

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** January 24, 2024  
**Bill No:** HB 183-280

**Sponsor:** Charlotte Little and Yanira Gurrola  
**Short Title:** Negligent Use of Deadly Weapons

**Agency Name and Code Number:** 280 – Law Offices of the Public Defender  
**Person Writing:** MJ Edge  
**Phone:** 505-395-2890    **Email:** matthew.edge@lopdnm.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: HB 183 would increase the penalties for negligent use of a firearm, NMSA 1978, Section 30-7-4, by reclassifying the offense from a petty misdemeanor (sentence up to six months) to a misdemeanor for a first conviction (sentence up to one year), and to a fourth-degree felony (base sentence up to eighteen months, plus possible statutory enhancements) for a second or subsequent conviction.

#### **FISCAL IMPLICATIONS**

The impact of any change in law can be difficult to determine, but HB 183 could possibly have a major fiscal impact on the Law Offices of the Public Defender (LOPD). A change in how a crime is charged does not necessarily lead to change in how often or in how many cases the crime is charged. However, an increase in the penalties increases the stakes for criminal defendants, possibly leading to more litigation in cases that may have otherwise settled were the potential penalty lower. LOPD may have to consider a request for additional resources in the future if the bill leads to an unanticipated change in how prosecutors handle these charges that causes more of them to be brought or makes them more difficult to defend.

#### **SIGNIFICANT ISSUES**

Typically, increased penalties do not deter crime, especially for conduct that is, by definition, not intentional. Moreover, the harms typically associated with the negligent use of a firearm are emotional distress and disturbance of the peace. Negligent use prototypically involves hobbyist use of a firearm while intoxicated or under other unsafe conditions. Intentional threats or violent conduct usually results in higher level charges under existing law. For example, when negligent use of a firearm involves a victim or results in greater harm, negligent use becomes a lesser included offense of a charge like aggravated assault with a deadly weapon, aggravated battery with a deadly weapon, or (attempted) homicide.

Greater charges are brought to reflect the physical and emotional harm beyond those associated with a typical incident of negligent use of a firearm. Additionally, HB 183 proposes increased penalties to acts of negligence, rather than acts committed with the knowledge or intent that a person or property may be endangered. The deterrent effect of increased penalties for negligent conduct is very limited. Furthermore, it is because of these distinctions that negligent use is currently punished as a petty misdemeanor. Increasing the penalty as proposed by HB 183 would eliminate the existing penalty distinctions based on intent and severity of harms.

## **PERFORMANCE IMPLICATIONS**

None noted.

## **ADMINISTRATIVE IMPLICATIONS**

None noted.

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

None noted.

## **TECHNICAL ISSUES**

Reviewer is unaware whether this legislation is germane under Art. IV, Section 5. It is not a budget bill, and while it appears a bill increasing criminal penalties for felon in possession offenses has received a message, analyst is unaware if this bill has been drawn pursuant to a special message of the Governor.

## **OTHER SUBSTANTIVE ISSUES**

None noted.

## **ALTERNATIVES**

Status quo. Negligent use of a firearm continues to be punished as a petty misdemeanor. More serious incidents continue to be charged as greater offenses, with negligent use as a lesser included offense.

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

Status quo. Negligent use of a firearm continues to be punished as a petty misdemeanor. More serious incidents continue to be charged as greater offenses, with negligent use as a lesser included offense.

## **AMENDMENTS**