

LFC Requester:

Scott Sanchez

## AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

### **SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** 1/20/2026

*Check all that apply:*

**Bill Number:** HB 81

Original

Correction

Amendment

Substitute

**Sponsor:** Reps. John Block, Rep.  
Stefani Lord, and Rep.  
Randall T. Pettigrew

**Agency Name and Code Number:** 305 – New Mexico  
Department of Justice

**Short Title:** PERMITLESS CARRY OF  
FIREARMS

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### **SECTION II: FISCAL IMPACT**

#### **APPROPRIATION (dollars in thousands)**

<b>Appropriation</b>		<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>FY26</b>	<b>FY27</b>		

(Parenthesis ( ) indicate expenditure decreases)

#### **REVENUE (dollars in thousands)**

<b>Estimated Revenue</b>			<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>FY26</b>	<b>FY27</b>	<b>FY28</b>		

(Parenthesis ( ) indicate revenue decreases)

#### **ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

Total	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
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(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

*This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator's request. The analysis does not represent any official policy or legal position of the NM Department of Justice.*

### **BILL SUMMARY**

**Synopsis:** Currently, New Mexico law generally allows only those individuals possessing a valid concealed carry permit issued by the Department of Public Safety, pursuant to the provisions of the Concealed Carry Act, NMSA 1978, §§ 29-19-1 through -17, to carry a concealed, loaded firearm on their person in a public place. The Concealed Handgun Carry Act provides that such permits may only be issued to an individual who meets certain qualifications, namely:

- The individual is a citizen of the United States;
- The individual is a resident of New Mexico or is a member of the armed forces whose permanent duty station is location in New Mexico or is a dependent of such a member;
- The individual is 21 years of age or older;
- The individual is not a fugitive from justice;
- The individual has not been convicted of a felony in New Mexico or any other state or pursuant to the laws of the United States or any other jurisdiction;
- The individual is not currently under indictment for a felony criminal offense in New Mexico or any other state or pursuant to the law of the United States or any other jurisdiction;
- The individual is not otherwise prohibited by federal law or the law of any other jurisdiction from purchasing a firearm;
- The individual has not been adjudicated mentally incompetent or committed to a mental institution;
- The individual is not addicted to alcohol or controlled substances; and
- The individual has satisfactorily completed a firearms training safety course approved by the [NMDPS] for the category and the largest caliber of handgun that the applicant wants to be licensed to carry as a concealed handgun.

*See id.* NMSA 1978, § 29-19-4.

Section 1 of HB81 would add a new section to NMSA 1978, Chapter 30, Article 7, and purports to allow any person over the age of eighteen to possess and carry loaded firearms, either concealed or openly, unless that person is otherwise prohibited by law from doing so. As written, HB81 would eliminate many of the requirements listed above.

In effect, HB81 would: (1) lower the minimum age for carrying a concealed firearm from age 21 to age 18; (2) allow non-United States citizens to carry concealed firearms; (3) remove the firearm safety training requirement; (4) allow individuals who have been adjudicated as mentally incompetent to carry concealed firearms; and (5) allows those under felony

indictment to carry concealed firearms.

Section 2 of HB81 would amend NMSA 1978, Section 30-7-12 to alter the definition of “deadly weapon,” as it is used generally throughout the Criminal Code, to exclude firearms. This would have the effect of indirectly repealing or amending numerous statutes not explicitly referenced in HB81.

Sections 3 and 4 of HB81 would amend NMSA 1978, §§ 30-7-1 and -2, which prohibit the unlawful carrying of a firearm or other deadly weapon in public without a license. Violations under these statutes constitutes a petty misdemeanor. HB81’s amendments would collectively exclude firearms from these statutes.

Section 6 of HB81 would also repeal the following statutes:

- NMSA 1978, § 30-7-2.2, which prohibits the knowing possession or transportation of a handgun by a minor, subject to certain exceptions.
- NMSA 1978, § 30-7-2.3, which provides that a handgun is subject to forfeiture by law enforcement when the handgun is possessed by a minor in violation of Section 3-7-2.2.
- NMSA 1978, § 30-7-2.4, which prohibits the unlawful carrying of a firearm on university premises, subject to certain exceptions.
- NMSA 1978, § 30-7-3, which prohibits carrying a firearm on a liquor establishment, subject to certain exceptions.

## **FISCAL IMPLICATIONS**

None noted.

