

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB 244 creates a new section of law, Section 30-7-2.5 NMSA 1978, regarding unlawful transfer of a firearm to a minor. The base crime is described as: “Unlawful transfer of a firearm to a minor consists of a person who knowingly transfers a firearm to a minor,” but the bill lists a number of exceptions: participating in a safety course, or other legal shooting activity, target shooting at a range, in an organized competition, or for a charity event, involved in legal hunting activities, on the property belonging to the minor’s parents, grandparents or guardian and being supervised by that person, or the transfer occurs from the minor's parent, grandparent or legal guardian to the minor. The bill defines “minor” as a person under the age of 19.

The new section of law further states that each firearm transferred in violation of this section shall constitute a separate offense, and that two or more offenses may be charged in the same complaint, information or indictment and shall be punished as separate offenses.

SB 244 also imposes strict liability – mistake of fact as to the minor's age shall not be a defense.

The penalty for violation is a second degree felony.

SB 244 also adds unlawful transfer of a firearm to a minor as one of the crimes that can be considered under the Racketeering Act.

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

The exceptions in SB 244 mirror those found in Section 30-7-2.2, regarding unlawful possession of a handgun by a person, except that the new crime in SB 244 covers all firearms. In addition, the definition of “minor” in SB 244 tracks that of the unlawful possession statute, where “person” is defined as “an individual who is less than nineteen years old.” The penalty in the unlawful possession statute is a misdemeanor. It is quite a jump to have the penalty for transferring the firearm to be a second degree felony.

In Federal law, a person under 18 cannot possess a handgun, and there is not the strict liability standard on age; it is rather a known or should have known standard. Additionally, Federal law

distinguishes the sentencing for juveniles who violate the transfer statute, which SB 244 does not address, and the general penalty for adults who violate the statute is a fine and one year imprisonment, unless the person sold, delivered, or otherwise transferred a handgun or ammunition to a juvenile knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun or ammunition in the commission of a crime of violence, in which case there is a fine and potential 10 years imprisonment.

It is difficult to determine what the effect of passing SB 244 would be on the state's prison population, but the penalties included in the bill could lead to more people being incarcerated by the Corrections Department. The average per day 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