

LFC Requestor: Sanchez, Scott

2024 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS

Section I: General

Chamber: Senate

Category: Bill

Number: 69

Type: Introduced

Date (of THIS analysis): 1/19/2024

Sponsor(s): Joseph Cervantes

Short Title: 14-day Firearm Sale Waiting Period

Reviewing Agency: Agency 665 - Department of Health

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Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 24	FY 25		
\$0	\$0	n/a	n/a

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 24	FY 25	FY 26		
\$0	\$0	\$0	n/a	n/a

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 24	FY 25	FY 26	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
Total	\$0	\$0	\$0	\$0	n/a	n/a

Section III: Relationship to other legislation

Duplicates: None

Conflicts with: None

Companion to: None

Relates to: [2024 HB0129](#)

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

Section IV: Narrative

1. BILL SUMMARY

a) Synopsis

Senate Bill 69 (SB0069) proposes the creation of a misdemeanor for the unlawful sale of a firearm before the required 14 (business) day waiting period that:

- Requires a federal background check within the waiting period
- Requires that the firearm remain in the possession of the seller during the waiting period
- Would allow for each party (seller and buyer) to be charged under this proposed statutes
- Would allow for a separate offense for each firearm sold contrary to the provisions of Section 1
- The seller's records would be available to law enforcement upon request
- There are exceptions for the sale of a firearm
 - to a buyer who holds a federal firearms license
 - to a buyer who holds a valid NM concealed carry license
 - to a law enforcement agency
 - between two law enforcement officers authorized to carry a firearm and certified pursuant to federal law or the Law Enforcement Training Act
 - between immediate family members "to the third degree of consanguinity"

Is this an amendment or substitution? Yes No

Is there an emergency clause? Yes No

b) Significant Issues

Firearm Deaths in New Mexico

- In 2022, New Mexico had the third highest age-adjusted rate of firearm involved death among all states in the United States (26.5 deaths per 100,000 residents) (Unpublished data, [BVRHS](#)), which was 84% higher than the United States (14.4 deaths per 100,000 residents, age adjusted) ([Provisional Mortality Statistics, 2018 through Last Week Request Form \(cdc.gov\)](#)).
- In 2022, the age adjusted firearm death rate in New Mexico was 26.5 deaths per 100,000 residents, which was the second highest rate in New Mexico since 1999 (Unpublished data, New Mexico Bureau of Vital Records and Health Statistics [[NM BVRHS](#)]).
- The age adjusted firearm death rate in New Mexico decreased by 1.9% between 2021 and 2022 (from 27.0 to 26.5 deaths per 100,000 residents), but increased by 17.3% between 2020 and 2022 (from 22.6 to 26.5 deaths per 100,000 residents) (Unpublished data, [NM BVRHS](#)).
- In 2022, there were 550 firearm-related deaths in New Mexico that included 295 suicides, which represents 54% of all firearm deaths in New Mexico (Unpublished data, [NM BVRHS](#)).

- In New Mexico, there have been 140 firearm deaths among children aged 0 – 18 between 2016 and 2020, which include 68 suicide deaths and 64 homicide deaths (<https://wonder.cdc.gov/Deaths-by-Underlying-Cause.html>).

The Impact of Background Checks and Waiting Periods for Purchase of Firearms on Firearm Deaths

Several recent studies have examined the impact of mandatory waiting periods and background checks on firearm fatalities including:

