

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

SECTION I: GENERAL INFORMATION

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

<i>Check all that apply:</i>				Date Prepared:	1/16/2024
Original	X	Amendment		Bill No:	HB46
Correction		Substitute			

Sponsor:	Rep. W. Rehm Rep. H. Vincent	Agency Name and Code Number:	305 – New Mexico Department of Justice
Short Title:	FELON IN POSSESSION OF FIREARM PENALTY	Person Writing Analysis:	AAG Meryl Francolini
		Phone:	505-537-7676
		Email:	legisfir@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(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						

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: HB 46 proposes to amend NMSA 1978, Section 30-7-16, entitled “Firearms or destructive devices - - receipt, transportation or possession by certain persons - - penalty.” This amendment adds language under Subsection (B) to allow for a third-degree felony conviction of a felon in possession of a firearm or “destructive device.” This section is further amended to state that the sentencing shall be done in accordance with the Criminal Sentencing Act, and that a second or subsequent offense shall be considered a second-degree felony. Subsection (C) is similarly amended to state that a serious violent felon in possession of a firearm or “destructive device” is subject to a second-degree felony conviction, elevating the crime from a third-degree felony under the current version of the statute. Subsection (E), defining a “felon,” is also amended to eliminate the current requirement that less than ten years have passed since a person completed a sentence or period of probation for the underlying felony conviction.

HB 46 also proposes to amend the NMSA 1978, Section 31-18-15 of the Criminal Sentencing Act. The amendment adds a basic sentence of five years imprisonment for the third-degree felony of felon in possession of a firearm or destructive device.

FISCAL IMPLICATIONS

None to this office.

SIGNIFICANT ISSUES

HB 46 proposes to amend the definition of “felon” in subsection (E)(3) to eliminate the current requirement that less than ten years have passed since a convicted felon completed a sentence or period of probation for the underlying felony, thereby expanding the group of individuals prohibited from possessing firearms. However, HB46 does not propose to eliminate the same temporal requirement from the definition of “serious violent felon” in subsection (E)(5). This means that were HB 46 enacted as-is, serious violent felons would only be prohibited from possessing firearms for up to ten years after they have completed serving a sentence or period of probation on the underlying felony, but felons who are not classified as serious violent felons would be similarly prohibited for life.

PERFORMANCE IMPLICATIONS

None to this office.

ADMINISTRATIVE IMPLICATIONS

None to this office.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None.