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FISCAL IMPACT REPORT

SPONSOR Mason/Pettigrew/Chatfield/Sanchez/Block **LAST UPDATED** _____
ORIGINAL DATE 2/10/25
BILL
SHORT TITLE Repeal Firearm Sale Waiting Period **NUMBER** House Bill 162
ANALYST Sanchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
DPS	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
Department of Public Safety (DPS)
New Mexico Sentencing Commission (NMSC)
Office of the Attorney General (NMAG)
Department of Health (DOH)

SUMMARY

Synopsis of House Bill 162

House Bill 162 (HB162) proposes to repeal Section 30-7-7.3 NMSA to repeal the waiting period of a firearm purchase.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

No agency analysis cited any significant fiscal impact associated with HB162. The Department of Public Safety (DPS) notes:

The repeal of the seven-day waiting period is expected to have minimal fiscal impact on the DPS Law Enforcement Records Bureau (LERB), as background checks will continue under existing procedures.

SIGNIFICANT ISSUES

Gun Violence and Waiting Periods. The Department of Health (DOH) reported 550 firearm-related deaths in New Mexico in 2022, including 295 suicides. The state's firearm death rate in 2022 was 26.5 deaths per 100 thousand residents, 84 percent higher than the nationwide rate of 14.4 deaths per 100 thousand residents and the third-highest firearm age-adjusted death rate in the nation. New Mexico's firearm death rate has escalated significantly, moving from the seventh highest in the nation in 1999 to the third highest in 2022. In New Mexico, there were 140 firearm deaths among children ages 0-18 between 2016 and 2020, including 68 suicide deaths and 64 homicide deaths.¹

According to a 2023 meta-analysis of research evidence on the effects of gun policies in the United States from the Rand Corporation, there is moderate evidence waiting periods decrease firearm suicides and decrease overall homicides, and limited evidence waiting periods decrease total suicides and decrease firearm homicides. Studies provided inconclusive evidence regarding both the existence and direction (increase or decrease) of the impact of waiting periods on mass shootings or the gun industry.²

DOH also noted recent studies have contributed to the understanding of the impact of mandatory waiting periods and background checks on firearm fatalities. One study analyzed changes in suicide rates across all 50 states and the District of Columbia between 2013 and 2014, discovering that states with both mandatory waiting periods and universal background checks exhibited notably lower suicide rates than those without such measures.³ Another used Centers for Disease Control data to investigate the effects of restrictive firearm laws on firearm-related suicides between 2009 and 2021, finding that states enforcing background checks and mandatory waiting periods had lower suicide rates involving handguns and large firearms.⁴ Another study in 2022 focused on Wisconsin, examining the consequences of repealing the 48-hour mandatory waiting period for handgun purchases in 2015. Their findings indicated significant increases in suicide rates among people of color and urban residents following the repeal.⁵

According to DOH, these studies underline the potential life-saving effects of mandatory waiting periods, which not only delay immediate access to firearms, thus preventing impulsive acts of violence such as suicides and homicides, but also allow law enforcement more time to complete background checks. Annually, around 3,800 ineligible individuals manage to acquire firearms due to incomplete background checks. As of this writing, 11 states and the District of Columbia have implemented waiting periods for firearm purchases, reflecting a growing recognition of their potential to reduce firearm-related fatalities.

The New Mexico Sentencing Commission notes that the waiting period was originally implemented to provide additional time for background checks and to potentially reduce impulsive acts of violence and suicide. The analysis cites research indicating that states with waiting periods tend to have lower firearm-related homicide and suicide rates. However, it also

¹ <https://wonder.cdc.gov/Deaths-by-Underlying-Cause.html>

² https://www.rand.org/pubs/research_reports/RRA243-4.html

³ <https://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.2016.303650>

⁴ https://journals.lww.com/journalacs/abstract/2023/01000/restrictive_firearm_laws_and_firearm_related.8.aspx

⁵ <https://www.tandfonline.com/doi/abs/10.1080/13811118.2021.1886209>

acknowledges that the federal background check system, known as NICS, already allows for a three-day delay if additional review is required.

DPS opposes the repeal, arguing that waiting periods serve as a crucial safeguard against impulsive violence, suicides, and domestic shootings. The department highlights concerns that immediate firearm transfers could lead to increased gun-related incidents, particularly in situations involving emotional distress or domestic conflicts. It also notes that firearm-related crimes could place additional strain on law enforcement resources. Furthermore, a federal court has preliminarily upheld the constitutionality of New Mexico's waiting period, finding that such laws may help reduce firearm violence.

The Office of the Attorney General (NMAG) provides a legal analysis, stating that the repeal does not pose any constitutional conflicts under either the state or federal constitutions. It notes that while some courts have upheld waiting periods as constitutional, HB162 would not impose any new restrictions but would instead remove an existing regulation. NMAG also highlights that federal law does not currently require a waiting period, meaning the repeal would align New Mexico's firearm laws more closely with federal standards.

National Instant Criminal Background Check System (NICS). Analysis of a similar bill from the 2024 session (Senate Bill 69) by the Administrative Office of the Courts (AOC) points out that the federal Brady Act, enacted in 1993, mandates federally licensed firearms dealers to conduct background checks on potential buyers through NICS, created by the FBI. These checks must be completed within three business days; otherwise, the sale may proceed by default, a situation known as "default proceeds." In 2022, the Bipartisan Safer Communities Act was passed, modifying the NICS process for individuals under 21. It requires additional checks with state juvenile justice, mental health repositories, and local law enforcement, providing an extended period of up to 10 business days to identify disqualifying records.

Analysis from AOC also stated that despite these measures, in 2022, over 372 thousand background checks remained unresolved within the initial three-day window, highlighting the system's limitations. The FBI has suggested extending the three-day period to improve the thoroughness of background checks and prevent sales to potentially disqualified buyers. The FBI reported in 2022 that there were 131,865 denial decisions nationally, a decrease from 153,565 in 2021.⁶ In New Mexico specifically, 2,498 denial decisions were made, primarily for convictions of crimes punishable by a year or more in prison. AOC contributes to NICS by reporting various dispositions, including felony convictions and mental health orders. For pre-2009 cases, the AOC faces challenges verifying records due to storage and format issues, as their case management system, Odyssey, only came online in 2009.

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⁶ <https://www.fbi.gov/file-repository/nics-2022-operations-report.pdf/view>