

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: 2/12/2026

Check all that apply:

Bill Number: SB 261

Original Correction
Amendment Substitute

Sponsor: Sen. Joseph Cervantes

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

Person Writing

Short Title: PUBLIC PEACE, HEALTH, SAFETY & WELFARE

Analysis: Tessa Ryan

Phone: 505-645-5980

Email: Fir.request@nmdoj.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(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						

(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:

Senate Rules Committee Substitute for Senate Bill 261 would amend the statute defining the crime of *unlawful possession of a firearm at a polling place* by changing which categories of law enforcement officers the crime does not apply to. Those who are exempt would no longer include:

1. certified law enforcement officers performing their official duties;
2. law enforcement officers certified under the Law Enforcement Training Act who are acting in accordance with their agencies’ policies;
3. commissioned law enforcement officers with the power to arrest who are performing their official duties; and
4. commissioned law enforcement officers with the power to arrest who are acting in accordance with their agencies’ policies.

Instead, the only law enforcement officers who would be exempt are those whose “presence is requested by a presiding judge, an election judge, a county clerk or the secretary of state to assist in maintaining order and orderly control of access or to respond to a disaster or emergency event[.]”

In addition, the substitute bill would eliminate two categories of persons whom the crime does not apply to:

1. a person licensed under the Concealed Handgun Carry Act who is carrying a concealed firearm under that license; and
2. a person conducting lawful, non-election-related business less than 100 feet from the polling place door used by voters (or less than 50 feet from a monitored secured container).

Lastly, the substitute bill would provide that a person who commits the crime is subject to not just the standard sentence for a petty misdemeanor, but also “any other penalty provided by law.”

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

N/A

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

In what would be Paragraph (1) of Subsection B, the term “of access,” without more, is somewhat confusing. It might make the text clearer to insert “to a polling place” after “access.”

OTHER SUBSTANTIVE ISSUES

The elimination of exemptions for law enforcement officers in Subsection B may place the safety of the voting public at risk. “[A] presiding judge, an election judge, a county clerk or the secretary of state” may not be immediately aware of a public safety event that would require a law enforcement officer response. For example, a member of the voting public waiting in line to enter a polling may be the first to observe such conduct requiring a law enforcement response. SB 261 would make a responding law enforcement officer criminally liable. In an emergency situation, any hesitation or reluctance on the part of law enforcement to respond, or any delay caused by first trying to alert an election judge, could impact public safety.

The addition of the “in addition to any other penalty provided by law” language in what would be Subsection C could be problematic, in that it might lead to confusion on how severely a defendant convicted of the crime may be punished.

The statute currently provides that someone who commits the crime “shall be sentenced pursuant to Section 31-19-1 NMSA 19778[.]” That statute (i.e., Section 31-19-1) in turn provides that the maximum sentence is six months’ imprisonment and a \$500 fine. If the contemplated “other penalty provided by law” were to impose additional incarceration or an additional fine, a sentencing court might face a situation in which it would seemingly contravene Section 31-19-1 by exceeding the limits it establishes.

To avoid this outcome, it might be advisable to remove the reference to Section 31-19-1 and explicitly state in Subsection C what penalty is envisioned.

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A