

# Engage PEO Client Alert:

## New Mexico's New "Red Flag" Gun Law

On February 25, 2020, New Mexico joined more than a dozen other states by enacting its "red flag" gun law, known as the **Extreme Risk Firearm Protection Order Act, which takes effect May 20, 2020.**

### Overview

The new law permits law enforcement officers to obtain and the court to issue an extreme risk firearm protective order (PO), requiring certain individuals to relinquish a firearm to law enforcement, and prohibiting the individuals from purchasing, receiving or attempting to purchase or receive a firearm while the POs are in effect.

Notably, although the new law only permits law enforcement officers to file petitions for issuance of extreme risk firearm POs, law enforcement officers must file such petitions when they receive "credible information from a **reporting party** that gives the agency or the officer probable cause to believe that [the individual] poses a significant danger of causing imminent personal injury to self or others by having in the [individual]'s custody or control or by purchasing, possession or receiving a firearm."

### A reporting party includes the following group of individuals:

- Employers,
- Public or private school administrators,
- A person with whom the individual "has or had a continuing personal relationship," and
  - The following family members:
    - Present or former spouse,
    - Parent,
    - Present or former stepparent,
    - Present or former parent-in-law,
    - Grandparent or grandparent-in-law,
    - Co-parent of a child, and
    - Child.

If the court finds evidence of probable cause, it must issue a temporary extreme risk firearm PO and conduct a hearing within 10 days of such issuance. Upon the request of the individual subject to the PO, the court can continue the hearing, but it must conduct the hearing within 30 days of the request.

"If, after [the] hearing, the court finds by a preponderance of evidence that the [individual] poses a significant danger of causing imminent personal injury to self or others by having in the [individual]'s custody or control or by purchasing, possession or receiving a firearm, the court" must issue a one-year extreme risk firearm PO. If an individual violates a temporary or one-year extreme risk firearm protection PO, the individual could be charged with a misdemeanor.

**For questions regarding New Mexico's new "red flag" gun law, please contact your Engage HR Consultant.**