- Anestis et al (2017) who examined differences in statewide suicide rate changes in 2013 and 2014 in all 50 states and DC with and without mandatory waiting periods and universal background checks (<https://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.2016.303650>).
 - Their key finding was that states with mandatory waiting periods and universal background checks have significantly lower suicide rates compared to states with neither.
- Kawano et al. (2022) who used data from CDC Wide-Ranging Online Data for Epidemiologic Research (CDC WONDER) to examine the impact of restrictive firearm laws on firearm-related suicide for adults 18+ between 2009 and 2021 (https://journals.lww.com/journalacs/abstract/2023/01000/restrictive_firearm_laws_and_firearm_related.8.aspx) and found:
 - States with background checks and mandatory waiting periods had lower suicide rates by handgun and large firearms (p<.05)
- Dunton et al. (2022) examined the impact of the repeal of the 48-hour mandatory waiting period [June 2015] on handgun purchases on suicide rates in Wisconsin by comparing suicide rates from 2012-2014 [before the law was repealed] to 2016-2018 [after the law was repealed] (<https://www.tandfonline.com/doi/abs/10.1080/13811118.2021.1886209>) and found that:
 - There were significant increases in suicide rates for people of color and urban residents after the 48-hour mandatory waiting period was repealed.

Creating a waiting period might delay immediate access to a firearm, preventing impulsive acts of gun violence, including suicide and homicide ([Giffords | Waiting Periods](#)). Suicide attempts are often impulsive and studies suggest that most suicide survivors contemplated their actions for less than 24 hours before making the attempt (<http://www.hsph.harvard.edu/means-matter/means-matter/impulsivity>).

Waiting periods can also give law enforcement agencies additional time to complete background checks. Each year approximately 3,800 ineligible people acquire firearms through “default proceed” sales in which a dealer completes a sale without a completed background check after three business days, as allowed under federal law. As a result, FBI experts have recommended extending the time to complete background checks to reduce the number of purchased firearms by default proceeds (<https://www.fbi.gov/services/cjis/nics>).

Currently, eleven states and the District of Columbia have waiting periods that apply to the purchase of a firearm (<https://everytownresearch.org/rankings/law/waiting-periods/>).

In the 2023 Regular Session, legislation related to having a waiting period for firearm sales ([SB427](#) and [HB100](#)) were introduced. The Senate bill was referred to the Senate Health & Public Affairs Committee (SHPAC) and Senate Judiciary Committee (SJC). SHPAC and SJC reported with a Do Pass Recommendation, but Action was Postponed Indefinitely. The House bill was referred to the House Consumer & Public Affairs Committee (HCPAC) and House Judiciary Committee (HJC). HCPAC and the HJC reported with a Do Pass Recommendation, but Action was Postponed Indefinitely.

2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?
 Yes No
- Is this proposal related to the NMDOH Strategic Plan? Yes No
 - Goal 1:** We expand equitable access to services for all New Mexicans
 - Goal 2:** We ensure safety in New Mexico healthcare environments
 - Goal 3:** We improve health status for all New Mexicans
 - Goal 4:** We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?
 Yes No N/A
- If there is an appropriation, is it included in the LFC Budget Request?
 Yes No N/A
- Does this bill have a fiscal impact on NMDOH? Yes No

4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH? Yes No

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

SB0069 is related to HB0129, which would require a 14-day waiting period for the sale of firearms.

6. TECHNICAL ISSUES

Are there technical issues with the bill? Yes No

- The bill does not define a “firearm”

7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written? Yes No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)? Yes No
- Does this bill conflict with federal grant requirements or associated regulations?
 Yes No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs? Yes No

8. DISPARITIES ISSUES

Firearm Deaths in New Mexico

- Between 2018 and 2022, there were 117 firearm deaths among children aged 0 – 17 in New Mexico, which included 50 suicide deaths and 56 homicide deaths (Unpublished data, [NM BVRHS](#)).
- In 2022, American Indian and Alaska Natives (AI/AN) residents in New Mexico were 21% more likely (30.6 deaths per 100,000 residents, age adjusted) to be killed with a firearm compared to White residents (25.2 deaths per 100,000 residents, age adjusted) (Unpublished data, [NM BVRHS](#)).
- In 2022, Black or African American residents in New Mexico were 49% more likely (42.7 deaths per 100,000 persons) to have a firearm involved death than White residents (28.7 deaths per 100,000 persons) (Unpublished data, [NM BVRHS](#)).
- In 2022, males in New Mexico were nearly five times more likely (44.2 deaths per 100,000 residents, age adjusted) to have a firearm-involved death than females (9.0 deaths per 100,000 residents, age adjusted) (Unpublished data, [NM BVRHS](#)).

