

LFC Requester:

Scott Sanchez

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)*(Analysis must be uploaded as a PDF)***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*Date Prepared: 17JAN2025

Check all that apply:

Bill Number: HB12Original  Correction Amendment  Substitute Sponsor: Joy Garratt, Christine ChandlerShort Title: Extreme Risk FirearmTitle: Protection Order

Agency Name

and Code

790 – Department of Public Safety

Number:

Person Writing Carolyn N. HuynhPhone: (505) 681- Email: Carolynn.huynh@dps.**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NFI	NFI	N/A	N/A

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NFI	NFI	NFI	N/A	N/A

(Parenthesis ( ) indicate revenue decreases)

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

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	NFI	NFI	NFI	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act: 2024 HB27

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

HB 12 amends the Extreme Risk Firearm Protection Order Act to allow a law enforcement officer to file a petition to enjoin a respondent from possessing firearms based on information collected while carrying out official duties. It also requires relinquishment of all firearms in a respondent's possession immediately upon service of the order or as directed by the court (current statute requires relinquishment within 48 hours of service or sooner at the court's discretion).

HB 12 introduces significant amendments to the Extreme Risk Firearm Protection Order Act, aiming to enhance public safety by expanding the authority of law enforcement and tightening firearm relinquishment requirements. The bill allows law enforcement officers to file petitions for extreme risk firearm protection orders based on credible information gathered during their official duties, removing the necessity of relying solely on a reporting party. This change empowers officers to act more swiftly to prevent potential harm.

Additionally, the bill mandates the immediate relinquishment of firearms upon service of the protection order, replacing the prior 48-hour timeframe. This adjustment minimizes the risk of harm during the interim period and ensures more immediate protection for individuals and the community.

Ultimately, HB 12 strengthens the ability of law enforcement to intervene proactively in high-risk situations, addressing gaps in the existing framework to better protect public safety. The bill balances these enhancements with due process protections, requiring petitions to be supported by specific, sworn evidence of danger.

#### **FISCAL IMPLICATIONS**

No significant fiscal implications anticipated.

#### **SIGNIFICANT ISSUES:**

Currently, judges are denying orders because the definition of a "reporting party" does not include a law enforcement officer. However, the added language to the bill in Section 1(D) solves this issue by providing "that a law enforcement officer may also file a petition based on credible information that the officer collected while carrying out the officer's official duties."

The immediate relinquishment upon service of the order minimizes the risk of harm during the interim period and ensures more immediate protection for individuals and the community. In addition, this bill addresses public safety concerns by enabling proactive intervention in cases where individuals pose an imminent risk of harm.

The additional text to the Bill strengthens it against constitutional challenges concerning the Second Amendment of the U.S. Constitution because it adds more specificity to the process for obtaining a petition for an extreme risk firearm protection order. The bill details the information to be included in a petition for an extreme risk order based on information collected while carrying out official duties, including a description of the circumstances under which the information for

the petition was collected. For example, Section 1(H) adds: “(3) a description of the circumstances under which the petitioner collected the credible information that gave rise to the petition; and (4) a statement regarding why the law enforcement officer believes the respondent poses a significant danger of causing imminent personal injury to self or others by having custody or control of or by purchasing, possessing or receiving a firearm.”

## **PERFORMANCE IMPLICATIONS**

HB 12 will likely improve public safety outcomes by reducing firearm-related risks. Its success hinges on effective training for certified law enforcement officers and judicial personnel to apply the law appropriately. Performance metrics might include the number of ERFPOs issued and compliance rates with relinquishment requirements.

## **ADMINISTRATIVE IMPLICATIONS**

The Law Enforcement Records Bureau (LERB) of DPS serves as the Criminal Justice Information Services (CJIS) System Agency (CSA) for the state and does not act as a law enforcement agency or engage in enforcement actions. However, LERB remains committed to supporting law enforcement agencies by providing guidance, research, and assistance in facilitating communication with the FBI and other stakeholders. This legislation is directed at law enforcement agencies and officers, ensuring they have the tools to address firearm-related risks effectively.

The Federal Bureau of Investigations (FBI) National Crime Information Center (NCIC) Operation Policy Unit (NOPU) requires that all ERPOs are filed in the dedicated NCIC Extreme Risk Protection Order (ERPO) File effective August 2, 2022. The ERPOs are now entered into a specialized system that enhances officer safety by allowing better tracking and distinction of these orders, which focus solely on firearm restrictions and differ from traditional protection orders. As the CJIS System Agency (CSA), the LERB facilitates access to DOJ/FBI resources; however, the responsibility for entering and managing ERPO data rests with the appropriate petitioning entities, typically within the law enforcement community. This responsibility lies with the petitioner, typically a certified law enforcement officer, reinforcing the role of law enforcement in this critical process. The specialized ERPO File underscores the importance of maintaining clear, distinct procedures to address public safety while supporting lawful firearm possession restrictions.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None.

## **TECHNICAL ISSUES**

None.

## **OTHER SUBSTANTIVE ISSUES**

DPS has reviewed the proposed legislation and has not identified any substantive issues that would impact its operations. As the CJIS System Agency (CSA), LERB does not engage in enforcement actions or manage ERPO data directly; those responsibilities remain with individual law enforcement agencies and petitioning entities. LERB will continue to provide guidance, research, and administrative support to ensure the effective implementation of this legislation, consistent

with its role in facilitating access to DOJ/FBI resources and supporting public safety initiatives.

## **ALTERNATIVES**

DPS has not identified any viable alternatives to the provisions outlined in HB 12 at this time. The bill, as drafted, appears to address the intended objectives comprehensively. However, we remain open to collaboration and discussions to refine the legislation if new insights or suggestions arise during the review process.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo will remain. Failure to enact HB 12 could limit law enforcement's ability to act on credible threats, potentially allowing preventable incidents of gun violence. Existing ERFPO procedures may remain underutilized due to procedural gaps and ambiguities.

## **AMENDMENTS**

None at this time