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HOUSE BILL 83

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Daymon Ely

AN ACT

RELATING TO DOMESTIC AFFAIRS; CREATING THE EXTREME RISK 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 Protection Order Act".

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

A. "extreme risk protection order" means an order issued by a court pursuant to the Extreme Risk 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 protection order petition, or subject to an
25 extreme risk protection order, issued pursuant to the Extreme

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1 Risk 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 PROTECTION ORDER--CONTENTS--STANDARD FORMS.--

11 A. A petitioner may seek an extreme risk protection
12 order by filing a petition in the district court of the
13 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 protection order
19 shall be made under oath and shall be accompanied by a sworn
20 affidavit setting out specific facts demonstrating the grounds
21 for the order.

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

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

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1 shall not be listed on the petition but shall be 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 protection order pursuant to the
13 Extreme Risk Protection Order Act, an order of protection
14 pursuant to the Family Violence Protection Act, a civil
15 restraining order or a similar order under the laws of another
16 state between the parties or against the respondent; and

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

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

24 E. Health care information disclosed is
25 confidential unless released:

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

3 (2) pursuant to a court order;

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

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

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

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

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

22 A. the filing, issuance or service of a petition
23 for an extreme risk protection order;

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

25 C. the filing, issuance or service of a witness

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1 subpoena;

2 D. service of an extreme risk protection order
3 issued pursuant to the Extreme Risk Protection Order Act;

4 E. obtaining law enforcement reports or photographs
5 or copies of photographs relating to the allegations in the
6 petition; or

7 F. any cost associated with the confiscation,
8 storage or destruction of a firearm confiscated pursuant to the
9 Extreme Risk Protection Order Act.

10 SECTION 5. [NEW MATERIAL] EMERGENCY EXTREME RISK
11 PROTECTION ORDERS.--

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

22 B. A law enforcement officer who receives a written
23 emergency extreme risk protection order from the court, whether
24 in person or through reliable electronic means, shall:

25 (1) if possible, immediately serve a signed

1 copy of the order on the respondent and complete the
2 appropriate affidavit of service; and

3 (2) after service, provide the original proof
4 of service to the court by the close of business on the next
5 business day.

6 C. A district judge shall be available as
7 determined by each judicial district to hear petitions for an
8 emergency extreme risk protection order.

9 D. An emergency extreme risk protection order shall
10 expire ten days after issuance. The court shall conduct a
11 hearing within ten days of the issuance of an emergency extreme
12 risk protection order to determine if a one-year extreme risk
13 protection order shall be issued pursuant to Section 7 of the
14 Extreme Risk Protection Order Act; provided that if notice of
15 hearing cannot be served within seventy-two hours of issuance,
16 the emergency extreme risk protection order will be
17 automatically extended for seventy-two hours. A respondent may
18 seek an extension of the hearing date at any time before the
19 hearing; provided that the emergency extreme risk protection
20 order shall automatically be extended for any extension of time
21 granted the respondent.

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

24 (1) a statement that the respondent shall not
25 have custody or control of, purchase, possess or receive or

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1 attempt to purchase or receive a firearm or ammunition while
2 the order is in effect;

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

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

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

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

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

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

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

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1 in any manner directed by the court issuing the order.

2 SECTION 6. [NEW MATERIAL] EX PARTE TEMPORARY EXTREME RISK
3 PROTECTION ORDERS.--

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

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

18 C. If an ex parte temporary extreme risk protection
19 order is granted, the court shall:

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

23 (2) cause a notice of hearing for a one-year
24 extreme risk protection order to be served immediately on the
25 respondent; and

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1 (3) conduct a hearing within ten days of the
2 issuance of the ex parte temporary extreme risk protection
3 order to determine if a one-year extreme risk protection order
4 shall be issued pursuant to Section 7 of the Extreme Risk
5 Protection Order Act; provided that if notice of hearing cannot
6 be served within seventy-two hours of issuance, the ex parte
7 temporary extreme risk protection order will be automatically
8 extended for seventy-two hours. A respondent may seek an
9 extension of the hearing date at any time before the hearing;
10 provided that the ex parte temporary extreme risk protection
11 order shall automatically be extended for any extension of time
12 granted the respondent.

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

24 E. The court shall consider petitions for ex parte
25 temporary extreme risk protection orders on the same day the

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

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

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

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

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

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

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

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

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1 assist the respondent; and

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

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

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

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

19 B. Before issuing a one-year extreme risk
20 protection order, the court shall ensure that a reasonable
21 search has been conducted 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 protection order under this section, the court
3 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 protection order.

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

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

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

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

9 A. A respondent to a one-year extreme risk
10 protection order issued under Section 7 of the Extreme Risk
11 Protection Order Act may submit one written request for a
12 hearing to terminate the order at any time during the effective
13 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 protection order shall have the burden of
21 proving by a preponderance of the evidence that the respondent
22 does not pose a significant danger of causing personal injury
23 to self or others by having custody or control of, purchasing,
24 possessing or receiving a firearm or ammunition.