## **SIGNIFICANT ISSUES**

As noted above, the definitions found in NMSA 1978, § 30-1-12 are applicable to the entire Criminal Code. In Section 2, HB81 amends the definition of “deadly weapon” in NMSA 1978, § 30-1-12 by not simply removing reference to firearms, but by also adding an exclusion for firearms. Thus, any criminal statute using the term “deadly weapon” without additional reference to firearms would be impacted by this amendment.

For instance, if passed, the bill would allow prisoners to possess firearms and would decriminalize giving prisoners firearms. *See* NMSA 1978, § 30-22-16 (making “possession of a *deadly weapon* or explosive by prisoner” a second-degree felony); NMSA 1978, § 30-22-12(A) (providing that giving prisoners “any *deadly weapon*” is a second-degree felony); NMSA 1978, § 30-22-14(A)-(C)(1) (providing that deadly weapons are prison contraband and bringing them into a prison is a third-degree felony).

Additionally, though it appears HB81 aims to expand situations where *adults* can legally carry firearms and repeals several “unlawful carrying” criminal statutes (including Section 30-7-2.2 but not Section 30-7-2.1), the amendment to what constitutes a “deadly weapon” would permit individuals of *any age* to take a firearm to an elementary school. *See* NMSA 1978, § 30-7-2.1 (prohibiting carrying a “deadly weapon” on school grounds).

Other existing statutes would be unintentionally impacted by HB81’s Section 2, and passage of the bill would reduce the severity of many serious crimes; several felonies would be reduced to

lower-level felonies, misdemeanors, or petty misdemeanors. Some examples of crimes that are currently enhanced by the use of a firearm but would be reduced in severity, absent other factual circumstances, are as follows:

- Aggravated battery would be reduced from a third-degree felony to a misdemeanor or petty misdemeanor. *See* NMSA 1978, § 30-3-5(C) (providing that aggravated battery “with a deadly weapon” is a third-degree felony); NMSA 1978, § 30-3-5(B) (aggravated battery without great bodily harm is a misdemeanor); NMSA 1978, § 30-3-4 (simple battery is a petty misdemeanor).
- Aggravated assault would be reduced from a fourth-degree felony to a petty misdemeanor. *See* NMSA 1978, § 30-3-2 (providing that “assaulting or striking at another *with a deadly weapon*” is a fourth-degree felony); NMSA 1978, § 30-3-1 (simple assault is a petty misdemeanor).
- Aggravated stalking would be reduced from a fourth-, second-, or third-degree felony to a misdemeanor or fourth-degree felony. *See* NMSA 1978, § 30-3A-3.1 (aggravated stalking while “*in possession of a deadly weapon*” felony level depends on prior convictions); NMSA 1978, § 30-3A-3 (stalking is a misdemeanor or fourth-degree felony, depending on prior convictions).
- Conveying a challenge to, accepting, or engaging in a duel involving firearms would no longer be a criminal act. *See* NMSA 1978, § 30-20-11(A)-(D) (prohibiting duels “with any deadly weapon”).
- Aggravated burglary would be reduced from a second-degree felony to a third- or fourth-degree felony. *See* NMSA 1978, § 30-16-4 (providing that aggravated burglary is a second-degree felony when the burglar “is armed with a deadly weapon”); NMSA 30-16-3 (providing that burglary is otherwise a third- or fourth-degree felony, depending on whether the crime occurs in a dwelling).
- Criminal sexual penetration, when committed with a firearm without other aggravating factors, would be reduced from a second-degree felony to a third-degree felony. *See* NMSA 1978, § 30-9-11(E)(6) (providing that criminal sexual penetration perpetrated while “armed with a deadly weapon” is a second-degree felony); NMSA 1978 § 30-9-11(F) (all other criminal sexual penetration perpetrated through use of force or coercion is a third-degree felony).
- Criminal sexual contact, when committed with a firearm without other aggravating factors, would be reduced from a fourth-degree felony to a misdemeanor. *See* NMSA 1978, § 30-9-12(C) (providing that criminal sexual contact perpetrated while “armed with a deadly weapon” is a fourth-degree felony); NMSA 1978 § 30-9-12(D) (providing that otherwise, it is a misdemeanor).
- Criminal sexual contact of a minor, when committed with a firearm without other

aggravating factors, would be reduced from a third-degree felony to a fourth-degree felony. *See* NMSA 1978, § 30-9-13(C) (providing that criminal sexual contact of a minor, perpetrated while “armed with a deadly weapon” is a third-degree felony); NMSA 1978 § 30-9-13(D) (providing that otherwise, it is a fourth-degree felony).

