

LFC Requester:

Scott Sanchez

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](https://agencyanalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto: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:** February 11, 2025 *Check all that apply:***Bill Number:** HB 166 Original ☐ Correction ☒  
Amendment ☐ Substitute ☐**Agency Name  
and Code****Sponsor:** Chavez/Reeb/De La Cruz**Number:** NM Sentencing Commission – 354**Short Title:** Felon in Possession of Firearms**Person Writing** Keri ThielPenalties**Phone:** 505-259-8763 **Email** kthiel@unm.edu**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis ( ) indicate revenue decreases)

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

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<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 166 amends Section 30-7-16(B) NMSA 1978, regarding the possession of firearms by felons, to also prohibit the possession of a destructive device by a felon. HB 46 further amends Section 30-7-16(B) to add that a second or subsequent offense shall be a second degree felony.

HB 166 similarly amends Section 30-7-16(C) NMSA 1978, regarding the possession of firearms by serious violent felons, to also prohibit the possession of a destructive device by a felon. The bill changes the penalty for a serious violent felon in possession from a third degree felony to a second degree felony, and removes the existing special penalty of a basic term of six years imprisonment.

The bill also amends Section 31-18-15 NMSA 1978 to include a third degree felony for possession of a firearm or destructive device by a felon, which would carry a penalty of five years imprisonment.

HB 166 sets an effective date of July 1, 2025.

#### **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**

In 2021, the New Mexico Sentencing Commission engaged the services of the Robina Institute of Criminal Law and Criminal Justice at the University of Minnesota to analyze the state's 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 166 would add an additional special penalty into the Criminal Code through its addition of a five-year third degree felony for felons in possession of a firearm or destructive device. However, HB 166 would also remove a special penalty from the Criminal Code, as it would remove the existing six-year third degree felony for serious violent felons in possession of a firearm or destructive device.

HB 166 would increase the basic term of years of imprisonment for felons and serious violent felons in possession of a firearm, and would also apply the same penalties for felons and serious violent felons in possession of a destructive device. HB 166 would also add an increased penalty for second or subsequent offenses of felons in possession of a firearm or destructive device.

While it is difficult to determine what the effect of passing HB 166 would be on the state's

prison population, it is likely that these changes would 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 \$155.63/day; this average includes private and public facilities.

Section 30-7-16 NMSA 1978 has been amended several times in recent years to increase the penalty for felons in possession of firearms. The Sentencing Commission is currently compiling multi-year data regarding charges and convictions pursuant to Section 30-7-16 to examine whether there is any correlation between the increased penalties and the rate of offense. We will submit a revised FIR with the compiled data as soon as possible. **See compiled data below.**

**Cases Filed with Section 30-7-16 as the Lead Offense (including those not disposed)**

<b>Date Case Filed</b>	<b># Cases Filed</b>
FY2019	370
FY2020	304
FY2021	490
FY2022	464
FY2023	441
FY2024	513
Total	2,582

**Outcome of Charges Under Section 30-7-16 by Year\***

<b>Date Case Filed</b>	<b># Disposed Cases</b>	<b>Incompetency</b>	<b>Dismissal</b>	<b>Acquittal</b>	<b>Conviction</b>
FY2019	779	1%	67%	<1%	32%
FY2020	682	1%	69%	<1%	29%
FY2021	969	1%	71%	<1%	28%
FY2022	851	1%	65%	1%	34%
FY2023	733	1%	63%	<1%	36%
FY2024	476	<1%	79%	<1%	20%
Total	4,490	1%	68%	<1%	31%

\*Please note that only disposed cases are included (hence lower numbers in more recent years).

**NMCD Admissions with Section 30-7-16 as the Lead Charge**

<b>Year Entered NMCD</b>	<b># Persons Incarcerated</b>	<b>Avg. Sentence not counting EMD</b>
FY2019	71	1,262
FY2020	73	1,447
FY2021	57	1,465
FY2022	70	1,309
FY2023	84	1,620
FY2024	85	1,562

**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**