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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Ivey-Soto</u>	<b>LAST UPDATED</b> <u>02/13/2024</u>
<b>SHORT TITLE</b> <u>Firearms on Playgrounds</u>	<b>ORIGINAL DATE</b> <u>02/05/2024</u>
	<b>BILL NUMBER</b> <u>Senate Bill 204/aSHPAC</u>
	<b>ANALYST</b> <u>Sanchez</u>

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

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Costs to state (NMCD)	No fiscal impact	At least \$26.6	Up to \$37.5	Up to \$64.1	Recurring	General Fund
Costs to counties	No fiscal impact	At least \$9.6	Up to \$19.2	Up to \$28.8	Recurring	See Fiscal Implications
<b>Total</b>	<b>No fiscal impact</b>	<b>At least \$36.2</b>	<b>Up to \$56.7</b>	<b>Up to \$92.9</b>	<b>Recurring</b>	<b>See Fiscal Implications</b>

Parentheses ( ) indicate expenditure decreases.  
 \*Amounts reflect most recent analysis of this legislation.

Relates to House Bills 127, 46, 47, 58 and Senate Bill 69

### Sources of Information

LFC Files  
Agency Analysis Received From  
 Administrative Office of the Courts (AOC)  
 Law Offices of the Public Defender (LOPD)  
 Office of the Attorney General (NMAG)  
 New Mexico Sentencing Commission (NMSC)  
 Department of Health (DOH)  
 Department of Public Safety (DPS)

## SUMMARY

### Synopsis of SHPAC Amendment to Senate Bill 204

The Senate Health and Public Affairs Committee amendment to Senate Bill 204 add exceptions to the provisions of SB204 for individuals who hold a concealed carry weapon permit or a federal firearms license.

### Synopsis of Original Senate Bill 204

Senate Bill 204 aims to enact a new law making it a fourth degree felony to carry a firearm in a park or playground, with specific exceptions for peace officers, licensed security officers, and

members of the armed services or reserve forces of the United States or the New Mexico National Guard while performing official duties. The bill includes specific definitions for the terms "firearm," "park," and "playground."

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or May 15, 2024, if enacted.

## **FISCAL IMPLICATIONS**

Incarceration drives costs in the criminal justice system, so the primary fiscal implications examined in this analysis relate to changes in the number of individuals in prison and the length of time served in prison that might result from this bill. The creation of any new crime, increase of felony degree, or increase of sentencing penalties will likely increase the population of New Mexico's prisons and long-term costs to the general fund. In addition to the potential of new crimes to send more individuals to prison, increased sentence lengths decrease releases relative to the rate of admissions, pushing the overall prison population higher.

The Corrections Department reports the average cost to incarcerate a single inmate in FY22 was \$49.6 thousand; however, due to the high fixed costs of the state's prison facilities and administrative overhead, LFC estimates a marginal cost (the cost per each additional inmate) of \$23.4 thousand per inmate per year across all facilities. LFC estimates a marginal cost (the cost per additional inmate) of \$19.2 thousand per county jail inmate per year, based on incarceration costs at the Metropolitan Detention Center. SB204 may increase the number of incarcerated individuals. This bill will likely increase the number of individuals incarcerated and increase the time they spend incarcerated

As more people are admitted to prison, costs increase. Costs continue to rise for each year until offenders admitted in the first year the change takes effect begin to leave prison. For purposes of this calculator, costs ramp up over the term of the average change in time served (for a new crime, the entirety of the average projected time served), with the first year of admissions expected to exit prison after the average change in time served.

It is difficult to estimate how many individuals will be charged, convicted, or sent to jail based on an increase of sentencing penalties. Without additional information, this analysis assumes at least one person will be admitted to jail each year for this crime. To account for time to adjudication, these costs are not anticipated to be incurred until one year after the bill takes effect, in FY26; however, a minimal cost may apply in FY25 for individuals detained for some period before adjudication. This analysis estimates Senate Bill 204 will increase annual incarceration costs of at least \$37.5 thousand to the state and at least \$19.2 thousand to counties. Costs to the state are estimated to be at least \$26.6 thousand in FY26 and will rise to \$37.5 thousand in FY27 and future fiscal years.

Additional increased system costs beyond incarceration, such as costs to the judicial branch for increased trials or to law enforcement to investigate and arrest individuals for the new crimes under SB204, are not included in this analysis but could be moderate.

## SIGNIFICANT ISSUES

Research shows the certainty of being caught is a more powerful deterrent to crime than severity of punishment, and although laws and policies designed to deter crime focus mainly on increasing the severity of the punishment, this does little to deter criminals because most know little about sanctions for specific crimes. These findings suggest increasing penalties for crimes is unlikely to produce a significant impact on crimes committed. Incarceration (and length of incarceration) has also been shown to have a criminogenic effect, meaning time in jail or prison may make people more likely to commit crimes in the future.

Prioritizing solving crimes and securing convictions, particularly for serious offenses, could be much more impactful than increasing penalties. In New Mexico, however, punishment has grown less certain as crime has increased, with fewer violent crimes solved and more violent felony cases dismissed. LFC’s evaluation team has found in the 2<sup>nd</sup> Judicial District (Bernalillo County) specifically, neither arrests, convictions, nor prison admissions have tracked fluctuations in felony crime, and in 2020, when felonies began to rise, accountability for those crimes fell. Improving policing and increasing cooperation and coordination among criminal justice partners could help increase the certainty of punishment for the most violent offenses and provide a stronger deterrent to serious crime than heightened penalties.

Analysis from the New Mexico Sentencing Commission stated:

It is likely that the prohibition on carrying firearms in parks and playgrounds would be challenged under the Second Amendment of the U.S. Constitution. Federal courts have been split on whether similar place-based restrictions are a violation of the U.S. Second Amendment since the U.S. Supreme Court’s decision in *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. (2022).

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 204 relates to House Bill 127, which raises the minimum age for firearm purchases to 21.

Senate Bill 204 relates to House Bill 46, which amends the Criminal Code to allow for a third-degree felony conviction if a felon is convicted of being in possession of a firearm or “destructive device.

Senate Bill 204 relates to House Bill 47, which creates a new third-degree felony crime of unlawful carrying of a firearm while trafficking a controlled substance.

Senate Bill 204 relates to House Bill 58, which seeks to repeal the criminal code section mandating instant background checks for firearm sales.

Senate Bill 204 relates to Senate Bill 69, which also establishes a 14-day waiting period for firearm purchases.