

LFC Requester:	Scott Sanchez
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.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}

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date January 18, 2024
Bill No: HB 129

Sponsor: Romero
Short Title: Firearm Sale Waiting Period Crimes

Agency Name and Code Number: NM Sentencing Commission – 354
Person Writing: Keri Thiel
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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)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Relates to: SB 69

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 129 proposes a new Section 30-7-7.3 NMSA 1978 to create the offense of selling a firearm before the end of a required waiting period. The required waiting period would be fourteen (14) business days and would be required for all firearm sales and transfers unless an exception applies. The bill creates an exception for the sale of a firearm between immediate family members to the third degree of consanguinity.

The bill specifies that the required waiting period would run concurrently with the period necessary to conduct a federal instant background check as required by Section 30-7-7.1 NMSA 1978, but provides that sellers must wait for the background check to be completed before transferring the firearm to the buyer even if the required waiting period has expired.

HB 129 further requires that the firearm shall remain in the custody of the seller during the required waiting period, and defines the unlawful sale of a firearm under the new Section 30-7-7.3 as the transfer of ownership, possession, or physical control of the firearm from the seller to the buyer before the end of the required waiting period or completion of the federal instant background check, if required. The bill also requires sellers to make records of sales available for inspection upon request of a law enforcement agency.

HB 129 allows for each party to the unlawful sale of a firearm to be charged separately for the same sale, and for separate offenses to be brought for each separate firearm sold or transferred contrary to the provisions of the new Section 30-7-7.3. It allows for two or more offenses under Section 30-7-7.3 to be charged under the same complaint, information, or indictment, and be punished as separate offenses.

Violation of Section 30-7.7.3 would be a misdemeanor.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

HB 129’s exception for immediate family members “to the third degree of consanguinity” is narrower than the immediate family exception created in Section 30-7-7.1 NMSA 1978, regarding required background checks, which may create confusion in the application of the law. The definition of immediate family provided in Section 30-7-7.1 includes spouses and first cousins, both of whom would be excluded from the immediate family exception in HB 129.

New Mexico’s firearm death rate has increased from the seventh highest nationwide in 1999 to third highest nationwide in 2021, including an 87% increase in the age-adjusted firearm death rate between 2010 and 2021. (See “Comprehensive Report on Gunshot Victims Presenting at Hospitals in New Mexico” published by the New Mexico Department of Health, September 29, 2023, at <https://www.nmhealth.org/publication/view/report/8463/>.)

According to the Giffords Law Center, eleven states plus the District of Columbia have a waiting period for gun purchases. Nine of these jurisdictions have a waiting period for all gun sales (California, Colorado, District of Columbia, Florida, Hawaii, Illinois, Rhode Island, Vermont, and Washington). Three states – Maryland, Minnesota, and New Jersey – impose waiting periods only for certain types of weapons. For details on other states’ laws, see the information at: <https://giffords.org/lawcenter/gun-laws/policy-areas/gun-sales/waiting-periods/>.

Research has shown that waiting periods for firearms purchases can reduce gun mortality. See, for example, Luca, et al. “Handgun waiting periods reduce gun deaths” Proceedings of the National Academy of Sciences (2017) (available at: <https://www.pnas.org/doi/10.1073/pnas.1619896114>); and Oliphant, “Effects of Wisconsin’s handgun waiting period repeal on suicide rates”, Injury Prevention (2022) (available at: <https://injuryprevention.bmj.com/content/injuryprev/28/6/580.full.pdf>), which concluded, “The waiting period repeal in Wisconsin was associated with increases in both handgun and firearm suicides. The findings suggest that waiting periods may be effective means restriction policies to reduce suicide.”

The American Academy of Pediatrics also supports the implementation of waiting periods for gun purchases. See <https://www.aap.org/en/advocacy/state-advocacy/waiting-periods-for-firearms-purchases>.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS