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## FISCAL IMPACT REPORT

**SPONSOR** Reps. Garratt/Chandler/Sens. Duhigg and Berghmans      **LAST UPDATED** 2/5/25  
**ORIGINAL DATE** 1/28/25  
**SHORT TITLE** Extreme Risk Firearm Protection Order Changes      **BILL NUMBER** House Bill 12  
**ANALYST** Sanchez

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

| Agency/Program                        | FY25                    | FY26                    | FY27                    | 3 Year Total Cost       | Recurring or Nonrecurring | Fund Affected       |
|---------------------------------------|-------------------------|-------------------------|-------------------------|-------------------------|---------------------------|---------------------|
| <b>AOC</b>                            | No fiscal impact        | \$200.0 to \$500.0      | \$200.0 to \$500.0      | \$400.0-\$1,000.0       | Recurring                 | General Fund        |
| <b>Local Law Enforcement Agencies</b> | No fiscal impact        | At least \$50.0         | At least \$50.0         | At least \$100.0        | Recurring                 | General Fund        |
| <b>DPS (LEA)</b>                      | No fiscal impact        | At least \$100.0        | At least \$100.0        | At least \$200          | Recurring                 | General Fund        |
| <b>Total</b>                          | <b>No fiscal impact</b> | <b>At least \$350.0</b> | <b>At least \$350.0</b> | <b>At least \$700.0</b> | <b>Recurring</b>          | <b>General Fund</b> |

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Agency Analysis Received From

Administrative Office of the Courts (AOC)  
 Administrative Office of the District Attorneys (AODA)  
 Office of the Attorney General (NMAG)  
 Department of Public Safety (DPS)  
 New Mexico Sentencing Commission (NMSC)

Because of the short timeframe between the introduction of this bill and its first hearing, LFC has yet to receive analysis from state, education, or judicial agencies. This analysis could be updated if that analysis is received.

## SUMMARY

### Synopsis of House Bill 12

House Bill 12 (HB12) proposes amendments to the Extreme Risk Firearm Protection Order Act (Section 40-17-5, NMSA 1978) to enable law enforcement officers to file petitions for extreme risk firearm protection orders (ERFPOs) based on information collected during their official duties and require respondents to immediately relinquish firearms upon being served with an extreme risk protection order. This change aims to eliminate delays in firearm relinquishment, with the goal of reducing risks during the interim period between service and compliance. The bill also makes technical and conforming amendments to ensure consistency within existing

statutory language.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

## **FISCAL IMPLICATIONS**

HB12 will likely create new operational and resource demands across state and local agencies by simplifying the process for law enforcement officers to file ERFPOs and requiring immediate firearm relinquishment.

The elimination of the requirement for a third-party affidavit in filing ERFPOs will likely lead to an increase in the number of petitions filed by law enforcement officers. Currently, the law limits officers to acting on affidavits provided by family members or close associates of the respondent, which creates procedural barriers. Removing this requirement and allowing officers to act on credible information gathered during their duties will likely lead to higher volumes of petitions. The Administrative Office of the Courts (AOC) will likely face increased caseloads, requiring additional resources to manage filings, hearings, and enforcement actions. For example, if petition filings increase by 25 to 50 percent, the courts may require more administrative staff, which could cost an estimated \$250 thousand to \$500 thousand annually in personnel expenses, depending on the scale of the increase.

Requiring immediate firearm relinquishment upon service of an ERFPO also introduces new logistical challenges. Law enforcement agencies will need to collect, store, and track surrendered firearms more quickly than under current law, which allows respondents up to 48 hours to comply. Many agencies may need to invest in additional storage facilities or upgrade existing ones to handle an increased volume of firearms. For instance, building or retrofitting secure storage facilities could cost agencies between \$50 thousand and \$100 thousand per location, depending on local needs. Additionally, agencies may need to hire personnel or assign existing staff to manage firearm collection and storage, which could result in annual recurring costs of approximately \$75 thousand to \$150 thousand per agency.

Another considerable expense will be training for law enforcement officers. Officers will need instruction on documenting credible information, preparing detailed petitions, and implementing immediate firearm relinquishment protocols. The Law Enforcement Academy or other training providers may need to develop and deliver a new curriculum. Statewide training efforts, including materials and instruction, could cost an estimated \$100 thousand to \$200 thousand initially, with ongoing costs for periodic updates. These training efforts will ensure officers consistently apply the new procedures and avoid challenges that could arise from inconsistent implementation.

The anticipated increase in ERFPO filings and procedural changes may also strain judicial resources. Courts may need to adjust their processes to handle additional hearings and ensure compliance with immediate firearm relinquishment orders. This could necessitate one-time expenditures for process updates or system modifications, along with ongoing costs for increased staffing. Additionally, the bill's lack of clarity regarding whether law enforcement officers can serve as both petitioners and reporting parties may lead to legal challenges, requiring courts to resolve procedural disputes, which could create further administrative burdens.