Suicide Deaths involving a Firearm in New Mexico

- In 2022, 295 suicide deaths were by firearm, accounting for 58% of all deaths by suicide (Unpublished data, [NM BVRHS](#)).
- In 2022, White residents (17.6 deaths per 100,000 residents, age adjusted) were almost two times more likely to be killed in a suicide involving a firearm compared to Hispanic and Black residents (Hispanic: 9.7 deaths per 100,000 residents; Black: 11.2 deaths per 100,000 residents, age adjusted) (Unpublished data, [NM BVRHS](#)).
- In 2022, White residents (17.6 deaths per 100,000 residents, age adjusted) were almost 80% more likely to be killed in a suicide involving a firearm compared to American Indian and Alaska Native (9.8 death per 100,000 residents, age adjusted) (Unpublished data, [NM BVRHS](#)).
- In 2022, males in New Mexico were nearly 5.8 times more likely (23.7 deaths per 100,000 residents, age adjusted) to have a suicide death involving a firearm than females (3.5 deaths per 100,000 residents, age adjusted) (Unpublished data, [NM BVRHS](#)).

9. HEALTH IMPACT(S)

Firearm Deaths in New Mexico

- Nearly eight out of ten homicides committed in 2020 involved a firearm, ([Gun Violence: The Impact on Public Health \(nihcm.org\)](#)).
- Between 2018 and 2022, there were 117 firearm deaths among children aged 0 – 17 in New Mexico, which included 50 suicide deaths and 56 homicide deaths (Unpublished data, [NM BVRHS](#)).
- In 2022, New Mexico had the third highest age-adjusted firearm death rate among all states in the United States (26.5 deaths per 100,000 residents) (Unpublished data, [BVRHS](#)), which was 84% higher than the United States rate (14.4 deaths per 100,000 residents, age adjusted) ([Provisional Mortality Statistics, 2018 through Last Week Request Form \(cdc.gov\)](#)).
- In 2022, firearm involved death would be the 10th leading cause of death in New Mexico with more deaths than nutritional deficiencies and influenza and pneumonia ([CDC Wonder - Underlying Cause of Death Form](#) – Data queried and prepared by NMDOH – ERD on 1.11.2024).
- Between 2012 and 2022, the age-adjusted firearm death rate in New Mexico increased by 75% (from 15.1 deaths per 100,000 residents in 2012 to 26.5 deaths per 100,000 residents in 2022) (Unpublished data, [NM BVRHS](#)).
- Between 2020 and 2022, the age-adjusted rate of firearm death increased by 17% (from 22.6 to 26.5 deaths per 100,000 residents) with 69 more deaths than in 2020. However, there was a 2% decrease in the rate from 2021 to 2022 (from 27.0 to 26.5 deaths per 100,000 residents) with 12 fewer deaths in 2022 (Unpublished data, [NM BVRHS](#)).

Enactment of SB69 would create the crime of unlawful sale of a firearm without a 14-day waiting period. Waiting period laws have been shown to reduce homicides by roughly 17% (<https://www.pnas.org/doi/10.1073/pnas.1619896114#:~:text=Significance,gun%20homicides%20by%20roughly%2017%25.>). States with waiting periods, among other firearm regulations, have lower suicide and homicide rates (<https://academic.oup.com/jpubhealth/article/44/3/614/6225077>). Decreasing access to a highly lethal means of injury through a 14-day waiting period may reduce deaths by both homicide and suicide in NM.

10. ALTERNATIVES

None

11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

If SB0069 is not enacted, then it will not be a misdemeanor for a seller to:

- wait 14 business days to conduct a background check
- allow the buyer to have possession of the firearm during the waiting period
- make records unavailable to the police upon request

12. AMENDMENTS

None