

**LFC Requester:****Scott Sanchez**

**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

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

**Analysis.nmlegis.gov**

*{Analysis must be uploaded as a PDF}*

**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** 31 JAN 24

**Bill No:** HB 129JCS

**Sponsor:** Andrea Romero, Dayan  
Hochman-Vigil, Linda Serrato  
**Short Title:** FIREARM SALE WAITING  
PERIOD CRIMES

**Agency Name  
and Code  
Number:**

790-Department of Public Safety

**Person Writing**

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
NFI	NFI	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
NFI	NFI	NFI	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 Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	NFI	NFI	NFI	NFI	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

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

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

House Judiciary Committee substitute for HB129 makes a minor change and adds definitions that do not alter the intent of the original bill. The substitute provides that the 14-day waiting period does not include temporary possession or control of a firearm provided to a customer by the proprietor of a licensed business in the course/conduct of business. It also adds definitions for “firearm” and “family member.” Finally, it clarifies that the waiting period is 14 calendar days, not 14 business days.

As substituted, HB129 addresses public safety concerns by requiring a 14-day waiting period for sale of a firearm and transfer of the firearm to a buyer to provide time for a federal background check of the buyer and mandating that the firearm remain in the possession of the seller during the entire waiting period. The penalty for a violation is a misdemeanor, making the sale unlawful if the transfer occurs before the required waiting period ends or the federal instant background check is completed, whichever is latest. The bill carves out an important exception for the sale of a firearm between immediate family members.

For premature transfer, each party to the transfer is separately in violation and may be separately charged, and transfers of more than one firearm constitutes a separate offense. Two or more offenses may be charged in the same complaint, information or indictment and shall be punished separately.

The committee substitute includes language in the original bill requiring records of firearm sales be made available by the seller upon request of a law enforcement agency.

The substitute defines the following terms:

- “firearm” means any weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosion; the frame or receiver of any such weapon; or any firearm muffler or silencer; and includes any handgun, rifle or shotgun; but shall not include an antique firearm as defined in 18 U.S.C. Sec. 921(16), a powder-actuated tool or other device designed to be used for construction purposes, an emergency flare or a firearm in permanently inoperable condition.
- “immediate family member” means a spouse, parent, child, sibling, grandparent, grandchild,

great-grandchild, niece, nephew, first cousin, aunt or uncle.

## **FISCAL IMPLICATIONS**

No fiscal implications to DPS.

## **SIGNIFICANT ISSUES**

New Mexico has experienced high rates of gun violence with deaths attributable to firearms increasing in the state by 43% over the 18% national average from 2009 to 2018. Mass shootings have increased in the state and gun violence continues to cause physical and emotional harm and long-lasting consequences for all too many New Mexicans. Public healthcare systems have been over-burdened by gunshot victims in the state. Of the 479 gun deaths in New Mexico in 2020, 59 percent were suicides by firearm. This bill addresses the problems relating to gun violence and suicide in the state by focusing on a cooling off period with appropriate background check waiting time to increase safety in the state.

Waiting-period laws reduce suicide, violent crime, and mass shootings in several ways. First, waiting periods are primarily designed to disrupt impulsive acts of violence and self-harm, giving angry or distraught buyers time to “cool off” or gain perspective. Many suicidal acts are impulsive, with a short time between ideation (thinking about suicide) and attempt. Suicidal crises are often short-lived and characterized by ambivalence.<sup>1</sup> Delaying access to firearms for individuals in these circumstances can reduce suicide attempts. Even if many distraught suicide attempters would seek alternative means of suicide, waiting periods may still reduce total rates of suicide because of the high case-fatality ratio of firearms when compared with other methods. By one estimation, waiting period laws may reduce firearm suicide rates by 7–11%.<sup>2</sup> Waiting period laws also reduce gun homicide rates. One study found that waiting period laws that delay the purchase of firearms by a few days can reduce gun homicides by roughly 17%. *Id.*

Second, waiting periods provide law enforcement agencies with additional time to complete background checks that sometimes cannot be completed within the three-day window provided by the federal law. In 2021, for instance, 5,203 firearms were confirmed to be transferred from federally licensed firearm dealers to prohibited persons because of delays in NICS background checks that exceeded three business days. Often, these delays result from missing data in the NICS databases that must be manually tracked down by investigators (e.g., if final disposition of a case is not noted). A review of 2019 data found that an additional 0.7 percent of all background checks, or about 207,000, could not be completed within 88 days and were thus purged from the NICS review system by law without a determination about whether the buyer was a prohibited possessor.

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<sup>1</sup> Eberhard A. Deisenhammer, et al., “The Duration of the Suicidal Process: How Much Time is Left for Intervention Between Consideration and Accomplishment of a Suicide Attempt?,” *The Journal of Clinical Psychiatry* 70, no. 1 (2008); T. R. Simon, et al., “Characteristics of Impulsive Suicide Attempts and Attempters,” *Suicide and Life-Threatening Behavior* 32 no. 1 (Suppl.) (2001): 49–59; Catherine W. Barber and Matthew J. Miller, “Reducing a Suicidal Person’s Access to Lethal Means of Suicide: A Research Agenda,” *American Journal of Preventive Medicine* 47, no. 3 (2014): S264–S272. See also, Harvard T.H. Chan School of Public Health, Means Matter, “Impulsivity and Crises,” <http://www.hsph.harvard.edu/means-matter/means-matter/impulsivity>.

<sup>2</sup> Michael Luca, Deepak Malhotra, and Christopher Poliquin, “Handgun Waiting Periods Reduce Gun Deaths,” *Proceedings of the National Academy of Sciences* 114, no. 46 (2017): 12162–12165.

**PERFORMANCE IMPLICATIONS**

No performance implications to DPS.

**ADMINISTRATIVE IMPLICATIONS**

No administrative implications to DPS

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

No conflict, duplication, companionship, or relationship issues to DPS

**TECHNICAL ISSUES**

No technical issues to DPS

**OTHER SUBSTANTIVE ISSUES**

No other substantive issues to DPS.

**ALTERNATIVES**

Not applicable as no impact to DPS.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo

**AMENDMENTS**

None at this time.