

LFC Requester:	Scott Sanchez
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Date Prepared: 1/16/24

Original x **Amendment**

Bill No:

HB27

HB27

HB27

Correction _____ **Substitute** _____

Sponsor: Scott Sanchez

Agency Name and 305 – New Mexico

Code Number: Department of Justice

Person Writing Jennifer Vickery

Analysis:

Short Extreme Risk Protection

Title: Order Changes

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

House Bill (“HB” 27) would amend the Extreme Risk Firearm Protection Order (ERFPO) Act by expanding the definition of a reporting party, creating an expedited process to obtain an ERFPO, and establishing a system by which law enforcement agencies may destroy, sell or transfer unclaimed firearms.

FISCAL IMPLICATIONS

None to this office.

SIGNIFICANT ISSUES

The proposed amendment to Section 40-17-13(G) provides that “[A] law enforcement agency in possession of a firearm pursuant to this section may destroy, sell or otherwise transfer the firearm if it remains unclaimed after three hundred sixty-five days from the date of the notice to the respondent of the agency’s intent to destroy, sell or otherwise transfer the firearm.” No guidance is provided as to when that notice can be sent or what needs to be in the notice. Additional clarity is needed on this timeline.

The proposed amendments do not address confidentiality. As with domestic violence situations, victims are less likely to report or cooperate if they fear retaliation. In situations calling for an order pursuant to this act, there is the chance that the reporting party and respondent may have a relationship in which domestic violence is present. Domestic Violence Restraining Orders allow for redaction or personal information like the address of the protected party to help ensure their safety and to avoid retaliation. A similar provision for this statute would help effectuate the security of the reporting party and effectiveness of the order to ensure reporting parties feel comfortable reporting the risk to law enforcement.

PERFORMANCE IMPLICATIONS

None of note to this office.

ADMINISTRATIVE IMPLICATIONS

There are no significant performance changes from the already enacted statute.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Neither the existing statutes nor proposed amendments coordinate with other provisions designed to protect the public from dangerous individuals. There is no cross over with competency law, or federal restriction on firearm possession. The ERFPO Act could be amended to provide for judges to refer defendants found incompetent or violent offenders to law enforcement for a determination if an ERFPO petition is appropriate.

TECHNICAL ISSUES

None of note

OTHER SUBSTANTIVE ISSUES

None of note

ALTERNATIVES

None of note.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo of current ERFPO Act. The amendments would provide clarity and further the effectiveness of the act.

AMENDMENTS