

<b>LFC Requester:</b>	<b>Scott Sanchez</b>
-----------------------	----------------------

**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 24, 2024  
**Bill No:** HB 198

**Sponsor:** Hochman-Vigil  
**Short Title:** Felon In Possession of Firearm  
Penalty

**Agency Name and Code Number:** NM Sentencing Commission – 354  
**Person Writing** Keri Thiel  
**Phone:** 505-259-8763 **Email** kthiel@unm.edu

**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)

Conflicts with: HB 46  
Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

HB 198 would amend Section 30-7-16 NMSA 1978, regarding possession of firearms by certain persons, to increase the penalty for felons in possession of a firearm from a third degree felony to a second degree felony, and to set the minimum term of imprisonment for that offense at nine years. The bill also amends Section 30-7-16 to increase the penalty for a serious violent felon in possession of a firearm from a third degree felony to a second degree felony, and to set the basic term of imprisonment for that offense at twelve years.

HB 198 would also preclude persons convicted under Section 30-7-16 from eligibility for earned meritorious deductions.

**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 198 would increase the term of imprisonment for felons in possession of a firearm from a basic term of three years to a minimum of nine years. The bill would also increase the term of imprisonment for serious felons in possession of a firearm from a basic term of six years to a basic term of twelve years for a second degree felony. It is difficult to determine what the effect of passing HB 198 would be on the state's prison population, but those increases in minimum and basic sentences, along with the bill's proposed restriction on earned meritorious deductions, would likely lead to more people being incarcerated by the Corrections Department. The average per day cost to incarcerate someone in the state's prison system is \$156.45/day; this average includes private and public facilities.

HB 198's proposed penalty for serious felons in possession of a firearm – a second degree felony carrying a twelve year sentence – would be a special penalty outside the basic sentencing structure existing under Section 31-18-15 NMSA 1978. The New Mexico Sentencing Commission is presently undertaking a review and update to the state's Criminal Code, and as

part of this process, the Commission engaged the services of the Robina Institute of Criminal Law and Criminal Justice at the University of Minnesota to analyze the Criminal Code for its strengths and weaknesses. One item of concern for the Robina Institute was that the Criminal Code has a number of special statutes that fall out of the normal penalty structure in the state. HB 198 would add a further special penalty into the Criminal Code.

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

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

HBs 198 and 46 make different and conflicting changes to the proscribed penalties for felons and serious violent felons in possession of a firearm.

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

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

## **AMENDMENTS**