

HOUSE BILL 146

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

## INTRODUCED BY

Nicole Chavez and Andrea Reeb and Art De La Cruz

10 | AN ACT

RELATING TO CRIME; INCREASING THE PENALTY FOR A FELON IN POSSESSION OF A FIREARM OR DESTRUCTIVE DEVICE TO FIVE YEARS IMPRISONMENT; ADDING A NEW CRIME OF FELON IN POSSESSION OF A FIREARM OR DESTRUCTIVE DEVICE FOR A SECOND OR SUBSEQUENT OFFENSE AND ADDING A NEW PENALTY OF NINE YEARS IMPRISONMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 30-7-16 NMSA 1978 (being Laws 1981, Chapter 225, Section 1, as amended) is amended to read:

"30-7-16. FIREARMS OR DESTRUCTIVE DEVICES--RECEIPT,  
TRANSPORTATION OR POSSESSION BY CERTAIN PERSONS--PENALTY--

A. It is unlawful for the following persons to receive, transport or possess a firearm or destructive device in this state:

(1) a felon;

•233089•1

(2) a person subject to an order of protection pursuant to Section 40-13-5 or 40-13A-5 NMSA 1978; or

(3) a person convicted of any of the following crimes:

(a) battery against a household member pursuant to Section 30-3-15 NMSA 1978;

(b) criminal damage to property of a household member pursuant to Section 30-3-18 NMSA 1978;

(c) a first offense of stalking pursuant to Section 30-3A-3 NMSA 1978; or

(d) a crime listed in 18 U.S.C. 921.

B. A felon [found in possession of] who receives, transports or possesses a firearm [shall be] or destructive device is guilty of a third degree felony for possession of a firearm or destructive device by a felon.

C. A felon found in possession of a firearm or destructive device for a second or subsequent offense is guilty of a second degree felony.

[C.] D. A serious violent felon [that is found to be in possession of] who receives, transports or possesses a firearm [shall be] or destructive device is guilty of a [third] second degree felony and [notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a basic term of six years imprisonment] shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; provided that a court

underscored material = new  
[bracketed material] = delete

1       shall not suspend or defer one-third of the basic sentence of  
2       imprisonment.

3               [D-] E. Any person subject to an order of  
4 protection pursuant to Section 40-13-5 or 40-13A-5 NMSA 1978 or  
5 convicted of a crime listed in Paragraph (3) of Subsection A of  
6 this section who receives, transports or possesses a firearm or  
7 destructive device is guilty of a misdemeanor.

8               [E-] F. As used in this section:

9                       (1) except as provided in Paragraph (2) of  
10 this subsection, "destructive device" means:

11                       (a) any explosive, incendiary or poison  
12 gas: 1) bomb; 2) grenade; 3) rocket having a propellant charge  
13 of more than four ounces; 4) missile having an explosive or  
14 incendiary charge of more than one-fourth ounce; 5) mine; or 6)  
15 similar device;

16                       (b) any type of weapon by whatever name  
17 known that will, or that may be readily converted to, expel a  
18 projectile by the action of an explosive or other propellant,  
19 the barrel or barrels of which have a bore of more than one-  
20 half inch in diameter, except a shotgun or shotgun shell that  
21 is generally recognized as particularly suitable for sporting  
22 purposes; or

23                       (c) any combination of parts either  
24 designed or intended for use in converting any device into a  
25 destructive device as defined in this paragraph and from which

.233089.1

underscored material = new  
[bracketed material] = delete

1 a destructive device may be readily assembled;

2 (2) the term "destructive device" does not  
3 include any device that is neither designed nor redesigned for  
4 use as a weapon or any device, although originally designed for  
5 use as a weapon, that is redesigned for use as a signaling,  
6 pyrotechnic, line throwing, safety or similar device;

7 (3) "felon" means a person convicted of a  
8 felony offense by a court of the United States or of any state  
9 or political subdivision thereof and:

10 (a) less than ten years have passed  
11 since the person completed serving a sentence or period of  
12 probation for the felony conviction, whichever is later;

13 (b) the person has not been pardoned for  
14 the felony conviction by the proper authority; and

15 (c) the person has not received a  
16 deferred sentence or completed the total term of deferment as  
17 provided in Section 31-20-9 NMSA 1978;

18 (4) "firearm" means any weapon that will or is  
19 designed to or may readily be converted to expel a projectile  
20 by the action of an explosion or the frame or receiver of any  
21 such weapon; and

22 (5) "serious violent felon" means a person  
23 convicted of an offense enumerated in Subparagraphs (a) through  
24 (n) of Paragraph (4) of Subsection [L] N of Section 33-2-34  
25 NMSA 1978; provided that:

.233089.1

(a) less than ten years have passed since the person completed serving a sentence or a period of probation for the felony conviction, whichever is later;

(b) the person has not been pardoned for the felony conviction by the proper authority; and

(c) the person has not received a deferred sentence and completed the total term of deferment as provided in Section 31-20-9 NMSA 1978."

SECTION 2. Section 31-18-15 NMSA 1978 (being Laws 1977, Chapter 216, Section 4, as amended) is amended to read:

"31-18-15. SENTENCING AUTHORITY--NONCAPITAL FELONIES--  
BASIC SENTENCES AND FINES--PAROLE AUTHORITY--MERITORIOUS  
DEDUCTIONS.--

A. As used in a statute that establishes a noncapital felony, the following defined felony classifications and associated basic sentences of imprisonment are as follows:

FELONY CLASSIFICATION	BASIC SENTENCE
first degree felony	
resulting in the death	
of a child	life imprisonment
first degree felony for	
aggravated criminal sexual	
penetration	life imprisonment
first degree felony	eighteen years
	imprisonment

underscored material = new  
[bracketed material] = delete

1	second degree felony	
2	resulting in the death of	
3	a human being	eighteen years
4		imprisonment
5	second degree felony for a	
6	sexual offense against a	
7	child	fifteen years
8		imprisonment
9	second degree felony for	
10	sexual exploitation of	
11	children	twelve years imprisonment
12	second degree felony	nine years imprisonment
13	third degree felony resulting	
14	in the death of a human being	six years imprisonment
15	third degree felony for a	
16	sexual offense against a	
17	child	six years imprisonment
18	third degree felony for sexual	
19	exploitation of children	eleven years imprisonment
20	<u>third degree felony for</u>	
21	<u>possession of a firearm</u>	
22	<u>or destructive device by a felon</u>	<u>five years imprisonment</u>
23	third degree felony	three years imprisonment
24	fourth degree felony for	
25	sexual exploitation of	

children ten years imprisonment  
fourth degree felony eighteen months  
imprisonment.

B. The appropriate basic sentence of imprisonment shall be imposed upon a person convicted and sentenced pursuant to Subsection A of this section, unless the court alters the sentence pursuant to the provisions of the Criminal Sentencing Act.

C. A period of parole shall be imposed only for felony convictions wherein a person is sentenced to imprisonment of more than one year, unless the parties to a proceeding agree that a period of parole should be imposed. If a period of parole is imposed, the court shall include in the judgment and sentence of each person convicted and sentenced to imprisonment in a corrections facility designated by the corrections department authority for a period of parole to be served in accordance with the provisions of Section 31-21-10 NMSA 1978. If imposed, the period of parole shall be deemed to be part of the sentence of the convicted person in addition to the basic sentence imposed pursuant to Subsection A of this section together with alterations, if any, pursuant to the provisions of the Criminal Sentencing Act.

D. When a court imposes a sentence of imprisonment pursuant to the provisions of Section 31-18-15.1, 31-18-16 or 31-18-17 NMSA 1978 and suspends or defers the basic sentence of

underscored material = new  
[bracketed material] = delete

1       imprisonment provided pursuant to the provisions of Subsection  
2       A of this section, the period of parole shall be served in  
3       accordance with the provisions of Section 31-21-10 NMSA 1978  
4       for the degree of felony for the basic sentence for which the  
5       inmate was convicted. For the purpose of designating a period  
6       of parole, a court shall not consider that the basic sentence  
7       of imprisonment was suspended or deferred and that the inmate  
8       served a period of imprisonment pursuant to the provisions of  
9       the Criminal Sentencing Act.

10           E. The court may, in addition to the imposition  
11       of a basic sentence of imprisonment, impose a fine not to  
12       exceed:

13                   (1) for a first degree felony resulting in the  
14       death of a child, seventeen thousand five hundred dollars  
15       (\$17,500);

16                   (2) for a first degree felony for aggravated  
17       criminal sexual penetration, seventeen thousand five hundred  
18       dollars (\$17,500);

19                   (3) for a first degree felony, fifteen  
20       thousand dollars (\$15,000);

21                   (4) for a second degree felony resulting in  
22       the death of a human being, twelve thousand five hundred  
23       dollars (\$12,500);

24                   (5) for a second degree felony for a sexual  
25       offense against a child, twelve thousand five hundred dollars

.233089.1

underscored material = new  
[bracketed material] = delete

1                   (\$12,500);

2                   (6) for a second degree felony for sexual  
3 exploitation of children, five thousand dollars (\$5,000);

4                   (7) for a second degree felony, ten thousand  
5 dollars (\$10,000);

6                   (8) for a third degree felony resulting in the  
7 death of a human being, five thousand dollars (\$5,000);

8                   (9) for a third degree felony for a sexual  
9 offense against a child, five thousand dollars (\$5,000);

10                  (10) for a third degree felony for sexual  
11 exploitation of children, five thousand dollars (\$5,000);

12                  (11) for a third or fourth degree felony, five  
13 thousand dollars (\$5,000); or

14                  (12) for a fourth degree felony for sexual  
15 exploitation of children, five thousand dollars (\$5,000).

16                  F. When the court imposes a sentence of  
17 imprisonment for a felony offense, the court shall indicate  
18 whether or not the offense is a serious violent offense as  
19 defined in Section 33-2-34 NMSA 1978. The court shall inform  
20 an offender that the offender's sentence of imprisonment is  
21 subject to the provisions of Sections 33-2-34, 33-2-36, 33-2-37  
22 and 33-2-38 NMSA 1978. If the court fails to inform an  
23 offender that the offender's sentence is subject to those  
24 provisions or if the court provides the offender with erroneous  
25 information regarding those provisions, the failure to inform

.233089.1

or the error shall not provide a basis for a writ of habeas corpus.

G. No later than October 31 of each year, the New Mexico sentencing commission shall provide a written report to the secretary of corrections, all New Mexico criminal court judges, the administrative office of the district attorneys and the chief public defender. The report shall specify the average reduction in the sentence of imprisonment for serious violent offenses and nonviolent offenses, as defined in Section 33-2-34 NMSA 1978, due to meritorious deductions earned by prisoners during the previous fiscal year pursuant to the provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38 NMSA 1978. The corrections department shall allow the commission access to documents used by the department to determine earned meritorious deductions for prisoners."

**SECTION 3. EFFECTIVE DATE.--**The effective date of the provisions of this act is July 1, 2026.

- 10 -

.233089.1