

LFC Requester:	Scott Sanchez
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AGENCY BILL ANALYSIS – 2026 SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
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(Analysis must be uploaded as a PDF)2.0

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 10 FEB 2026 *Check all that apply:*
Bill Number: HB49A Original Correction
 Amendment Substitute

Sponsor: Garret, Berghmans, & Sarina **Agency Name and Code:** 790 – Department of Public Safety
Short: Increase Felon Firearm **Person Writing:** Dale R. Wagoner
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
NFI	NFI	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
NFI	NFI	NFI	N/A	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	NFI	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Similar to 2025 HB496
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

HB-49A amends New Mexico’s statutes regarding the unlawful possession, transportation, or receipt of firearms or destructive devices by a convicted felon. The bill replaces current penalties—which vary based on the nature of the prior conviction—with an increase to a second-degree felony classifications.

The amendment removes significant penalty hikes from the original bill. Now, a felon’s first offense for possessing a firearm is not automatically treated as a more severe second-degree felony, and subsequent offenses are not elevated to first-degree felonies. By making these adjustments, the amendment eliminates the proposed system that would have substantially lengthened sentences for repeat possession offenses, regardless of a person’s prior conviction.

The amendment restores the distinction between ordinary felons and those convicted of serious violent crimes. While the original bill would have treated all felons equally and imposed harsher penalties across the board, the amendment removes that one-size-fits-all approach. Instead, it applies stricter consequences to individuals with a history of serious violent offenses, rather than increasing penalties for everyone.

The amendment also removes the requirement for a fixed minimum prison sentence in certain firearm possession cases. This change allows judges more flexibility to evaluate each case individually, rather than imposing a mandatory minimum sentence simply because someone possessed a firearm.

The amendment maintains the current policy for individuals under protective orders or with certain domestic violence or stalking convictions who possess firearms or destructive devices. They will still face misdemeanor charges, so there is no increase in felony penalties in these cases.

Specifically, the House Judiciary Committee amendment to HCPAC’s substitute for HB49 strikes the enhancement for a serious violent felon’s second and subsequent offenses (a first-degree felony in the original bill), leaving the penalty for the first and subsequent offenses at a second-degree felony. The amendment also strikes the imposition of a minimum of nine years’ imprisonment for a first offense. Finally, it modifies what constitutes the crime for a serious violent felon; no longer is the crime simply “found in possession of a firearm,” but is instead, “receives, transports, or possesses a firearm or destructive device.”

FISCAL IMPLICATIONS

No fiscal implications to DPS.

SIGNIFICANT ISSUES

The HJC amendment clarifies the actus reus for serious violent felons from merely being “found in possession of a firearm” to “receives, transports, or possesses a firearm or destructive device.” This language more closely mirrors the federal prohibition in 18 U.S.C. § 922(g) and extends coverage to destructive devices as defined in Subsection E of the statute.

By striking the first-degree felony enhancement for second and subsequent offenses, the amendment removes the escalating penalty structure from the substitute. All serious violent felon firearm offenses are now classified as second-degree felonies regardless of recidivism, carrying a basic sentence of nine years under Section 31-18-

15(A)(5) NMSA 1978. However, the removal of the mandatory minimum of nine years' imprisonment restores full judicial discretion under the Criminal Sentencing Act to impose sentences within the statutory range, including a one-third reduction for good time.

PERFORMANCE IMPLICATIONS

People with felony convictions who illegally possess firearms remain a genuine threat to public safety, especially when they have a record of violence. The amended bill holds these individuals accountable but does so in a way that targets penalties where they matter most, on those with serious violent felony histories. This approach ensures consequences are fair, proportionate, and focused on those who pose the greatest risk to the community.

The amendment promotes public safety by keeping strong penalties for illegal gun possession but avoids a blanket approach that treats everyone the same. Instead of automatically increasing charges for all offenders, courts can focus on those who are repeat offenders or violent, ensuring that resources are used where they will do the most to prevent violence.

The amendment also gives judges more flexibility by removing mandatory minimum sentences. This means they can weigh all the facts, like a person's background, the risk to the community, and the details of the case, before deciding on a sentence. This still allows for strong penalties when needed.

Law enforcement still sees the amended bill as a useful tool for tackling illegal gun possession. Officers often come across people barred from having firearms who keep finding ways to get them, even after prior convictions. The new framework helps prosecute these cases at the state level, especially for those with violent records, without having to rely as much on federal charges to achieve fair outcomes.

By balancing public safety, fair sentencing, and judicial flexibility, the amendment makes the bill more effective overall. It holds truly dangerous offenders responsible, backs law enforcement's efforts to reduce gun violence, and ensures penalties are both tough and thoughtful.

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.

The HJC amendment creates an asymmetry between Subsection B and Subsection C. Subsection B retains the original language that a felon "found in possession of a firearm" is guilty of a third-degree felony, while Subsection C now uses "receives, transports, or possesses a firearm or destructive device" for serious violent felons. This is likely an insignificant difference, however, as a person who "receives, transports, or possesses a firearm or destructive device" is necessarily in possession of one.

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

Status quo will remain.

AMENDMENTS

None at this time.