

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 49

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

AN ACT

RELATING TO CRIME; INCREASING THE PENALTY FOR A SERIOUS VIOLENT
FELON WHO RECEIVES, TRANSPORTS OR POSSESSES A FIREARM OR
DESTRUCTIVE DEVICE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 30-7-16 NMSA 1978 (being Laws 1981,
Chapter 225, Section 1, as amended) is amended to read:

"30-7-16. FIREARMS OR DESTRUCTIVE DEVICES--RECEIPT,
TRANSPORTATION OR POSSESSION BY CERTAIN PERSONS--PENALTY.--

A. It is unlawful for the following persons to
receive, transport or possess a firearm or destructive device
in this state:

(1) a felon;

(2) a person subject to an order of protection
pursuant to Section 40-13-5 or 40-13A-5 NMSA 1978; or

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underscored material = new
[bracketed material] = delete

1 (3) a person convicted of any of the following
2 crimes:

3 (a) battery against a household member
4 pursuant to Section 30-3-15 NMSA 1978;

5 (b) criminal damage to property of a
6 household member pursuant to Section 30-3-18 NMSA 1978;

7 (c) a first offense of stalking pursuant
8 to Section 30-3A-3 NMSA 1978; or

9 (d) a crime listed in 18 U.S.C. 921.

10 B. A felon found in possession of a firearm shall
11 be guilty of a third degree felony.

12 C. A serious violent felon that is found to be in
13 possession of a firearm ~~[shall be guilty of a third degree~~
14 ~~felony, and notwithstanding the provisions of Section 31-18-15~~
15 ~~NMSA 1978, shall be sentenced to a basic term of six years~~
16 ~~imprisonment]~~ who violates this section is:

17 (1) for the first offense, guilty of a second
18 degree felony and, notwithstanding the provisions of Section
19 31-18-15 NMSA 1978, shall be sentenced to no less than nine
20 years imprisonment; and

21 (2) for the second and subsequent offenses,
22 guilty of a first degree felony.

23 D. Any person subject to an order of protection
24 pursuant to Section 40-13-5 or 40-13A-5 NMSA 1978 or convicted
25 of a crime listed in Paragraph (3) of Subsection A of this

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1 section who receives, transports or possesses a firearm or
2 destructive device is guilty of a misdemeanor.

3 E. As used in this section:

4 (1) except as provided in Paragraph (2) of
5 this subsection, "destructive device" means:

6 (a) any explosive, incendiary or poison
7 gas: 1) bomb; 2) grenade; 3) rocket having a propellant charge
8 of more than four ounces; 4) missile having an explosive or
9 incendiary charge of more than one-fourth ounce; 5) mine; or 6)
10 similar device;

11 (b) any type of weapon by whatever name
12 known that will, or that may be readily converted to, expel a
13 projectile by the action of an explosive or other propellant,
14 the barrel or barrels of which have a bore of more than one-
15 half inch in diameter, except a shotgun or shotgun shell that
16 is generally recognized as particularly suitable for sporting
17 purposes; or

18 (c) any combination of parts either
19 designed or intended for use in converting any device into a
20 destructive device as defined in this paragraph and from which
21 a destructive device may be readily assembled;

22 (2) the term "destructive device" does not
23 include any device that is neither designed nor redesigned for
24 use as a weapon or any device, although originally designed for
25 use as a weapon, that is redesigned for use as a signaling,

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pyrotechnic, line throwing, safety or similar device;

(3) "felon" means a person convicted of a felony offense by a court of the United States or of any state or political subdivision thereof and:

(a) less than ten years have passed since the person completed serving a sentence or period of probation for the felony conviction, whichever is later;

(b) the person has not been pardoned for the felony conviction by the proper authority; and

(c) the person has not received a deferred sentence;

(4) "firearm" means any weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosion or the frame or receiver of any such weapon; and

(5) "serious violent felon" means a person convicted of an offense enumerated in Subparagraphs (a) through (n) of Paragraph (4) of Subsection [L] N of Section 33-2-34 NMSA 1978; provided that:

(a) less than ten years have passed since the person completed serving a sentence or a period of probation for the felony conviction, whichever is later;

(b) the person has not been pardoned for the felony conviction by the proper authority; and

(c) the person has not received a

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1 deferred sentence and completed the total term of deferment as
2 provided in Section 31-20-9 NMSA 1978."

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