

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 39

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

AN ACT

RELATING TO CHILDREN; PROVIDING ACCESS TO JUVENILE DELINQUENCY
RECORDS FOR FIREARM BACKGROUND CHECKS; PROVIDING FOR A
DELINQUENT ACT INVOLVING THE USE OF A FIREARM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 30-7-16 NMSA 1978 (being Laws 1981,
Chapter 225, Section 1, as amended) is amended to read:

"30-7-16. FIREARMS OR DESTRUCTIVE DEVICES--RECEIPT,
TRANSPORTATION OR POSSESSION BY CERTAIN PERSONS--PENALTY.--

A. It is unlawful for the following persons to
receive, transport or possess a firearm or destructive device
in this state:

(1) a felon;

(2) a person subject to an order of protection
pursuant to Section 40-13-5 or 40-13A-5 NMSA 1978; [e]

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underscoring material = new
[bracketed material] = delete

1 (3) a person convicted of any of the following
2 crimes:

3 (a) battery against a household member
4 pursuant to Section 30-3-15 NMSA 1978;

5 (b) criminal damage to property of a
6 household member pursuant to Section 30-3-18 NMSA 1978;

7 (c) a first offense of stalking pursuant
8 to Section 30-3A-3 NMSA 1978; or

9 (d) a crime listed in 18 U.S.C. 921; or

10 (4) an adult who was subject to a juvenile
11 disposition for a delinquent act involving use of a firearm
12 under the Delinquency Act that would be a felony if committed
13 by an adult, regardless of whether the judgment resulted in an
14 adult sentence.

15 B. A felon or an adult who was subject to a
16 juvenile disposition for a delinquent act involving use of a
17 firearm under the Delinquency Act that would be a felony if
18 committed by an adult, regardless of whether the judgment
19 resulted in an adult sentence, found in possession of a firearm
20 shall be guilty of a third degree felony.

21 C. A serious violent felon that is found to be in
22 possession of a firearm shall be guilty of a third degree
23 felony, and notwithstanding the provisions of Section 31-18-15
24 NMSA 1978, shall be sentenced to a basic term of six years
25 imprisonment.

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1 D. Any person subject to an order of protection
 2 pursuant to Section 40-13-5 or 40-13A-5 NMSA 1978 or convicted
 3 of a crime listed in Paragraph (3) of Subsection A of this
 4 section who receives, transports or possesses a firearm or
 5 destructive device is guilty of a misdemeanor.

6 E. As used in this section:

7 (1) "adult who was subject to a juvenile
 8 disposition for a delinquent act involving use of a firearm"
 9 means a person eighteen years of age or older who was subject
 10 to a juvenile disposition for a delinquent act involving use of
 11 a firearm under the Delinquency Act; provided that:

12 (a) less than ten years have passed
 13 since the entry of a judgment resulting in the juvenile
 14 disposition involving use of a firearm;

15 (b) the judgment resulting in the
 16 disposition was entered on or after June 20, 2025; and

17 (c) the person has not been pardoned for
 18 the delinquent act by the proper authority;

19 [~~(1)~~] (2) except as provided in Paragraph
 20 [~~(2)~~] (3) of this subsection, "destructive device" means:

21 (a) any explosive, incendiary or poison
 22 gas: 1) bomb; 2) grenade; 3) rocket having a propellant charge
 23 of more than four ounces; 4) missile having an explosive or
 24 incendiary charge of more than one-fourth ounce; 5) mine; or 6)
 25 similar device;

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1 (b) any type of weapon by whatever name
2 known that will, or that may be readily converted to, expel a
3 projectile by the action of an explosive or other propellant,
4 the barrel or barrels of which have a bore of more than one-
5 half inch in diameter, except a shotgun or shotgun shell that
6 is generally recognized as particularly suitable for sporting
7 purposes; or

8 (c) any combination of parts either
9 designed or intended for use in converting any device into a
10 destructive device as defined in this paragraph and from which
11 a destructive device may be readily assembled;

