

LFC Requester:

Scott Sanchez

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

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

Date Prepared: 1/17/2025

Check all that apply:

Bill Number: HB12

Original Correction
Amendment Substitute

Sponsor: Joy Garratt and Christine Chandler

Agency Name and Code Number: 305 – New Mexico Department of Justice

Short Title: EXTREME RISK FIREARM PROTECTION ORDER CHANGES

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	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

Synopsis: House Bill 12 (HB 12) Section 1 adds language to the Extreme Risk Firearm Protection Act, commonly known as the “Red Flag Law” NMSA 1978, 40-17-5(2020) to allow law enforcement officers carrying out their official duties to act as petitioners and file petitions request the court for an Extreme Risk Firearm Protection Order enjoining a respondent from possessing firearms. HB 12 provides specific guidelines of what would need to be included in a petition filed by a law enforcement officer.

HB 12 Section 2 modifies NMSA 1978, 40-17-10(2020) regarding the time frame in which a respondent subject to an Extreme Risk Firearm Protection Order has to relinquish firearms. Specifically removing the prior “within forty eight hours” window modifying the time frame to be “immediately upon service of the order or as directed by the court.”

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

None noted.

PERFORMANCE IMPLICATIONS

Section 1: This additional language in the Extreme Risk Firearm Protection Act would allow law enforcement to file petitions for Extreme Risk Firearm Protection Orders based on credible information gathered while carrying out official duties. As currently written, a law enforcement officer files a petition only on receipt of credible information *from a reporting party*. The added provision would be particularly useful for law enforcement faced with individuals who pose an extreme risk to themselves or others, but do not have someone that otherwise meets the definition of a “reporting party” under this statute or when family/community members believe the protection order may be appropriate but may be fearful of retaliation and choose not to be a reporting party. Whether law enforcement is a reporting party under the Act as currently drafted is an issue that has arisen in various judicial districts across the state, barring the petition in

certain jurisdictions, and is currently pending in the New Mexico Court of Appeals in *State v. Phillip Le Strange* A-1-CA-41174/D-101-FP-2023-00001. Additional proposed amendments clarify specifically what information should be included in the petition depending on whether it is being filed on request of a reporting party or on credible information the officer collected while carrying out their official duties.

Section 2: This modification will help ensure immediate relinquishment of firearms following the service of the Extreme Risk Firearm Protection Order. Currently, the respondent has 48 hours after the service of the Extreme Risk Firearm Protection Order to relinquish their firearms. There is a current safety concern that during those 48 hours, a respondent will be able to harm themselves or others. Immediate relinquishment addresses this safety concern, and the “or as directed by the Court” provision allows for consideration to be taken by a court if firearms cannot be immediately relinquished, overall reducing the risk posed by a respondent subject to an Extreme Risk Firearm Protection Order by limiting the time during which they must relinquish firearms.

Of note, this does not provide a search or seizure provision for law enforcement to search for and seize firearms. This is still a willful seizure mechanism following the service of the order.

ADMINISTRATIVE IMPLICATIONS

None noted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None noted.

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo pending Court of Appeals decision in *State v. LeStrange*. This means that (1) officers may not be permitted to file petitions in certain judicial districts and (2) respondents will have up to 48 hours to relinquish firearms after being served with an order.

AMENDMENTS