Despite these upfront costs, HB 2 could generate significant long-term savings by reducing firearm-related incidents, particularly suicides and domestic violence cases. Research on similar laws in other states has shown a measurable reduction in firearm-related deaths following the implementation of extreme risk protection orders. By potentially preventing hospitalizations, emergency responses, and law enforcement interventions, New Mexico could avoid costs that otherwise burden state and local systems. For example, the average hospital cost for a single firearm injury exceeds \$30 thousand;<sup>1</sup> avoiding even a modest number of incidents annually could offset some implementation costs.

## SIGNIFICANT ISSUES

Currently, the statute requires both a petitioner and a reporting party to initiate an order. Law enforcement officers act as petitioners but must rely on affidavits from third-party individuals, often family members or close associates, to support the petition. HB12 allows law enforcement officers to independently file petitions based on credible information gathered during their official duties, even when no third-party reporting party is involved. While this amendment increases the autonomy of law enforcement in emergencies, the bill lacks clarity regarding whether a single officer can serve as both the petitioner and the reporting party, raising questions about procedural consistency and the separation of roles.

Another significant change proposed in HB12 is the requirement for respondents to relinquish firearms immediately upon service of an ERFPO. Under current law, respondents have up to 48 hours to surrender their firearms unless the court orders otherwise. This extended timeline could pose a public safety risk by allowing individuals deemed dangerous to retain access to firearms for a critical period. HB12's provision for immediate surrender aligns with practices in most other states with ERFPO laws and seeks to mitigate the risks of firearm-related harm during this window. However, the change also introduces logistical challenges for law enforcement, who may require additional resources to collect firearms swiftly and ensure compliance.

AOC highlights that HB12 creates a new process requiring law enforcement officers to include a statement explaining why they believe the respondent poses an imminent danger. However, the bill does not specify whether this statement replaces the currently mandated sworn affidavit from a reporting party or is intended to supplement it. If the affidavit requirement remains, the bill does not clarify how this process applies when no third party is involved. This ambiguity may complicate implementation and require additional guidance for law enforcement and judicial personnel to ensure compliance with procedural requirements.

The proposed changes would bring New Mexico's ERFPO process closer in line with national trends. Of the 20 other states and the District of Columbia with similar laws, the majority already allow law enforcement officers to petition for an order based solely on their assessment of credible information. Currently, New Mexico is one of only four jurisdictions that require a third party to request or provide evidence for a petition. By enabling law enforcement officers to act independently, HB12 aims to reduce procedural barriers and expedite protective measures in high-risk situations. Additionally, the requirement for immediate firearm surrender reflects best practices adopted in most states, enhancing the law's effectiveness in preventing imminent harm.

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<sup>1</sup> Miller, T. R., & Waehrer, G. M. (2024). *Costs of fatal and nonfatal firearm injuries in the U.S., 2019 and 2020*. *American Journal of Preventive Medicine*, 66(2), 189–197. <https://doi.org/10.1016/j.amepre.2023.08.007>

Despite these improvements, implementation challenges may arise. Allowing law enforcement officers to act on their assessments could lead to an increase in ERFPO filings, potentially straining judicial and administrative resources. Additionally, the lack of clarity regarding what constitutes “credible information” may result in inconsistent application of the law across jurisdictions. Proper training for law enforcement officers and updated guidelines for courts will be essential to ensure uniform and fair enforcement of the revised statute. Legislators should also consider whether existing infrastructure can support the increased demand for immediate firearm collection and storage.

## TECHNICAL ISSUES

AOC analysis states:

“If the intent of HB 12 is to allow a law enforcement officer to be able to file a petition for an ERFPO if a reporting party is unavailable or unwilling to provide credible information by completing an affidavit, the definition of a “reporting party” in subsection H of Section 40-17-2 could be amended as follows:

"reporting party" means a person who requests that a law enforcement officer file a petition for an extreme risk firearm protection order. A reporting party can be any person, and includes including a spouse, former spouse, parent, present or former stepparent, present or former parent-in-law, grandparent, grandparent-in-law, co-parent of a child, child, person with whom a respondent has or had a continuing personal relationship, employer or public or private school administrator, or a law enforcement officer who obtains credible information while carrying out the officer's official duties about the respondent posing a significant danger of causing imminent personal injury to self or others by having custody or control or by purchasing, possessing or receiving a firearm.

If the intent of HB 12 is to preserve the two-party system where a reporting party must be a different person than the law enforcement officer filing the petition, the following sentence could be added to the expanded definition of a “reporting party” in subsection H of Section 40-17-2 above:

A reporting party must be a different person than the petitioner.”