12 [~~(2)~~] (3) the term "destructive device" does
13 not include any device that is neither designed nor redesigned
14 for use as a weapon or any device, although originally designed
15 for use as a weapon, that is redesigned for use as a signaling,
16 pyrotechnic, line throwing, safety or similar device;

17 [~~(3)~~] (4) "felon" means a person convicted of
18 a felony offense by a court of the United States or of any
19 state or political subdivision thereof and:

20 (a) less than ten years have passed
21 since the person completed serving a sentence or period of
22 probation for the felony conviction, whichever is later;

23 (b) the person has not been pardoned for
24 the felony conviction by the proper authority; and

25 (c) the person has not received a

1 deferred sentence;

2 [~~(4)~~] (5) "firearm" means any weapon that will
3 or is designed to or may readily be converted to expel a
4 projectile by the action of an explosion or the frame or
5 receiver of any such weapon; and

6 [~~(5)~~] (6) "serious violent felon" means a
7 person convicted of an offense enumerated in Subparagraphs (a)
8 through (n) of Paragraph (4) of Subsection L of Section 33-2-34
9 NMSA 1978; provided that:

10 (a) less than ten years have passed
11 since the person completed serving a sentence or a period of
12 probation for the felony conviction, whichever is later;

13 (b) the person has not been pardoned for
14 the felony conviction by the proper authority; and

15 (c) the person has not received a
16 deferred sentence and completed the total term of deferment as
17 provided in Section 31-20-9 NMSA 1978."

18 **SECTION 2.** A new section of the Delinquency Act is
19 enacted to read:

20 "[NEW MATERIAL] JUVENILE DISPOSITIONS FOR A DELINQUENT ACT
21 INVOLVING USE OF A FIREARM THAT WOULD BE A FELONY IF COMMITTED
22 BY AN ADULT.--

23 A. Notwithstanding the provisions of Section
24 32A-2-26 NMSA 1978 and any other provision to the contrary, and
25 except as provided in this section, proof of a judgment

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1 resulting in a juvenile disposition for a delinquent act
2 involving use of a firearm that would be a felony if committed
3 by an adult shall be made available to federal authorities for
4 purposes of conducting a federal instant background check
5 pursuant to 18 U.S.C. Section 922 (t) and state and local law
6 enforcement for purposes of determining whether a person may
7 receive, transport or possess a firearm or destructive device
8 in New Mexico pursuant to Subsection A of Section 30-7-16 NMSA
9 1978.

10 B. The clerk of the court shall provide proof of a
11 judgment resulting in a juvenile disposition for a delinquent
12 act involving use of a firearm that would be a felony if
13 committed by an adult to any law enforcement agency designated
14 to provide information to the national instant criminal
15 background check system.

16 C. Upon receipt of proof of a judgment resulting in
17 a juvenile disposition for a delinquent act involving use of a
18 firearm that would be a felony if committed by an adult, the
19 law enforcement agency specified in Subsection B of this
20 section shall enter the proof into:

21 (1) the national instant criminal background
22 check system;

23 (2) all federal or state computer-based
24 systems and databases used by law enforcement or others to
25 identify prohibited purchasers of firearms; and

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1 (3) all computer-based criminal intelligence
2 information systems and databases available in the state used
3 by law enforcement agencies.

4 D. Proof of a judgment resulting in a juvenile
5 disposition for a delinquent act involving use of a firearm
6 that would be a felony if committed by an adult shall remain in
7 each state system for the period of ten years following the
8 entry of the judgment. Entry into the computer-based criminal
9 intelligence information system constitutes notice to all law
10 enforcement agencies of the existence of the judgment.

11 E. Ten years following the entry of a judgment
12 resulting in a juvenile disposition for a delinquent act
13 involving use of a firearm that would be a felony if committed
14 by an adult, the law enforcement agency specified in Subsection
15 B of this section shall promptly remove the proof of the
16 judgment from any state computer-based system into which it was
17 entered pursuant to Subsection C of this section and shall
18 notify the national instant criminal background check system
19 and all federal computer-based systems and databases used by
20 law enforcement or others to identify prohibited purchasers of
21 firearms.

