



## **SECTION III: NARRATIVE**

### **BILL SUMMARY**

#### Synopsis:

HB 146 amends Section 30-7-16 NMSA 1978, regarding the receipt, transportation, or possession of firearms or destructive devices, to include receipt and transport of a firearm, and to prohibit the possession of a destructive device by a felon. The bill also adds in a new subsection that a second or subsequent offense shall be a second degree felony.

HB 146 similarly amends the subsection of Section 30-7-16 regarding the possession of firearms by serious violent felons, to include receipt and transport of a firearm, and to prohibit the possession of a destructive device by a serious violent felon. The bill changes the penalty for a serious violent felon in possession from a third degree felony to a second degree felony and removes the existing special penalty of a basic term of six years imprisonment. The bill includes a provision prohibiting courts from suspending or deferring one-third of the basic sentence of imprisonment for serious violent felons in possession.

HB 146 also amends the definitions subsection of Section 30-7-16, paragraph F in the proposed text, to provide that the term “felon” shall not apply to individuals who would otherwise qualify but who have completed their total term of deferment as provided in Section 31-20-9 NMSA 1978.

The bill also amends Section 31-18-15 NMSA 1978 to include a third degree felony for possession of a firearm or destructive device by a felon, which would carry a penalty of five years imprisonment.

HB 146 sets an effective date of July 1, 2026.

### **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**

In 2021, the New Mexico Sentencing Commission engaged the services of the Robina Institute of Criminal Law and Criminal Justice at the University of Minnesota to analyze the state’s Criminal Code for its strengths and weaknesses. One item of concern for the Robina Institute was that the Criminal Code has a number of special statutes that fall out of the normal penalty structure in the state. HB 146 would add an additional special penalty into the Criminal Code through its addition of a five-year third degree felony for felons in possession of a firearm or destructive device. However, HB 146 would also remove a special penalty from the Criminal Code, as it would remove the existing six-year third degree felony for serious violent felons in possession of a firearm or destructive device.

HB 146 would increase the basic term of years of imprisonment for felons and serious violent felons in possession of a firearm, and would also apply the same penalties for felons and serious violent felons in possession of a destructive device. HB 146 would also add an increased penalty for second or subsequent offenses of felons in possession of a firearm or destructive device.

While it is difficult to determine what the effect of passing HB 146 would be on the state's prison population, it is likely that these changes would lead to more people being incarcerated by the Corrections Department. The average per day cost to incarcerate someone in the state's prison system is \$153.08/day; this average includes private and public facilities.

Section 30-7-16 NMSA 1978 has been amended several times in recent years to increase the penalty for felons in possession of firearms. In FY 2024, the most recent year for which NMSC has access to court data, there were 950 cases of felon in possession charges, and felon in possession was the lead offense in 682 of those cases. Of those cases that have been disposed, there was a finding of guilt for the felon in possession charges 35% of the time. There were 932 cases where felon in possession was the most serious weapons offense in the case (not necessarily the lead offense), and for these cases, there was a finding of guilt for felon in possession 36% of the time. As of June 30, 2024, there were 92 people incarcerated in NM prisons for a felon in possession conviction. The mean expected length of stay for those individuals was 2.2 years, and median expected length of stay was 2.0 years.

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

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

Conflicts with HB 49.

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

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

## **AMENDMENTS**