

LFC Requester:	
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**AGENCY BILL ANALYSIS
2025 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 21, 2025
Bill No: HB 38-280

Sponsor: <u>Kathleen Yates</u>	Agency Name and Code Number: <u>280 – Law Offices of the Public Defender</u>
Short Title: <u>Possession of Weapon Conversion Device</u>	Person Writing: <u>MJ Edge</u>
	Phone: <u>505-395-2890</u> Email: <u>matthew.edge@lopdm.us</u>

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 Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(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 38 would create a new crime prohibiting possession or transportation of a “weapon conversion device,” defined as “a part or combination of parts designed and intended to convert a semiautomatic weapon into a fully automatic weapon.”

FISCAL IMPLICATIONS

This is not a crime that is likely to be charged often. However, hundreds of such devices are likely lawfully owned in New Mexico at present. If enactment is not properly publicized, their continued possession would constitute hundreds of prospective felony trials. If more high-penalty trials result, LOPD may need to hire more trial attorneys with greater experience. Accurate prediction of the fiscal impact is thus impossible to speculate; assessment of the required resources would be necessary after the implementation of the proposed new felony crime.

Banning these devices may constitute a taking that would require an appropriation to compensate owners. The proposed change—making a felony of owning something previously legal—may require a public awareness campaign, grace period, and amnesty provisions to ensure compliance and prevent unintentional criminality.

SIGNIFICANT ISSUES

Hundreds of such devices are likely presently legally owned by law-abiding New Mexicans. Because the proposed legislation makes mere possession a felony, enactment would likely need to be widely publicized to ensure compliance. The overwhelming majority of device owners would want to comply, but there is a real danger that law-abiding owners might not learn of the change in the law or know what to do with devices they already own. Without adequate public notice and a process for large-scale relinquishment would help, the legislation risks making these law-abiding citizen criminals. *See State v. Montoya*, 1977-NMCA-134, ¶ 14, 91 N.M. 262 (stating the “general rule is that ignorance of the law is not a defense”).

PERFORMANCE IMPLICATIONS

Hopefully enforcement would balance the intent and potential mistake of offenders if enacted. LOPD performance in these cases would likely be focused heavily on negotiating plea deals or dismissal in exchange for relinquishment, but cases that go to trial would be handled by felony-qualified attorneys and because felonies carry significant collateral consequences (including gun rights), they would be fairly complex cases to litigate.

ADMINISTRATIVE IMPLICATIONS

None for LOPD.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None noted.

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

Status quo

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None noted.