

LFC Requester:	Scott Sanchez
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AGENCY BILL ANALYSIS – 2026 SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.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}

Date Prepared: 31 JAN 2026 *Check all that apply:*
Bill Number: HB228 Original X Correction
 Amendment Substitute

Sponsor: Randall T. Pettigrew **Agency Name and Code Number:** 790 – Department of Public Safety

Short Title: FIREARMS & TRAFFICKING CONTROLLED SUBSTANCES
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
NFI	NFI	N/A	N/A
NFI	NFI	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
NFI	NFI	NFI	N/A	N/A
NFI	NFI	NFI	N/A	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected

Total	NFI	NFI	NFI	NFI	N/A	N/A
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(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: 2020- HB114, 2022- HB26, HB212- 2023, 2025- HB248, 2025- HB549

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

House Bill 248 (HB-248) creates the crime of unlawful carrying of a firearm while trafficking a controlled substance, making it a third-degree felony, and subject to sentencing under provisions of Sec. House Bill 228 (HB-228) creates the crime of unlawful carrying of a firearm while trafficking a controlled substance, making it a third-degree felony, and subject to sentencing under provisions of Sec. 31-18-15 (Criminal Sentencing Act). As used in this section, “firearm” means any weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosion or the frame or receiver of any such weapon.

FISCAL IMPLICATIONS

No fiscal impact to DPS.

SIGNIFICANT ISSUES

This bill creates the crime of unlawful carrying of a firearm while trafficking a controlled substance in New Mexico. It makes it illegal to carry a firearm while violating the state's drug trafficking laws (Section 30-31-20 NMSA 1978). A person convicted of this offense will be guilty of a third-degree felony and will be sentenced under existing state law (Section 31-18-15 NMSA 1978). Although HB 228 creates a new crime, the crime of unlawful carrying of a firearm while trafficking a controlled substance requires an individual to also be convicted of the crime of trafficking a controlled substance. As a result, the bill functions more as a sentence enhancement than a new crime. The bill is not anticipated to result in more individuals being admitted to prison, as those individuals would already be admitted to prison for drug trafficking, but it is anticipated to increase the amount of time they spend in prison. The bill mirrors the federal approach under 18 U.S.C. § 924(c), which similarly imposes enhanced penalties for carrying a firearm during drug trafficking crimes, and addresses a recognized nexus between armed conduct and drug distribution that increases danger to law enforcement and the public. It is not clear from the language in the bill that a conviction for the crime of unlawful carrying of a firearm while trafficking without a simultaneous conviction for trafficking would constitute a conviction for trafficking in subsequent prosecutions

PERFORMANCE IMPLICATIONS

This bill reduces the risk of violent crime associated with drug trafficking and prevents armed drug dealers from posing an increased threat to law enforcement and the public. It adds an additional felony charge for those involved in drug trafficking while armed. Many states and federal laws already impose additional penalties for carrying a firearm while committing a drug crime. In turn, this could lead to fewer violent encounters in communities affected by drug activity. Currently, these types of offenses are prevalent in daily law enforcement investigations in New Mexico. DPS supports this legislation.

ADMINISTRATIVE IMPLICATIONS

No administrative implications to DPS.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

No conflict, duplication, companionship, or relationship to DPS.

TECHNICAL ISSUES

The bill does not independently define “trafficking a controlled substance” but incorporates by reference the definition in Section 30-31-20 NMSA 1978, which encompasses manufacture, distribution, sale, barter, giving away, or possession with intent to distribute certain controlled substances. Additionally, the bill does not define “carrying” a firearm; however, federal courts interpreting the analogous phrase in 18 U.S.C. § 924(c)(1) have broadly construed “carries a firearm” to include firearms transported in vehicles, not merely on one’s person. *See Muscarello v. United States*, 524 U.S. 125 (1998). New Mexico courts may apply similar reasoning, providing sufficient guidance for enforcement and prosecution.

OTHER SUBSTANTIVE ISSUES

This bill aligns New Mexico law with similar provisions in other jurisdictions and federal law. Under Section 31-18-15 NMSA 1978, the basic sentence for a third-degree felony is three years imprisonment, subject to alteration based on aggravating or mitigating circumstances. The Legislature has previously considered firearm enhancements for drug trafficking offenses (*see* 2020- HB114, 2022- HB26, HB212- 2023, 2025- HB248, 2025- HB549). New Mexico already enhances penalties for firearms used in connection with drug transactions under Section 31-18-16 NMSA 1978, and HB 228 complements that existing framework by creating a separate offense for carrying a firearm during trafficking. The bill’s firearm definition tracks 18 U.S.C. § 921(a)(3), ensuring consistency with federal standards and facilitating joint state-federal prosecution where appropriate.

ALTERNATIVES

Not applicable as no impact on DPS.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo will remain.

AMENDMENTS

None at this time.