

|                       |  |
|-----------------------|--|
| <b>LFC Requester:</b> |  |
|-----------------------|--|

**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** Feb. 24, 2025  
**Bill No:** HB 549-280

**Sponsor:** Meredith Dixon & Cynthia Borrego  
**Short Title:** Crime of Carrying a Gun While Trafficking

**Agency Name and Code** LOPD-280  
**Number:** \_\_\_\_\_  
**Person Writing** Kim Chavez Cook  
**Phone:** 505.395.2822 **Email** [Kim.chavezcook@lopdnm.us](mailto:Kim.chavezcook@lopdnm.us)

**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)**

|              | <b>FY25</b> | <b>FY26</b> | <b>FY27</b> | <b>3 Year<br/>Total Cost</b> | <b>Recurring or<br/>Nonrecurring</b> | <b>Fund<br/>Affected</b> |
|--------------|-------------|-------------|-------------|------------------------------|--------------------------------------|--------------------------|
| <b>Total</b> |             |             |             |                              |                                      |                          |

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: **HB 248 (identical bill)**

Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: This bill, HB 549, identical to one unsuccessfully proposed in the 2020, 2021, 2022, 2023, and 2024 Legislative Sessions as HB 114, 81, 26, 59, and 47, respectively, seeks to create a new third degree felony crime of carrying a firearm while trafficking drugs in Article 7 of the Criminal Code (Weapons and Explosives).

It is also identical to HB 248, currently pending during this legislative session.

**FISCAL IMPLICATIONS**

Because a likely significant number of drug traffickers may possess a weapon, this bill would likely lead to a frequent “add-on” charge any time a person accused of trafficking is arrested in possession of their firearm, even if otherwise legally possessed. The additional third-degree felony carries a three-year sentence; consequently, defendants may be less likely to take a plea and prefer to take the matter to trial. If more higher-penalty trials result, LOPD may need to hire more trial attorneys with greater experience. Accurate prediction of the fiscal impact would be impossible to speculate; assessment of the required resources would be necessary after the implementation of the proposed higher-penalty scheme.

For estimation purposes, these felonies would be handled by mid-level felony capable attorneys (Associate Trial Attorneys). Depending on the volume of cases in the geographic location there may be a significant recurring increase in needed FTEs for the office and contract counsel compensation. An Associate Trial Attorney’s mid-point salary including benefits is \$136,321.97 in Albuquerque/Santa Fe and \$144,811.26 in the outlying areas (due to necessary salary differential to maintain qualified employees). Recurring statewide operational costs per attorney would be \$12,909.00 with start-up costs of \$5,210.00; additionally, average support staff (secretarial, investigator and social worker) costs per attorney would total \$123,962.51. Again, assessment of the impact would be necessary after the implementation of the proposed legislation, but such is likely to result in a requirement for additional funds to LOPD in order to provide constitutionally required effective assistance of counsel.

Presumably the courts, and DAs would be affected in similar measure to LOPD.

The proposed legislation would also have a fiscal impact on DOC, given additional sentences in drug trafficking prosecution. The analysis of this bill in 2020, 2021, 2022, 2023, and

2024, noted the 2009 conclusion of a previous analysis which provided: “if the bill passes and it substantially increases the inmate population or probation/parole caseloads, it would increase the workloads of current prison and probation/parole staff. Individuals convicted of this crime would be more likely to need intensive supervision by probation/parole staff, and that higher level of supervision is more time consuming and more expensive to provide.”

## **SIGNIFICANT ISSUES**

There has been no research that has found that increasing penalties has a deterrent effect on the commission of crimes. Therefore, this change would, at most, lead to an increase in incarceration, which would increase costs and population in Department of Corrections.

Use of a firearm during the commission of a felony is already addressed in NMSA 1978, § 31-18-16 (2022), the enhancements for which were just increased in 2022 under HB 68. Similarly, the separate crime of felon in possession of a firearm is already addressed in NMSA 1978, §§ 30-7-16 (2022). Both of these statutes underwent a comprehensive overhaul as part of the Governor’s crime package during both the 2020 and 2022 Legislative Sessions.

If a felon is caught trafficking while armed with a firearm, they face enhancements, separate prosecution for being a felon in possession, and – if they have more than one felony in their prior history – also habitual offender enhancements applicable to *each* new felony charged. *See* NMSA 1978, § 31-18-17 (habitual offender act).

In sum, this conduct is already punishable under ample existing statutes, and creating this new crime would have no cognizable impact on public safety.

## **PERFORMANCE IMPLICATIONS**

*See Fiscal Implications*, above.

## **ADMINISTRATIVE IMPLICATIONS**

*See Fiscal Implications*, above.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

This bill is identical to HB 248, currently located in HCPAC awaiting a hearing.

This bill was also introduced as HB 23 in 2009, where it died and further action was postponed indefinitely until the 2020, 2021, 2022, 2023, and 2024 Legislative Sessions when it was reintroduced as HB 114, 81, 26, 59, and 47, respectively.

## **TECHNICAL ISSUES**

None noted.

## **OTHER SUBSTANTIVE ISSUES**

None noted.

## **ALTERNATIVES**

Status quo.

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

Status quo.

## **AMENDMENTS**

None known.