

<b>LFC Requester:</b>	<b>Sanchez, Scott</b>
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**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** 1/28/24  
**Bill No:** SB 204

**Sponsor:** Sen. Daniel A. Ivey-Soto  
**Short Title:** Firearms on Playgrounds

**Agency Name and Code**    AOC 218  
**Number:** \_\_\_\_\_  
**Person Writing**    Kathleen Sabo  
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**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)**

	<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>	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Related to HB 46, HB 47, HB 58, HB 78, HB 114, HB 127, HB 129, HB 137, HB 168, HB 183, HB 198, HM 27, SB 5, SB 69, SB 97 and SJR 12, also dealing with firearms.

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

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: SB 204 enacts a new statutory section to create the fourth degree felony crime of Unlawful Carrying of a Firearm in a Park or Playground, consisting of carrying a firearm in a park or playground except be a:

- (1) Peace officer;
- (2) Security officer licensed and allowed to carry a firearm pursuant to the Private Investigations Act; or
- (3) Member of the armed services or reserve forces of the United States or the New Mexico National Guard while performing official duties.

SB 204 defines “firearm,” “park” and “playground.”

**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.

**SIGNIFICANT ISSUES**

- 1) While SB 204 defines “firearm” to mean a weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosion, including a handgun, rifle or shotgun, Section 30-7-16 NMSA 1978, governing the receipt, transportation or possession of firearms or destructive devices by certain persons, defines “firearm” to mean, “any 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”.
- 2) On September 8, 2023, Governor Lujan Grisham issued an executive order suspending open and concealed carry, with the expressed purpose “to try to create a cooling-off period while we figure out how we can better address public safety and gun violence.” See *The Governor tried banning guns in Albuquerque. The public health emergency continues*, Martin Kaste, October 18, 2023, National Public Radio at

<https://www.npr.org/2023/10/18/1206494502/the-governor-tried-banning-guns-in-albuquerque-the-public-health-emergency-conti>.

The ban was soon narrowed to apply only to parks and playgrounds, in Albuquerque and Bernalillo County.

In early January, 2024, the justices of the NM Supreme Court heard oral arguments in a lawsuit brought by Republican state legislators, the National Rifle Association (NRA) and others, challenging the emergency orders. The justices have yet to issue a ruling. See *New Mexico justices hear challenge to public health ban on guns in public parks and playgrounds*, Morgan Lee, January 8, 2024, Associated Press at <https://apnews.com/article/new-mexico-gun-ban-gop-appeal-93a902d2bdecce5de2beec5fd1ccec38>.

- 1) Should SB 204 become law, it is likely that it will be subject to challenges under both the Second Amendment of the U.S. Constitution and Article 2, Section 6 of the Constitution of New Mexico.

In addition, and as the Office of the NM Attorney General pointed out in its analysis of 2023's HB 101 and its substitute, the court in *New York State Rifle & Pistol Association v. Bruen*, 597 U.S. \_\_\_ (2022), held that the government must demonstrate that the regulation being challenged is "consistent with this nation's tradition of firearm regulation," meaning, explained the New York Times, "that the constitutionality of modern gun control measures depends on whether the government can show that there were analogous laws during the 18<sup>th</sup> and 19<sup>th</sup> centuries." See *Supreme Court's Devotion to Gun Rights Faces a Challenging Test*, Adam Liptak, November 6, 2023 at <https://www.nytimes.com/2023/11/06/us/politics/supreme-court-guns-second-amendment.html#:~:text=%E2%80%9CThe%20government%20must%20demonstrate%20that,the%2018th%20and%2019th%20centuries>. See the FIR for 2023's HB 101 and substitute at <https://www.nmlegis.gov/Sessions/23%20Regular/firs/HB0101.PDF>.

## **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**

Related to HB 46, HB 47, HB 58, HB 78, HB 114, HB 127, HB 129, HB 137, HB 168, HB 183, HB 198, HM 27, SB 5, SB 69, SB 97 and SJR 12, also dealing with firearms.

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

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