- Aggravated shoplifting would be reduced from a third-degree felony to a misdemeanor or petty misdemeanor. NMSA 1978, § 30-16-20(E) (providing that aggravated shoplifting consists of “unlawfully assaulting or striking at another with a deadly weapon” during the crime of shoplifting); NMSA 1978, § 30-3-5(B) (aggravated battery without great bodily harm is a misdemeanor); NMSA 1978, § 30-3-4 (simple battery is a petty misdemeanor).
- Armed robbery would be reduced from a first- or second-degree felony to a third-degree felony. *See* NMSA 1978, § 30-16-2 (providing that robbery “while armed with a deadly weapon” is a first- or second-degree felony, depending on prior convictions, and robbery without a “deadly weapon” is a third-degree felony).

Additionally, HB81’s proposed Section 1 allows permitless carrying of a concealed firearm by a person who is not “prohibited by federal or state law or a court order” from doing so. This would appear to be in conflict with any current municipal ordinance in New Mexico that prohibits carrying a loaded, concealed firearm without a valid concealed carry permit. For example, Section 12-2-8 of Albuquerque’s Municipal Code prohibits carrying a firearm “concealed in a manner making it not readily visible on the person or in close proximity thereto,” subject to certain exceptions. Many municipalities across New Mexico have identical or similar ordinances in place.

The New Mexico Supreme Court has recognized that “an ordinance will conflict with state law when state law specifically allows certain activities or is of such a character that local prohibitions on those activities would be inconsistent with or antagonistic to that state law or policy.” *Stennis v. City of Santa Fe*, 2008-NMSC-008, ¶ 21, 143 N.M. 320. HB81 would permit activities that local ordinances specifically prohibit and would therefore conflict with those local ordinances. However, nothing in the proposed new law indicates whether the Legislature intends to preempt municipal authority in this area or discusses the proper interaction between the statute and municipal ordinances. The conflict could lead to confusion and require clarification through litigation.

## **PERFORMANCE IMPLICATIONS**

N/A

## **ADMINISTRATIVE IMPLICATIONS**

N/A

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

Relates to HB61, which proposes to increase the penalty for aggravated battery upon a peace officer to a second-degree felony. Because HB81 proposes to amend the definition of “deadly weapon” to exclude firearms, the increased penalty would only apply if something other than a

firearm was used to commit the battery, or if the battery was conducted in a manner whereby great bodily harm or death can be inflicted. The bills do not otherwise appear to be in conflict.

Relates to HB67, which proposes to amend the Family Violence Protection Act, in relevant part, to require parties subject to a restraining order to forfeit their firearms until such order is lifted. The bills do not appear to be in conflict.

## **TECHNICAL ISSUES**

HB81's Section 3 would amend NMSA 1978, § 30-7-1 and would redefine "carrying a deadly weapon" to "being armed with a deadly weapon, not including a firearm[.]" However, because HB81's Section 2 would amend the definition of "deadly weapon," found in NMSA 1978, § 30-7-12 and used throughout the entirety of the Criminal Code, to exclude firearms, the amendment to NMSA 1978, § 30-7-1 is redundant.

## **OTHER SUBSTANTIVE ISSUES**

HB81 raises public safety concerns. The New Mexico Court of Appeals has observed that the "[t]he purpose of Section 30-7-3 is to protect the innocent patrons of an establishment serving alcoholic beverages" from the "obvious danger in the combination of firearms and liquor consumption," which "exists regardless of whether the person possessing the firearm in a liquor establishment is drinking." *State v. Torres*, 2003-NMCA-101, ¶ 11, 134 N.M. 194. The New Mexico Supreme Court has also recognized that bringing a firearm onto school grounds poses a "high risk of danger," and that "the very real dangers of deadly weapons" on school campuses "are obvious." *State v. Rowell*, 2008-NMSC-041, ¶ 33, 144 N.M. 371. HB81, through its Section 6, would directly repeal the statutes that address the dangers presented by firearms in liquor establishments and on university campuses and, through its Section 2, would indirectly repeal the statutes that address those dangers on elementary- through high-school grounds, buses, and playgrounds.

## **ALTERNATIVES**

N/A

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

Status quo.

## **AMENDMENTS**

N/A