25 D. If the court grants the respondent's request,

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1 the court shall terminate the order.

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

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

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

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

23 D. In determining whether to extend a one-year
24 extreme risk protection order issued under this section, the
25 court shall consider all relevant information presented by the

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1 petitioner and may also consider other relevant information,
2 including information related to the facts identified in
3 Subsection C of Section 7 of the Extreme Risk Protection Order
4 Act.

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

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

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

21 B. A law enforcement officer serving any extreme
22 risk protection order shall request that all firearms and
23 ammunition in the respondent's custody or control or that the
24 respondent possesses or owns be immediately relinquished. The
25 officer shall take possession of all firearms and ammunition

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1 that are relinquished, in plain sight or discovered pursuant to
2 a lawful search.

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

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

23 E. A law enforcement agency may not charge the
24 respondent any fee for storing a firearm or ammunition
25 relinquished pursuant to this section for the duration of the

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1 extreme risk protection order and any additional periods
2 necessary to comply with the requirements of the Extreme Risk
3 Protection Order Act or as directed by the court.

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

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

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

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

22 C. A respondent who has relinquished a firearm or
23 ammunition to a law enforcement agency pursuant to the Extreme
24 Risk Protection Order Act and who does not wish the firearm or
25 ammunition returned or who is no longer eligible to own or

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1 possess a firearm or ammunition may sell or transfer the
2 firearm or ammunition to a licensed firearms dealer. The law
3 enforcement agency shall not release the firearm or ammunition
4 to a licensed firearms dealer until:

5 (1) the licensed firearms dealer has displayed
6 proof that the respondent has transferred the firearm or
7 ammunition to the dealer; and

8 (2) the law enforcement agency has verified
9 the transfer with the respondent.

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

16 E. A law enforcement agency holding a firearm or
17 ammunition relinquished pursuant to the Extreme Risk Protection
18 Order Act may dispose of the firearm or ammunition six months
19 from the date of proper notice to the respondent of the intent
20 to dispose of the firearm or ammunition unless the firearm or
21 ammunition is claimed by the lawful owner. If the firearm or
22 ammunition remains unclaimed after six months from the date of
23 notice, no party may assert ownership and the law enforcement
24 agency may dispose of the firearm or ammunition.

25 F. For the purposes of this section:

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

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

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

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

18 A. A person who files a petition, provides
19 information or otherwise participates in proceedings authorized
20 by the Extreme Risk Protection Order Act shall be immune from
21 civil or criminal liability unless the person acted in bad
22 faith or with malicious purpose.

23 B. A person who has custody or control of, owns,
24 purchases, possesses or receives a firearm or ammunition in
25 violation of an extreme risk protection order is guilty of a

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1 misdemeanor punishable pursuant to Section 31-19-1 NMSA 1978
2 and upon conviction shall be prohibited under state law from
3 having custody or control of, owning, purchasing, possessing or
4 receiving or attempting to purchase or receive a firearm or
5 ammunition for a period of five years from the date of
6 conviction.

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

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

13 (1) locking the firearm in a secure gun
14 storage or rendering the firearm inoperable by the use of a
15 safety device; or

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

20 B. A person who violates this section is guilty of
21 a misdemeanor.

22 SECTION 15. Section 29-19-4 NMSA 1978 (being Laws 2003,
23 Chapter 255, Section 4, as amended) is amended to read:

24 "29-19-4. APPLICANT QUALIFICATIONS.--

25 A. The department shall issue a concealed handgun

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1 license to an applicant who:

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

3 (2) is a resident of New Mexico or is a member
4 of the armed forces whose permanent duty station is located in
5 New Mexico or is a dependent of such a member;

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

7 (4) is not a fugitive from justice;

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

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

15 (7) is not otherwise prohibited by federal law
16 or the law of any other jurisdiction from purchasing or
17 possessing a firearm;

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

20 (9) is not addicted to alcohol or controlled
21 substances; ~~and~~

22 (10) has satisfactorily completed a firearms
23 training course approved by the department for the category and
24 the largest caliber of handgun that the applicant wants to be
25 licensed to carry as a concealed handgun; and

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1 (11) is not subject to an extreme risk
2 protection order issued pursuant to the Extreme Risk Protection
3 Order Act.

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

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

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

15 (3) been convicted of a misdemeanor offense
16 involving the possession or abuse of a controlled substance
17 within ten years immediately preceding the application; or

18 (4) been convicted of a misdemeanor offense
19 involving assault, battery or battery against a household
20 member.

21 C. Firearms training course instructors who are
22 approved by the department shall not be required to complete a
23 firearms training course pursuant to Paragraph (10) of
24 Subsection A of this section."

25 SECTION 16. EFFECTIVE DATE.--The effective date of the
 .210975.4

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

1 provisions of this act is July 1, 2019.

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