22 F. Ten years following the entry of a judgment
23 resulting in a juvenile disposition for a delinquent act
24 involving use of a firearm that would be a felony if committed
25 by an adult, and upon written request, the law enforcement

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1 agency specified in Subsection B of this section shall provide
2 a sworn affidavit to the person who was subject to the judgment
3 affirming that the information contained within the proof of
4 disposition has been removed from all state databases and
5 systems identified in Subsection C of this section and any
6 other state databases into which information about the proof of
7 judgment was entered and that the law enforcement agency has
8 notified the national instant criminal background check system
9 and all federal computer-based systems and databases used by
10 law enforcement or others to identify prohibited purchasers of
11 firearms. The affidavit shall be provided to the person within
12 five days of the receipt of the request.

13 G. Notwithstanding the provisions of Section
14 32A-2-26 NMSA 1978 and any other provision to the contrary,
15 records of a judgment resulting in a juvenile disposition for a
16 delinquent act involving use of a firearm that would be a
17 felony if committed by an adult and any evidence given in a
18 hearing in court for a juvenile shall be made available to
19 state and federal prosecutors upon request following the
20 initiation of criminal proceedings for a violation of Section
21 30-7-16 NMSA 1978 or the federal Gun Control Act of 1968.

22 H. As used in this section, "proof of a judgment
23 resulting in a juvenile disposition" means a record separate
24 from the judgment that confirms that a person was subject to a
25 juvenile disposition. "Proof of a judgment resulting in a

1 juvenile disposition" does not include any other records
2 associated with the proceedings in the case.

3 I. This section shall apply only to judgments
4 resulting in juvenile dispositions that were entered on or
5 after June 20, 2025."

6 SECTION 3. Section 32A-2-18 NMSA 1978 (being Laws 1993,
7 Chapter 77, Section 47, as amended) is amended to read:

8 "32A-2-18. JUDGMENT--NONCRIMINAL NATURE--
9 NONADMISSIBILITY.--

10 A. The court shall enter a judgment setting forth
11 the court's findings and disposition in the proceeding. Except
12 as provided in Subsection D of this section and Section 30-7-16
13 NMSA 1978, a judgment in proceedings on a petition under the
14 Delinquency Act resulting in a juvenile disposition shall not
15 be deemed a conviction of crime nor shall it impose any civil
16 disabilities ordinarily resulting from conviction of a crime
17 nor shall it operate to disqualify the child in any civil
18 service application or appointment. The juvenile disposition
19 of a child and any evidence given in a hearing in court shall
20 not be admissible as evidence against the child in any case or
21 proceeding in any other tribunal whether before or after
22 reaching the age of majority, except in sentencing proceedings
23 after conviction of a felony and then only for the purpose of a
24 presentence study and report.

25 B. If a judgment resulting from a youthful offender

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1 or serious youthful offender proceeding under the Delinquency
2 Act results in an adult sentence, a record of the judgment
3 shall be admissible in any other case or proceeding in any
4 other court involving the youthful offender or serious youthful
5 offender.

6 C. If a judgment on a proceeding under the
7 Delinquency Act results in an adult sentence, the determination
8 of guilt at trial becomes a conviction for purposes of the
9 Criminal Code.

10 D. A judgment in proceedings on a petition under
11 the Delinquency Act resulting in a juvenile disposition for a
12 delinquent act involving use of a firearm that would be a
13 felony if committed by an adult shall be considered a
14 conviction of a crime punishable by imprisonment for a term
15 exceeding one year for the purpose of the federal Gun Control
16 Act of 1968 for a period of ten years following the
17 disposition, regardless of whether the judgment results in an
18 adult sentence; provided that the judgment was entered on or
19 after June 20, 2025."