

LFC Requester:	Sanchez, Scott
-----------------------	-----------------------

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.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 2/13/24
Bill No: HB 316s

Sponsor: Willian "Bill" R. Rehm **Agency Name and Code** AOC 218
Short Title: Felon in Possession of Firearm Penalty **Person Writing** Kathleen Sabo
Phone: 505-470-3214 **Email** aoccaj@nmcourts.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
None	None	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
Unknown	Unknown	Unknown	Rec.	General

(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	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Conflicts with HB 46, HB 168 and HB 198, also amending Section 30-7-16 NMSA 1978. Conflicts with HB 46, HB 109, HB 110, HB 200, HB 206, SB 96 and SB 276, also amending Section 31-18-15 NMSA 1978.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: The House Judiciary Committee (SJC) Substitute for HB 316 amends Section 30-7-16 NMSA 1978, within the Criminal Code, to expand the third-degree felony crime of a felon in possession of a firearm to include a felon in possession of a destructive device, and provide a 5-year term of imprisonment, pursuant to a Section 31-18-15 NMSA 1978 amendment. The expansion also includes:

- Second degree felony penalty for a felon found in possession of a firearm or destructive device for a second or subsequent offense.
- Second degree felony penalty for a serious violent felon found in possession of a firearm or destructive device.

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

FISCAL IMPLICATIONS

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, and appeals from convictions. 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.

Increased penalties are likely to result in more defendants invoking their right to trials, as well as to jury trials. More trials and more jury trials will require additional judge time, courtroom staff time, courtroom availability and jury fees. Indigent offenders are entitled to public defender services.

SIGNIFICANT ISSUES

- 1) The HJC Substitute for HB 316 amends Section 31-18-15 NMSA 1978 to provide a specific term of imprisonment of 5 years for the third degree felony crime of possession of a firearm or destructive device by a felon, where the prior basic sentence of imprisonment for the third degree felony crime of a felon in possession of a firearm was 3

years. Additionally, a felon found in possession of a firearm or destructive device for a second or subsequent offense faces a basic sentence of imprisonment of 9 years for a second-degree felony. Finally, the substitute bill increases the penalty for a serious violent felon in possession of a firearm or destructive device from a third-degree felony to a second-degree penalty, increasing the basic sentence of imprisonment from 3 years to 9 years.

- 2) The HJC Substitute for HB 316 amendments increasing penalties are likely to result in more defendants invoking their right to trials, as well as to jury trials. More trials and more jury trials will require additional judge time, courtroom staff time, courtroom availability and jury fees. Indigent offenders are entitled to public defender services.
- 3) Some research on crime deterrence has shown that increasing punishment does not help to deter crime, partly because criminals are unlikely to know the penalties for specific crimes. On the other hand, increasing the penalties may result in criminals being off the streets for longer time periods and thus unable to commit further crimes.

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

See “Fiscal Implications,” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS