

HOUSE BILL 146

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

INTRODUCED BY

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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;

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

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

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

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

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

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

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

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

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

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

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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:

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

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

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

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

11 "31-18-15. SENTENCING AUTHORITY--NONCAPITAL FELONIES--
12 BASIC SENTENCES AND FINES--PAROLE AUTHORITY--MERITORIOUS
13 DEDUCTIONS.--

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

17 FELONY CLASSIFICATION	BASIC SENTENCE
18 first degree felony	
19 resulting in the death	
20 of a child	life imprisonment
21 first degree felony for	
22 aggravated criminal sexual	
23 penetration	life imprisonment
24 first degree felony	eighteen years
25	imprisonment

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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 third degree felony for
21 possession of a firearm
22 or destructive device by a felon five years imprisonment
23 third degree felony three years imprisonment
24 fourth degree felony for
25 sexual exploitation of

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1 children ten years imprisonment
2 fourth degree felony eighteen months
3 imprisonment.

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

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

23 D. When a court imposes a sentence of imprisonment
24 pursuant to the provisions of Section 31-18-15.1, 31-18-16 or
25 31-18-17 NMSA 1978 and suspends or defers the basic sentence of
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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

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

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

3 G. No later than October 31 of each year, the New
4 Mexico sentencing commission shall provide a written report to
5 the secretary of corrections, all New Mexico criminal court
6 judges, the administrative office of the district attorneys and
7 the chief public defender. The report shall specify the
8 average reduction in the sentence of imprisonment for serious
9 violent offenses and nonviolent offenses, as defined in Section
10 33-2-34 NMSA 1978, due to meritorious deductions earned by
11 prisoners during the previous fiscal year pursuant to the
12 provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38
13 NMSA 1978. The corrections department shall allow the
14 commission access to documents used by the department to
15 determine earned meritorious deductions for prisoners."

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