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**TORRANCE COUNTY**  
**BOARD OF COUNTY COMMISSONERS**  
**RESOLUTION NO. R 2020-08**

**A RESOLUTION OPPOSING “RED FLAG” GUN CONGROL BILLS PENDING IN  
THE NEW MEXICO LEGISLATURE**

**WHEREAS**, NMSA 1978, Section 4-37-1 (1995) provides that Counties have the power to, “provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of any county or its inhabitants;” and,

**WHEREAS**, NMSA, 1978, Section 4-38-18 (1976) provides that a Board of County Commissioner has the duty and authority “[t]o represent the county;” and,

**WHEREAS**, following adoption of the Declaration of Independence by the Continental Congress, new constitutions containing bills of rights protecting the right to bear arms were adopted by the former colonies, among them Maryland, Massachusetts, New York, North Carolina, and Virginia; and,

**WHEREAS**, the First Congress of the United States in 1789 responded to the objections raised by the ratifying conventions which adopted the United States Constitution by passing a series of amendments to the United States Constitution, among them one guaranteeing the right to bear arms; and,

**WHEREAS**, the Second Amendment to the United States Constitution, ratified in 1791, protects the inalienable and individual right of the people to keep and bear arms; and,

**WHEREAS**, the Supreme Court of the United States in 2008 in District of Columbia v. Heller affirmed that the Second Amendment to the United States Constitution guarantees an individual’s right to possess firearms, unconnected with service in a militia, for traditionally lawful purposes, such as self-defense within the home; and,

1           **WHEREAS**, the Supreme Court of the United States in 2010 in McDonald v. City of  
2 Chicago affirmed that the right of an individual to “keep and bear arms,” as protected under the  
3 Second Amendment to the United States Constitution, is incorporated by the Due Process Clause  
4 of the Fourteenth Amendment to the United States Constitution and applies to actions of the  
5 several states; and,

6           **WHEREAS**, Article II, Section 6 of the Constitution of New Mexico provides that “[n]o  
7 law shall abridge the right of the citizen to keep and bear arms for security and defense, for  
8 lawful hunting and recreational use and for other lawful purposes;” and,

9           **WHEREAS**, the Fifty-fifth New Mexico Legislature, now in session, is considering  
10 Senate Bill 5 and House Bill 7, both entitled the “Extreme Risk Firearm Protection Order Act,”  
11 which would institute a so-called “Red Flag” law; and,

12           **WHEREAS**, Senate Bill 5 and House Bill 7 violate every New Mexican’s right to the  
13 due process of law by allowing a Court, based solely on the word of an applicant, to deprive  
14 citizens of their right to bear arms in an ex parte proceeding to which the accused is neither given  
15 notice of or nor heard from; and,

16           **WHEREAS**, Senate Bill 5 and House Bill 7 would replace the adversarial system of  
17 justice of the common law guaranteed by the United States and New Mexico Constitutions with  
18 an alien inquisitorial system reminiscent of the procedures of the despised Star Chamber, a court  
19 abolished four centuries ago because it was unjust and trampled on the rights of citizens; and,

20           **WHEREAS**, Senate Bill 5 and House Bill 7 negate the golden thread of the common law  
21 guaranteed by the United States and New Mexico Constitutions that all men are innocent until  
22 proven guilty by creating a system that allows a Court to hear only untested accusations from a

1 wide range of persons, including grandparents-in-law and ex-boyfriends, to strip citizens of a  
2 constitutional right; and,

3 **WHEREAS**, Senate Bill 5 and House Bill 7 makes criminals of innocent citizens and  
4 deprives them of due process of law by making it a criminal offense for gun-owners living with a  
5 person made subject to a Red Flag order to not secure their guns from that person, even if the  
6 gun owner had no knowledge of the Red Flag order or had no control over another person's  
7 actions; and,

8 **WHEREAS**, the Administrative Office of the Courts, the Administrative Office of the  
9 District Attorneys, the Law Offices of the Public Defender, and the Department of Public Safety  
10 have all submitted comments on the bills questioning whether each of their agencies have the  
11 financial resources and administrative capabilities to implement the provisions of the law.

12 **NOW, THEREFORE BE IT RESOLVED,**


13 The Torrance County Board of Commissioners declares its opposition to both Senate Bill  
14 5 and House Bill 7 and encourages all members of the New Mexico Legislature to vote against  
15 them. Further, the Board of Commissioners urges Governor Michelle Lujan Grisham to veto  
16 these bill should they be approved by the Legislature. Copies of this resolution shall be sent ot  
17 the members of the Legislature who represent Torrance County and to Governor Lujan Grisham.

18 **DONE THIS 12<sup>th</sup> DAY OF FEBRUARY, 2020.**

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**APPROVED AS TO FORM ONLY:**


**BOARD OF COUNTY COMMISSIONERS**

  
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County Attorney Date

  
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Ryan Schwebach, Chair

  
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Javier Sanchez, Vice Chair

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Kevin McCall, Member

**ATTEST:**

  
Linda Jaramillo, County Clerk

Date: 2-12-2020

