

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB 32 enacts a new section of Chapter 30, Article 7 NMSA 1978, to create the offense of unlawful possession of a stolen firearm. The bill defines the offense as “knowingly possessing or transporting a firearm that has been stolen or the person has reason to believe has been stolen”, and creates an exception if the firearm is received or retained with the intent to restore it to its owner or to participate in a firearm buyback program. The bill provides a definition of “firearm”. The bill also states that a person who is a felon and is charged with unlawful possession of a stolen firearm shall not also be charged under the felon in possession statute for the same offense.

The offense of unlawful possession of a stolen firearm would be a fourth degree felony, and each firearm possessed or transported would be a separate offense.

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

Where possession of a firearm is barred elsewhere in the Criminal Code (namely, Section 30-7-16 NMSA 1978), it is unlawful for a person to “receive, transport or possess” a firearm. It is unclear if the new section proposed by SB 32 purposefully omits “receive” from its prohibition on the possession of stolen firearms.

SB 32 avoids double jeopardy concerns by providing that no one who is a felon shall be charged under both its proposed new section and Section 30-7-16 (prohibiting possession by certain persons). However, it may be worth noting that the penalties for felons in possession under these two statutes do not appear to be proportionate to the potential severity of the offense: possession of a stolen firearm by a felon would be a fourth degree felony under SB 32, while possession of a non-stolen (or not provably stolen) firearm by a felon is a third degree felony.

It is difficult to determine what the effect of passing SB 32 would be on the state’s prison population, but its addition of a new fourth degree felony would likely lead to more people being incarcerated by the Corrections Department. For individuals who were released from NM prisons in FY 2024, the median length of stay for a fourth degree felony was 13.07 months, or 392 days. The average cost to incarcerate someone in the state’s prison system is \$155.63/day; this average includes private and public facilities.

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