

LFC Requester: \_\_\_\_\_

**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

**[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)**

*and*

**[DFA@STATE.NM.US](mailto:DFA@STATE.NM.US)**

*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

*Check all that apply:*

Original  Amendment   
Correction  Substitute

Date 1/31/24

Bill No: HB 129-280

Sponsor: Andrea Romero et al  
Firearm Sale Waiting  
Short Title: Period Crimes

Agency Name  
and Code LOPD 280  
Number: \_\_\_\_\_  
Person Writing Tania Shahani  
Phone: 505 395 2890 Email tania.shahani@lopdm.us

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

This bill would create a new statute, NMSA 30-7-7.3, punishing as a misdemeanor offense the “unlawful sale” of a firearm until a 14-day waiting period has passed and a federal background check is completed. A buyer or seller may be punished by the new misdemeanor offense and failure to comply with existing law for unlawful sale under NMCA 30-7-7.1 is not altered by this bill.

**FISCAL IMPLICATIONS**

LOPD will likely be able to absorb some increase in new misdemeanor cases arising under this new criminal statute. The statewide increase of such cases is currently impossible to estimate. The cumulative effect of this and other proposed criminal legislation could require an increase in indigent defense funding to maintain compliance with constitutional mandates.

**SIGNIFICANT ISSUES**

The law already requires paid private transactions (with some exceptions, such as between family members as noted in Subsection I) to be conducted through a federally licensed dealer in order to ensure a background check occurs. When a dealer does a background check (either as a retail seller or as a third-party dealer in a private sale), they either receive an FBI response to “proceed,” “do not proceed,” or “delay,” which is a request to wait for more information. For “delay” responses, the dealer has discretion to proceed with the sale if no additional information is returned within three days. Accordingly, a dealer may proceed with a sale if it receives FBI approval or three days after receiving a “wait and see” response.

A licensed dealer’s non-compliance with this process is already subject to misdemeanor charges under Section 30-7-7.1. HB 129 does not change that. Additionally, because the licensure is federally issued and maintained, a dealer’s failure to comply is also addressed via federal law and regulations.

However, the statute’s attempt to punish per firearm is concerning, as that could stack the penalty for offenses made in one purchase, making the overall length of punishment more severe for either the seller, buyer or both.

HB 129 would require dealers to wait 14 days even when the federal instant background check returns with “proceed” prior to the termination of 14 days and even after 3 days from a “delay” response. During that 14 days, the seller must retain possession of the firearm. This seller-possession requirement is subject to an exception that is very broadly worded “but does not include temporary possession or control of a firearm provided to a customer by the proprietor of a licensed business in the conduct of that business.” This exception may be subject to buyer possession for longer periods of time than the statute might intend.

Violation of the 14-day waiting period would be a misdemeanor for the buyer and/or seller.

Analyst notes that the waiting period can help prevent some crimes by forcing a “cooling off period,” but most notably has been proven to reduce instances of suicide. *See* <https://afsp.org/firearms-and-suicide-prevention>.

### **PERFORMANCE IMPLICATIONS**

None noted.

### **ADMINISTRATIVE IMPLICATIONS**

None noted.

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

SB 427 and HB 100 in the 2023 Legislative Session were similar bills.

### **TECHNICAL ISSUES**

Reviewer is unaware whether this legislation is germane under Art. IV, Section 5. It is not a budget bill, analyst is unaware if it has been drawn pursuant to a special message of the Governor, and it was not vetoed following the previous regular session

### **OTHER SUBSTANTIVE ISSUES**

None noted

### **ALTERNATIVES**

n/a

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

Status quo

### **AMENDMENTS**