

SENATE BILL 160

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

INTRODUCED BY

Antonio Maestas

AN ACT

RELATING TO CRIMINAL SENTENCING; INCREASING THE ALTERATION OF A
BASIC SENTENCE FOR THE USE, BRANDISHING OR DISCHARGE OF A
FIREARM.

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

SECTION 1. Section 31-18-16 NMSA 1978 (being Laws 1977,
Chapter 216, Section 5, as amended) is amended to read:

"31-18-16. USE, BRANDISHING OR DISCHARGE OF FIREARM--
ALTERATION OF BASIC SENTENCE--SUSPENSION AND DEFERRAL
LIMITED.--

A. When a separate finding of fact by the court or
jury shows that a firearm was used in relation to a drug
transaction or during the commission of aggravated burglary
pursuant to Section 30-16-4 NMSA 1978 or a serious violent
offense, the basic sentence of imprisonment prescribed for the

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1 offense in Section 31-18-15 NMSA 1978 shall be increased by
2 [~~one year~~] two years, except that when the offender is a
3 serious youthful offender or a youthful offender who received
4 an adult sentence, the sentence imposed by this subsection may
5 be increased by one year.

6 B. When a separate finding of fact by the court or
7 jury shows that a firearm was brandished in the commission of a
8 noncapital felony, the basic sentence of imprisonment
9 prescribed for the offense in Section 31-18-15 NMSA 1978 shall
10 be increased by [~~three~~] six years, except that when the
11 offender is a serious youthful offender or a youthful offender
12 that received an adult sentence, the sentence imposed by this
13 subsection may be increased by one year.

14 C. When a separate finding of fact by the court or
15 jury shows that a firearm was discharged in the commission of a
16 noncapital felony, the basic sentence of imprisonment
17 prescribed for the offense in Section 31-18-15 NMSA 1978 shall
18 be increased by [~~five~~] ten years, except that when the offender
19 is a serious youthful offender or a youthful offender who
20 received an adult sentence, the sentence imposed by this
21 subsection may be increased by three years.

22 D. For a second or subsequent offense, when a
23 separate finding of fact by the court or jury shows that a
24 firearm was used, brandished, or discharged in relation to a
25 drug transaction or during the commission of aggravated

1 burglary pursuant to Section 30-16-4 NMSA 1978 or a serious
2 violent offense, the sentence shall be increased by [~~five~~] ten
3 years, except that when the offender is a serious youthful
4 offender or a youthful offender, the sentence imposed by this
5 section may be increased by three years.

6 E. If the case is tried before a jury and if a
7 prima facie case has been established showing that a firearm
8 was used, brandished or discharged in relation to a drug
9 transaction or during the commission of aggravated burglary
10 pursuant to Section 30-16-4 NMSA 1978 or a serious violent
11 offense, the court shall submit the issue to the jury by
12 special interrogatory. If the case is tried by the court, the
13 court shall decide the issue and shall make a separate finding
14 of fact thereon.

15 F. When a separate finding of fact by the court or
16 jury shows that a firearm was used, brandished or discharged in
17 relation to a drug transaction or during the commission of
18 aggravated burglary pursuant to Section 30-16-4 NMSA 1978 or a
19 serious violent offense, the firearm is subject to seizure and
20 forfeiture as an instrumentality pursuant to the provisions of
21 the Forfeiture Act.

22 G. As used in this section:

23 (1) "brandished" means displaying or making a
24 firearm known to another person while the firearm is present on
25 the person of the offending party with intent to intimidate or

1 injure a person;

2 (2) "in relation to a drug transaction" means
3 participating or attempting to participate in the trafficking
4 of a controlled substance pursuant to Section 30-31-20 NMSA
5 1978, distribution of a controlled substance to a minor
6 pursuant to Section 30-31-21 NMSA 1978 or distribution of a
7 controlled or counterfeit substance pursuant to Section
8 30-31-22 NMSA 1978 as a seller, purported seller or as an
9 accomplice; and

10 (3) "serious violent offense" means an offense
11 enumerated in Subparagraphs (a) through (n) of Paragraph (4) of
12 Subsection [E] N of Section 33-2-34 NMSA 1978."

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