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| <b>LFC Requester:</b> | <b>Austin Davidson</b> |
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**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)

*and*

[DFA@STATE.NM.US](mailto: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:** HB 47

**Sponsor:** Reps. Bill Rehm, Randall Pettigrew & Harlan Vincent  
**Short Title:** Unlawful Firearms While Trafficking

**Agency Name and Code Number:** 218 AOC  
**Person Writing:** Patricia M. Galindo  
**Phone:** 505-670-2656    **Email:** aocpmg@nmcourts.gov

**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)**

|              | <b>FY24</b> | <b>FY25</b> | <b>FY26</b> | <b>3 Year<br/>Total Cost</b> | <b>Recurring or<br/>Nonrecurring</b> | <b>Fund<br/>Affected</b> |
|--------------|-------------|-------------|-------------|------------------------------|--------------------------------------|--------------------------|
| <b>Total</b> | 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 59 creates the third-degree felony crime of Unlawful Carrying of a Firearm While Trafficking a Controlled Substance, consisting of carrying a firearm while violating the provisions of Section 30-31-20 NMSA 1978 (governing the trafficking of controlled substances). HB 59 defines “firearm” as a 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.”

The effective date of this 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**

Under Section 31-18-15(A) NMSA 1978, the basic sentence of imprisonment for a third-degree felony is three years imprisonment. Subsection D also permits the court to impose a fine of \$5,000 or less for a third-degree felony.

In New Mexico, possession of a firearm is a crime when it is by a person under the age of nineteen (19) years old, per Section 30-7-2.2 NMSA 1978; by those listed in Section 30-7-16(B) which includes felons, persons subject to an order of protection, and those convicted of certain crimes; or when considered a deadly weapon by being both concealed and loaded per Section 30-7-2. When a firearm is brandished in the commission of a noncapital felony, Section 31-18-16 provides for firearm enhancements and alterations to the basic sentence for the crime for which the person has been convicted. HB 47 makes the mere possession of a firearm while committing trafficking a new crime, whether or not the firearm was loaded, concealed, or brandished.

Currently, no law precludes a firearm enhancement, under Section 31-18-16, for a trafficking conviction when a weapon is brandished.

Additionally, HB 47 would require that the state prove the defendant possessed a firearm in addition to proving the elements of the crime of trafficking from Section 30-31-20. HB 47 is not clear whether the conviction or admission to this act alone, without a simultaneous conviction for trafficking, would constitute a conviction of trafficking in subsequent prosecutions under Subsection 30-31-20(B)(2).

#### **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