

LFC Requester:	Austin Davidson
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date January 17, 2024
Bill No: House Bill 46

Sponsor: Reps. William “Bill” Rehm & Harlan Vincent
Short Title: Felon in Possession of Firearm Penalty

Agency Name and Code Number: 218 AOC
Person Writing Patricia M. Galindo
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
None	None	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
None	None	None	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	N/A	N/A	N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: N/A
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Bill 46 amends Sections 30-7-16(B) and (C) NMSA 1978, by expanding the definition of a felon found in possession of a firearm to include possession of a “destructive device” and increasing the penalty to a second-degree felony for a second or subsequent offense. HB 46 removes the following language from the definition of a felon “less than ten years have passed since the person completed serving a sentence or period of probation for the felony conviction” from Section 31-18-15(E)(3)(a) NMSA 1978. HB 46 also amends Section 31-18-15 NMSA 1978, which establishes basic sentences of imprisonment for criminal offenses. This bill would add a third-degree felony for possession of a firearm or destructive device by a felon and set the penalty for this offense at five years imprisonment.

The effective date of the legislation is July 1, 2024.

FISCAL IMPLICATIONS

As penalties become more severe, defendants may invoke their right to trial and their right to trial by jury. More trials and more jury trials will require additional judge time, courtroom staff time, courtroom availability and jury fees. These additional costs are not capable of quantification.

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

- (1) Currently, Section 31-18-15(A) provides a basic sentence of three (3) years imprisonment for a third-degree felony. This bill proposes an increased penalty for the offense of possession of a firearm or destructive device by a felon pursuant to Section 30-7-16(B) by increasing the minimum, basic sentence from three (3) years imprisonment to five (5) years [imprisonment] for this offense.
- (2) Section 30-7-16(B) NMSA 1978 was amended in 2020 to increase the penalty from a fourth-degree felony to a third-degree felony for the offense of felon in possession of a firearm. This legislation seeks to again increase the basic sentence of imprisonment for this offense from

three (3) years imprisonment to an enhanced basic term of five (5) years imprisonment for a third-degree felony.

(3) HB 61 expands the crime of possession of a firearm by a felon to include possession of a “destructive device” in Section 30-7-16(B) NMSA 1978. This change ensures that felons who are in possession of a destructive device, along with possessing a firearm, are subject to the enhanced sentencing for both of these third-degree felony offenses.

(4) Under current law, a convicted felon is eligible to possess a firearm if ten years have passed since the person completed serving a sentence or a period of probation. HB 61 eliminates the ten-year provision making a convicted felon permanently ineligible to possess a firearm.

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

ADMINISTRATIVE IMPLICATIONS – none identified.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP – none identified.

TECHNICAL ISSUES – none.

OTHER SUBSTANTIVE ISSUES – none identified.

ALTERNATIVES – none.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS – none.