

**LFC Requester:**

**Scott Sanchez**

**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}*

*Check all that apply:*

**Original**      X      **Amendment**    \_\_\_\_\_  
**Correction**    \_\_\_\_\_    **Substitute**    \_\_\_\_\_

**Date Prepared:**      1/23/24  

**Bill No:**      HB183  

**Sponsor:**      Charlotte Little and Yanira  
                  Gurrola  

**Short Title:**      Negligent Use of Deadly  
                  Weapon  

**Agency Name and Code Number:**      305 – New Mexico  
  Department of Justice  

**Person Writing Analysis:**      AAG Johnna L. Walker  

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**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
<b>Total</b>						

(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: HB183 proposes to increase the penalty for Negligent Use of a Deadly Weapon from a petty misdemeanor to a misdemeanor for the first offense; and a fourth degree felony for a second or subsequent offenses. NMSA 1978 Section 30-7-4.

This bill also proposes to change the pronoun in subsection B, from “his” to a gender neutral title of “officer’s or employee’s.”

**FISCAL IMPLICATIONS**

None for this office.

**SIGNIFICANT ISSUES**

NMSA 1978, Section 31-18-16 is a mandatory sentence enhancement for any noncapital felony offense involving a firearm. This is important because per HB183, a second offense would now qualify for the enhancement. If this is the legislator’s intent, it can be helpful to specifically note that the enhancement is intended to apply. *See Missouri v. Hunter*, 459 U.S. 359, 368-69 (1983) (“Where a legislature specifically authorizes cumulative punishment under two statutes, regardless of whether those two statutes proscribe the ‘same’ conduct under Blockburger, a court[] . . . may impose cumulative punishment under such statutes in a single trial.”).

There has been significant case law regarding double jeopardy implications of the firearm enhancement and there is a pending case before the New Mexico Supreme Court on the question of whether an offense that requires the use of the firearm (e.g., shooting at or from a motor vehicle) can qualify under the firearm enhancement without violating double jeopardy. *See State v. Baroz*, 2017-NMSC-030, ¶ 24 (“The legislative policy behind the firearm sentence enhancement is that a noncapital felony, committed with a firearm, should be subject to greater punishment than a noncapital felony committed without a firearm because it is more reprehensible.”); *see also State v. Young*, S-1-SC-39956.

**PERFORMANCE IMPLICATIONS**

None

**ADMINISTRATIVE IMPLICATIONS**

None

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None

**TECHNICAL ISSUES**

**OTHER SUBSTANTIVE ISSUES**

**ALTERNATIVES**

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

Status quo

**AMENDMENTS**