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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 1/19/2017  
**LAST UPDATED** \_\_\_\_\_

**SPONSOR** Neville **HB** \_\_\_\_\_

**SHORT TITLE** Concealed Firearms Without A Permit, CA **SB** SJR 5

**ANALYST** Rogers

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

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	\$0.0	\$1,150.0	\$1,100.0	\$2,250.0	Recurring	General Fund
<b>Total</b>	\$0.0	(\$1,100.0)	(\$1,100.0)	(\$2,200.0)	Recurring	Concealed Handgun Carry Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Companion to SB 56.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)

Attorney General's Office (AGO)

### SUMMARY

#### Synopsis of Bill

SJR 5 proposes a constitutional amendment to establish the right to carry a concealed firearm without a permit by any person 18 years of age or older who is not prohibited by state or federal law from owning or carrying a firearm.

The amendment would be submitted to the people for approval or rejection at the next general election or any special election called for that purpose. The AGO points out if SJR 5 passes both the House and Senate, it must be ratified by a majority of the electors voting on the amendment.

### FISCAL IMPLICATIONS

The passage of the constitutional amendment will have a large negative fiscal impact to the Department of Public Safety (DPS). While the department has not yet finalized its fiscal analysis, without the requirement to file for a concealed carry permit, the Concealed Handgun Carry Fund

will see a large decrease in revenues. Revenues in this fund are used to support 6 employees who process the permits currently. Revenues are also used to support many of DPS' IT systems department wide. The loss of revenue could result in the loss of personnel and will increase DPS' need for general fund to support large IT systems that benefit public safety. The department uses about \$1.1 million per year from the fund to support its mission.

Section 1-16-13 NMSA 1978 requires the Secretary of State (SOS) to print the full text of each proposed constitutional amendment, in both Spanish and English, in an amount equal to 10 percent of the registered voters in the state. The SOS is also constitutionally required to publish the full text of each proposed constitutional amendment once a week for four weeks preceding the election in newspapers in every county in the state. LFC staff estimate each constitutional amendment may cost up to fifty thousand dollars (\$50,000) in printing and advertising costs based on 2016 actual expenditures.

The AOC states there will be a minimal administrative cost for statewide update, distribution, and documentation of constitutional changes. Any additional fiscal impact on the judiciary would be proportional to passage of this amendment and any resultant state court proceedings. Such proceedings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

## **SIGNIFICANT ISSUES**

The AGO states the passage of the amendment proposed by SJR 5 would allow a person, who is not otherwise prohibited by federal or state law, to carry a concealed firearm anywhere in the state. The resolution does not contain a provision that would allow the Legislature to restrict this proposed constitutional right. Current laws that restrict where firearms can be carried would be rendered unconstitutional with respect to concealed firearms only. For example, 30-7-2.1 NMSA 1978 prohibits the carrying of deadly weapons on school premises; 30-7-2.4 NMSA 1978 prohibits the carrying of a firearm on university premises; 30-7-2.2 NMSA 1978 prohibits a person under 19 year of age to possess a handgun, with limited exceptions; 30-7-3 NMSA 1978 prohibits carrying a firearm in licensed liquor establishments.

The AGO points out SJR 5 would also render the Concealed Handgun Carry Act, NMSA 1978, Sections 29-19-1 *et seq.*, including its restrictions, unconstitutional. Some of the current restrictions on a concealed carry license include: an age requirement of 21 years of age or older; a firearms training course requirement and refresher course; no convictions for certain violent misdemeanor offenses; fingerprints, photographs, and proof of US citizenship. The Act also prohibits carrying a concealed handgun on the premises of a preschool, tribal lands and court facilities, unless otherwise authorized.

The AGO also points out SJR 5 would establish a right to carry concealed firearms, but no parallel right to carry a firearm that is not concealed, or to carry a concealed knife or other deadly weapon.

The AOC provided analysis from the National Conference of State Legislatures (NCSL) showing “that as of the end of May 2016, nine states have [‘permitless’ carry laws](#) that eliminate the requirement for a concealed-carry permit or license, which usually involves passing a background test and completing a gun-safety course. These laws, sometimes called ‘constitutional carry’ laws, are often enacted with the rationale of getting more guns into the

hands of law-abiding citizens as contrasted to in the hands of criminals. Those in support of these laws believe that citizens have the right under the 2nd Amendment to carry, either openly or concealed, a firearm without applying for any sort of permit or asking for permission from the government first. However, in [\*Peruta v. County of San Diego\*](#), the United States Court of Appeals for the Ninth Circuit in San Francisco ruled that the Second Amendment of the Constitution does not guarantee the right of gun owners to carry concealed weapons in public places, upholding a California law that imposes stringent conditions on who may be granted a concealed-carry permit. The NCSL’s May 2016 report, cited above, also notes the results of a January 2016 Gallup poll as follows: ‘of the 62 percent of Americans dissatisfied with the nation’s current gun laws, 38 percent of them want to tighten laws, 15 percent want to loosen laws and 9 percent are dissatisfied but want the laws to remain as they are.’” Additionally, the AOC points out the [Law Center to Prevent Gun Violence](#), per its Gun Law Scorecard, grades New Mexico an “F”.

### **PERFORMANCE IMPLICATIONS**

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

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

Companion to SB 56 Concealed Carry Eligibility, permitting a person 18 or older who is not prohibited by federal or state law or court order from possessing or carrying a firearm to carry a loaded concealed handgun without the issuance of a concealed handgun license.

Related to HB 62 Concealed Carry License Expiration Notices; HB 78 Online Concealed Carry Courses.

### **TECHNICAL ISSUES**

The AGO points out the term “firearm” is not defined in the bill.

### **OTHER SUBSTANTIVE ISSUES**

The AGO also points out SJR 5 does not provide a limit on the number of firearms a person may carry or on the size or nature of the firearm a person may carry.

TR/al/sb