to the laws of the United  
13 States or any other jurisdiction;

14 (6) is not currently under indictment for a  
15 felony criminal offense in New Mexico or any other state or  
16 pursuant to the laws of the United States or any other  
17 jurisdiction;

18 (7) is not otherwise prohibited by federal law  
19 or the law of any other jurisdiction from purchasing or  
20 possessing a firearm;

21 (8) has not been adjudicated mentally  
22 incompetent or committed to a mental institution;

23 (9) is not addicted to alcohol or controlled  
24 substances; ~~and~~

25 (10) has satisfactorily completed a firearms

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underscored material = new  
[bracketed material] = delete

1 training course approved by the department for the category and  
2 the largest caliber of handgun that the applicant wants to be  
3 licensed to carry as a concealed handgun; and

4 (1) is not subject to an extreme risk firearm  
5 protection order issued pursuant to the Extreme Risk Firearm  
6 Protection Order Act.

7 B. The department shall deny a concealed handgun  
8 license to an applicant who has:

9 (1) received a conditional discharge, a  
10 diversion or a deferment or has been convicted of, pled guilty  
11 to or entered a plea of nolo contendere to a misdemeanor  
12 offense involving a crime of violence within ten years  
13 immediately preceding the application;

14 (2) been convicted of a misdemeanor offense  
15 involving driving while under the influence of intoxicating  
16 liquor or drugs within five years immediately preceding the  
17 application for a concealed handgun license;

18 (3) been convicted of a misdemeanor offense  
19 involving the possession or abuse of a controlled substance  
20 within ten years immediately preceding the application; or

21 (4) been convicted of a misdemeanor offense  
22 involving assault, battery or battery against a household  
23 member.

24 C. Firearms training course instructors who are  
25 approved by the department shall not be required to complete a

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underscoring material = new  
~~[bracketed material] = delete~~

1 firearms training course pursuant to Paragraph (10) of  
2 Subsection A of this section."

3 SECTION 16. EFFECTIVE DATE.--The effective date of the  
4 provisions of this act is July 1, 2020.

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