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HOUSE BILL 496

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

INTRODUCED BY

Joy Garratt

AN ACT

RELATING TO CRIME; INCREASING THE PENALTY FOR A FELON FOUND IN
POSSESSION 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; or
- (3) a person convicted of any of the following

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1 crimes:

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

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

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

8 (d) a crime listed in 18 U.S.C. 921.

9 B. A felon [~~found in possession of a firearm shall~~
10 ~~be guilty of a third degree felony.~~

11 C. ~~A serious violent felon that is found to be in~~
12 ~~possession of a firearm shall be guilty of a third degree~~
13 ~~felony, and notwithstanding the provisions of Section 31-18-15~~
14 ~~NMSA 1978, shall be sentenced to a basic term of six years~~
15 ~~imprisonment] who violates this section is:~~

16 (1) for the first offense, guilty of a second
17 degree felony; and

18 (2) for the second and subsequent offenses,
19 guilty of a first degree felony.

20 [D.] C. Any person subject to an order of
21 protection pursuant to Section 40-13-5 or 40-13A-5 NMSA 1978 or
22 convicted of a crime listed in Paragraph (3) of Subsection A of
23 this section who receives, transports or possesses a firearm or
24 destructive device is guilty of a misdemeanor.

25 [E.] D. As used in this section:

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1 (1) except as provided in Paragraph (2) of
2 this subsection, "destructive device" means:

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

8 (b) any type of weapon by whatever name
9 known that will, or that may be readily converted to, expel a
10 projectile by the action of an explosive or other propellant,
11 the barrel or barrels of which have a bore of more than one-
12 half inch in diameter, except a shotgun or shotgun shell that
13 is generally recognized as particularly suitable for sporting
14 purposes; or

15 (c) any combination of parts either
16 designed or intended for use in converting any device into a
17 destructive device as defined in this paragraph and from which
18 a destructive device may be readily assembled;

19 (2) the term "destructive device" does not
20 include any device that is neither designed nor redesigned for
21 use as a weapon or any device, although originally designed for
22 use as a weapon, that is redesigned for use as a signaling,
23 pyrotechnic, line throwing, safety or similar device;

24 (3) "felon" means a person convicted of a
25 felony offense by a court of the United States or of any state

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1 or political subdivision thereof and:

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

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

7 (c) the person has not received a
8 deferred sentence;

9 (4) "firearm" means any weapon that will or is
10 designed to or may readily be converted to expel a projectile
11 by the action of an explosion or the frame or receiver of any
12 such weapon; and

13 (5) "serious violent felon" means a person
14 convicted of an offense enumerated in Subparagraphs (a) through
15 (n) of Paragraph (4) of Subsection L of Section 33-2-34 NMSA
16 1978; provided that:

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

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

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