

LFC Requester:	Rachel Mercer-Garcia
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.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}

Date Prepared: <u>5FEB 2025</u>	Check all that apply:
Bill Number: <u>HB 39 s</u>	Original <input type="checkbox"/> Correction <input type="checkbox"/>
	Amendment <input type="checkbox"/> Substitute <input checked="" type="checkbox"/>
Sponsor: <u>Rep. Kathleen Cates & Rep. Charlotte. Little</u>	Agency Name and Code <u>790 – Department of Public Safety</u>
Short Title: <u>Felony Firearm Possession and Prior Juvenile</u>	Number: _____
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NFI	NFI	N/A	NA/

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NFI	NFI	NFI	N/A	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	NFI	N/A	NA/

(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

House Bill 39 (HB 39) brings an adult's record of juvenile delinquency and use of a firearm into consideration for adult felony firearm possession and firearm background checks. Requires that records of a juvenile disposition involving use of a firearm for a delinquent act that would be a felony if committed by an adult are to be made available to federal authorities for purposes of conducting federal instant background checks and to state and local law enforcement for purposes of determining whether a person may receive, transport, or possess a firearm or destructive device.

The HCPAC amendment added Section 3 relating to judgment for a Delinquency Act by providing that a judgment in proceedings on a petition under the Delinquency Act resulting in a juvenile disposition for a delinquent act that would constitute a felony if committed by an adult shall be considered a conviction of a crime punishable by imprisonment for a term exceeding one year for the purpose of the federal Gun Control Act of 1968 for a period of ten years following the disposition, regardless of whether the judgment results in an adult sentence..

FISCAL IMPLICATIONS

No fiscal impact to DPS.

SIGNIFICANT ISSUES

The federal Gun Control Act makes it unlawful, as relevant, for any person “who has been convicted in any court of” “a crime punishable by imprisonment for a term exceeding one year” to possess a firearm. 18 U.S.C. § 922(g)(1). What constitutes a conviction of a crime punishable by imprisonment for more than one year is determined “in accordance with the law of the jurisdiction in which the proceedings were held.” 18 U.S.C. § 921(a)(20). Courts have held that juvenile dispositions for delinquent acts that would be a felony if committed by an adult do not generally constitute “a crime punishable by imprisonment for a term exceeding one year” unless the state indicates otherwise, and therefore those juvenile offenders are generally allowed to purchase firearms when they turn eighteen or twenty-one (in the case of handguns). *See, e.g., United States v. Walters*, 359 F.3d 340, 346 (4th Cir. 2004).

Current New Mexico law provides that “[a] judgment in proceedings on a petition under the Delinquency Act . . . resulting in a juvenile disposition shall not be deemed a conviction of crime.” NMSA 1978, § 32A-2-18(A); *see also State v. Smith*, 2000-NMCA-101, ¶ 11, 129 N.M. 738, 13 P.3d 470 (noting the legislative directive that juvenile dispositions not be treated as “convictions” for all purposes). Accordingly, a person who receives a juvenile disposition for committing a felonious act involving a firearm is not prohibited by federal law from purchasing or possessing a firearm. *See* 18 U.S.C. § 921(a)(20); *Walters*, 359 F.3d 340 (finding that similar provision indicated that Virginia does not consider a juvenile adjudication to be a conviction). The same goes for state law. *See* NMSA 1978, § 30-7-16 (only prohibiting felons and those convicted of certain crimes and subject to restraining orders from purchasing or possessing firearms). Accordingly, those persons who committed violent offenses involving firearms as a juvenile are generally allowed to purchase and possess firearms the moment they turn of age—which creates serious public safety issues. *See Rocky Mountain Gun Owners v. Polis*, 121 F.4th 96, 126 (10th Cir. 2024) (finding “compelling scientific evidence” that young adults are more likely to use firearms irresponsibly).

HB 39 addresses these issues by: (1) amending state law to prohibit “adult[s] who were subject to a juvenile disposition for a delinquent act involving use of a firearm under the Delinquency Act that would be a felony if committed by an adult, regardless of whether the judgment resulted in an adult sentence,” from purchasing or possessing a firearm for a period of ten years following the disposition (unless they have been pardoned); and (2) indicating that these juvenile dispositions constitute “a crime punishable by imprisonment for a term exceeding one year” for a period of ten years following the disposition so that federal law will prohibit them from purchasing or possessing firearms during that time.

To facilitate enforcement, HB 39 also provides that records of these juvenile dispositions shall be made available to federal authorities conducting federal background checks and state/local law enforcement for purposes of determining whether a purchase or possess a firearm.

PERFORMANCE IMPLICATIONS

The legislation will enhance public safety by restricting firearm access for individuals with a history of juvenile firearm-related delinquency. It supports law enforcement and judicial goals of crime prevention and ensures a robust background check system.

ADMINISTRATIVE IMPLICATIONS

No administrative implications to DPS.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

No conflict, duplication, companionship or relationship to DPS.

TECHNICAL ISSUES

No technical issues to DPS.

OTHER SUBSTANTIVE ISSUES

No other substantive issues to DPS.

ALTERNATIVES

Not applicable as no impact to DPS.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Without HB 39, individuals with significant juvenile firearm-related offenses may legally possess firearms upon reaching adulthood, potentially undermining public safety. Without juvenile records being incorporate, existing background checks would remain insufficient to prevent firearm access by such individuals.

AMENDMENTS

None at this time.