

<b>LFC Requester:</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** January 29, 2024  
**Bill No:** SB 204-280

**Sponsor:** Daniel Ivey-Soto **Agency Name and Code** LOPD-280  
**Short Title:** Firearms on Playgrounds **Number:** \_\_\_\_\_  
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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)**

	<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>						

(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: SB 204, Unlawful Carrying of a Firearm in a Park or Playground, would prohibit carrying a firearm in a park or playground. The new law would classify violations as a fourth-degree felony, punishable for up to eighteen months in prison.

The proposed legislation includes definitions of “park” and “playground,” as outdoor recreational facilities or areas that are under control of the county or municipality.

The proposed legislation excepts from liability law enforcement, security, or military personnel in the performance of their duties.

**FISCAL IMPLICATIONS**

The fiscal implications of creating new criminal offenses is difficult to predict because no statistics exist to suggest how much of this currently legal conduct would continue and be prosecuted.

While the LOPD would likely be able to absorb some cases under the proposed law, any increase in the number of prosecutions brought about by the cumulative effect of this and all other proposed criminal legislation would bring a concomitant need for an increase in indigent defense funding to maintain compliance with the constitutional mandate. At this stage, accurate prediction of the fiscal impact would be impossible to speculate; assessment of the required resources would be necessary after the implementation of the proposed statutory scheme.

**SIGNIFICANT ISSUES**

SB 204 does not include an intent element. The addition of a requirement that the person “intentionally carry a firearm at a park or playground” as an element of the proposed crime, would better comport with due process and avoid a strict liability offense where a person with a lawful carry permit inadvertently carries a firearm within the prohibited area.

In addition, because enactment of this law would declare to be criminal certain ordinary activities that have previously been legal since the founding days of New Mexico, any such enactment should come with profound fanfare, advertising and education to prevent innocents from inadvertently becoming criminals by continuing behavior they have legally done up until

now. *See State v. Montoya*, 1977-NMCA-134, ¶ 14, 91 N.M. 262 (stating the “general rule is that ignorance of the law is not a defense.”).

## **PERFORMANCE IMPLICATIONS**

None noted.

## **ADMINISTRATIVE IMPLICATIONS**

None noted.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB 78 (permitless carry); HB 137 (relating to semi-automatic firearms); HB 168 (prohibiting undocumented people from having firearms); HB 183 (increasing penalties for negligent use of a firearm); HB 198 (increasing penalties for felons possession firearms); SB 5 (prohibiting firearms near polling places); among others.

## **TECHNICAL ISSUES**

Reviewer is unaware whether this legislation is germane under Art. IV, Section 5. It is not a budget bill, analyst is unaware if it has been drawn pursuant to a special message of the Governor, and it was not vetoed following the previous regular session.

## **OTHER SUBSTANTIVE ISSUES**

New Mexico law already prohibits the unlawful carrying of a deadly weapon on school premises, defined to include parks and recreational areas attached to a school, or those public facilities in which school related activities are being performed. NMSA 1978, Section 30-7-2.1 (1994) (“Unlawful carrying of a deadly weapon on school premises”). As the proposed legislation seeks to expand the public recreation areas in which carrying a firearm is prohibited, if passed it may logically amend or fit within the current statutory scheme of section 30-7-2.1.

## **ALTERNATIVES**

Incorporate the proposed prohibition into the existing Section 30-7-2.1.

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

Status quo.

## **AMENDMENTS**