

<b>LFC Requester:</b>	<b>Scott Sanchez</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

**Sponsor:** Ivey-Soto  
**Short Title:** Firearms On Playgrounds

**Agency Name and Code Number:** NM Sentencing Commission – 354  
**Person Writing** Keri Thiel  
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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 would create the new offense of unlawful carrying of a firearm in a park or playground. The bill prohibits the carrying of a firearm in a park or playground except by a police officer, licensed security officer, or member of the armed services, reserve forces, or New Mexico National Guard in the performance of their official duties.

SB 204 provides definitions for “firearm”, “park”, and “playground”, as follows:

- “Firearm” is defined as a weapon that expels projectiles by the action of an explosion, including a handgun, rifle, and shotgun.
- “Park” is defined as a public outdoor recreational area owned or managed by a municipality or county, including the adjoining parking lot, and excluding recreational areas designated as outdoor shooting ranges.
- “Playground” is defined as a public outdoor facility with play stations that are intended for the recreation of children, and includes the facility’s parking lot.

Unlawful carrying of a firearm in a park or playground would be a fourth degree felony.

**FISCAL IMPLICATIONS**

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

**SIGNIFICANT ISSUES**

While SB 204 provides that its exception for members of the armed forces, reserve forces, or New Mexico National Guard applies only when those members are performing their official duties, it does not apply the same condition to the exceptions it carves out for police officers and security officers. It is unclear if it is the intent of the bill that these individuals should be able to carry firearms in parks and playgrounds other than in the performance of their official duties.

SB 204’s definition of park includes the “adjoining” parking lot, while its definition of

playground simply includes the facility’s parking lot, without requiring that the lot be adjoining the facility. It is unclear if this omission is intentional, or what would be its purpose.

The definition of “firearm” provided in SB 204 is more restrictive than the definition provided in Section 30-7-7.1 NMSA 1978 (requiring background checks for firearm purchases) and, for example, does not provide exceptions for an emergency flare or a powder-actuated tool or other device used for construction purposes.

It is likely that the prohibition on carrying firearms in parks and playgrounds would be challenged under the Second Amendment of the U.S. Constitution. Federal courts have been split on whether similar place-based restrictions are a violation of the U.S. Second Amendment since the U.S. Supreme Court’s decision in *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. \_\_\_\_ (2022). See, e.g., “Appeals Court Blocks California Law Banning Guns in Most Public Places from Taking Effect”, available at: <https://www.pbs.org/newshour/politics/appeals-court-blocks-california-law-banning-guns-in-most-public-places-from-taking-effect>. The Court in *Bruen* held that “to justify a firearm regulation the government must demonstrate that the regulation is consistent with the Nation’s historical tradition of firearm regulation”. (Opinion available here: [https://www.supremecourt.gov/opinions/21pdf/20-843\\_7j80.pdf](https://www.supremecourt.gov/opinions/21pdf/20-843_7j80.pdf).) The matter of place-based restrictions in parks and playgrounds has not yet been heard by the U.S. Supreme Court, but the Court has stated in *Bruen* and earlier cases that bans on firearms in “sensitive places” are permissible under the Second Amendment. The New Mexico Supreme Court heard oral arguments in January 2024 in a Second Amendment challenge against Governor Lujan Grisham’s ban on guns in public parks and playgrounds in Bernalillo County. A federal district judge previously upheld that ban. The case before the New Mexico Supreme Court has not yet been decided.

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

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

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

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

## **AMENDMENTS**