

**LFC Requester:****Scott Sanchez****AGENCY BILL ANALYSIS - 2026 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](http://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 10, 2026 *Check all that apply:*  
**Bill Number:** HB 49 Original  Correction   
 Amendment  Substitute

**Sponsor:** Joy Garratt **Agency Name and Code Number:** Administrative Office of the District Attorneys - #264  
**Short Title:** Increase Felon Firearm Penalty **Person Writing:** M. Anne Kelly  
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**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis ( ) indicate revenue decreases)

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

	FY26	FY27	FY28	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:

Section 1 amends Section 30-7-16 entitled “Firearms or Destructive Devices – Receipt, Transportation or Possession by Certain Persons – Penalty.”

Subsection C, which deals with serious violent felons, changes the language “that is found to be in possession of” to “who receives, transports or possesses” to more accurately reflect the nature of the crime. The subsection is also amended to provide that for a first or subsequent offenses, the penalty is a second-degree felony.

### **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.

None for this agency.

### **SIGNIFICANT ISSUES**

The substitute sets the penalty for possession, receipt or transportation of a firearm by a serious violent felon as a second-degree felony, regardless of whether it is a first offense or a subsequent one. The base sentence for a second-degree felony is nine years. *See* NMSA 1978, § 31-18-15 (A). Unlike previous iterations, this substitute does not set a minimum sentence, meaning that the nine-year sentence could be deferred or suspended in part or in full, depending on the sentencing judge’s discretion.

In 2025, the Court of Appeals considered a Second Amendment challenge to Section 30-7-16 and rejected a reading of Section 30-7-16 which permits restrictions based on categorizations of groups of people, such as felons. Instead, the Court held that possession of a firearm can be restricted if the court finds that the person poses a threat to others. *Romero*, \_\_\_-NMCA-\_\_\_, ¶ 15, \_\_\_ P.3d \_\_\_ (A-1-CA-41601, Apr. 16, 2025) (rejecting a reading of Section 30-7-16(A) that permits restrictions based on historical categorizations of groups of people – like felons – and adopting a principle that permits restricting the possession of firearms if the court finds that the person poses a threat to others). Thus, if the constitutional claim is preserved, the State would need to show that the defendant is not only a convicted felon but also a threat to others. Whether the designation of being found a “serious violent felon” for purposes of this statute would be sufficient for this finding has not yet been litigated.

In 2024, the Court of Appeals found the “unit of prosecution” for felon in possession of a firearm was “ambiguous” and therefore the rule of lenity must apply and the State must definitively prove two separate acts of possession to establish two offenses. *State v. Gonzales*, 2024-NMCA-062. In *Gonzales*, two firearms were found in the defendant’s bedroom pursuant to a search warrant. However, as the Court held, unless the State can somehow prove on remand that the defendant separately possessed those weapons, there can only be one conviction under the felon in possession

of a firearm statute. An increased penalty could help address this issue.

**PERFORMANCE IMPLICATIONS**

None noted.

**ADMINISTRATIVE IMPLICATIONS**

None noted.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB 25 amends Section 30-7-16 to include adults subject to a juvenile disposition for a delinquent act involving a firearm as a class of persons who can be convicted under the section.

HB 52 amends Section 30-7-16 – among other statutes – to correct a cross-reference to Section 33-2-34 (eligibility to earned meritorious deductions).

**TECHNICAL ISSUES**

None noted.

**OTHER SUBSTANTIVE ISSUES**

None noted.

**ALTERNATIVES**

n/a

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

Status quo.

**AMENDMENTS**

n/a