

Duplicates/Conflicts with/Companion to/Relates to: None
Duplicates/Relates to Appropriation in the General Appropriation Act – N/A

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Bill 146 addresses felons in possession of a firearm under Section 30-7-16 NMSA 1978 by expanding the definition of “possession”, creating a new crime for a felon in possession of a firearm for a second or subsequent offense, and increases the penalty for a serious violent felon in possession of a firearm.

House Bill 146 also increases the penalty for a third-degree felony conviction for possession of a firearm or destructive device from three years imprisonment to five years under Section 31-18-15 NMSA 1978, and at sentencing prohibits judges from suspending or deferring one-third of the basic sentence of imprisonment.

The effective date of this legislation is July 1, 2026.

FISCAL IMPLICATIONS

As penalties become more severe, defendants may invoke their right to trial and their right to trial by jury. More trials and more jury trials will require additional judge time, courtroom staff time, courtroom availability and jury fees. These additional costs are not capable of quantification.

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. 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

Section 30-7-16(B) NMSA 1978 was amended in 2020 to increase the penalty for the offense of felon in possession of a firearm from a fourth-degree felony to a third-degree felony. HB 146 seeks to again increase the basic sentence of imprisonment for this third-degree felony offense from three years imprisonment to a minimum of five years imprisonment. If passed, under Section 31-18-15 NMSA 1978, this would be the only third-degree felony with a minimum term of imprisonment greater than three years.

HB 146 also creates a new, separate crime for a second and subsequent offense for a felon in possession of a firearm or destructive decision. A second or subsequent conviction would be a second-degree felony, with the basic sentence of nine years imprisonment.

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 – none identified.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP – none identified.

TECHNICAL ISSUES – none.

OTHER SUBSTANTIVE ISSUES – none identified.

ALTERNATIVES – none.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS – none.