

HOUSE BILL 166

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

INTRODUCED BY

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AN ACT

RELATING TO CRIME; INCREASING THE PENALTY FOR A FELON IN  
POSSESSION OF A FIREARM OR DESTRUCTIVE DEVICE TO FIVE YEARS  
IMPRISONMENT; ADDING A NEW CRIME OF FELON IN POSSESSION OF A  
FIREARM OR DESTRUCTIVE DEVICE FOR A SECOND OR SUBSEQUENT  
OFFENSE AND A NEW PENALTY OF NINE YEARS IMPRISONMENT;  
INCREASING THE PENALTY FOR A SERIOUS VIOLENT FELON IN  
POSSESSION OF A FIREARM OR DESTRUCTIVE DEVICE TO NINE YEARS  
IMPRISONMENT.

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

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1 receive, transport or possess a firearm or destructive device  
2 in this state:

3 (1) a felon;

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

6 (3) a person convicted of any of the following  
7 crimes:

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

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

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

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

15 B. A felon found in possession of a firearm or  
16 destructive device shall be guilty of a third degree felony for  
17 possession of a firearm or destructive device by a felon. A  
18 felon found in possession of a firearm or destructive device  
19 for a second and subsequent offense shall be guilty of a second  
20 degree felony.

21 C. A serious violent felon that is found to be in  
22 possession of a firearm or destructive device shall be guilty  
23 of a [~~third~~] second degree felony [~~and notwithstanding the~~  
24 ~~provisions of Section 31-18-15 NMSA 1978, shall be sentenced to~~  
25 ~~a basic term of six years 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) except as provided in Paragraph (2) of  
8 this subsection, "destructive device" means:

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

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

21                           (c) any combination of parts either  
22 designed or intended for use in converting any device into a  
23 destructive device as defined in this paragraph and from which  
24 a destructive device may be readily assembled;

25                   (2) the term "destructive device" does not

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1 include any device that is neither designed nor redesigned for  
2 use as a weapon or any device, although originally designed for  
3 use as a weapon, that is redesigned for use as a signaling,  
4 pyrotechnic, line throwing, safety or similar device;

5 (3) "felon" means a person convicted of a  
6 felony offense by a court of the United States or of any state  
7 or political subdivision thereof and:

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

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

13 (c) the person has not received a  
14 deferred sentence;

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

19 (5) "serious violent felon" means a person  
20 convicted of an offense enumerated in Subparagraphs (a) through  
21 (n) of Paragraph (4) of Subsection L of Section 33-2-34 NMSA  
22 1978; provided that:

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

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

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

6 SECTION 2. Section 31-18-15 NMSA 1978 (being Laws 1977,  
7 Chapter 216, Section 4, as amended) is amended to read:

8 "31-18-15. SENTENCING AUTHORITY--NONCAPITAL FELONIES--  
9 BASIC SENTENCES AND FINES--PAROLE AUTHORITY--MERITORIOUS  
10 DEDUCTIONS.--

11 A. As used in a statute that establishes a  
12 noncapital felony, the following defined felony classifications  
13 and associated basic sentences of imprisonment are as follows:

14 FELONY CLASSIFICATION	BASIC SENTENCE
15 first degree felony	
16 resulting in the death	
17 of a child	life imprisonment
18 first degree felony for	
19 aggravated criminal sexual	
20 penetration	life imprisonment
21 first degree felony	eighteen years imprisonment
22 second degree felony	
23 resulting in the death of	
24 a human being	eighteen years imprisonment
25 second degree felony for a	

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1 sexual offense against a  
2 child fifteen years imprisonment  
3 second degree felony for  
4 sexual exploitation of  
5 children twelve years imprisonment  
6 second degree felony nine years imprisonment  
7 third degree felony resulting  
8 in the death of a human being six years imprisonment  
9 third degree felony for a  
10 sexual offense against a  
11 child six years imprisonment  
12 third degree felony for sexual  
13 exploitation of children eleven years imprisonment  
14 third degree felony for  
15 possession of a firearm or  
16 destructive device by a felon five years imprisonment  
17 third degree felony three years imprisonment  
18 fourth degree felony for  
19 sexual exploitation of  
20 children ten years imprisonment  
21 fourth degree felony eighteen months imprisonment.

22 B. The appropriate basic sentence of imprisonment  
23 shall be imposed upon a person convicted and sentenced pursuant  
24 to Subsection A of this section, unless the court alters the  
25 sentence pursuant to the provisions of the Criminal Sentencing

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1 Act.

2 C. A period of parole shall be imposed only for  
3 felony convictions wherein a person is sentenced to  
4 imprisonment of more than one year, unless the parties to a  
5 proceeding agree that a period of parole should be imposed. If  
6 a period of parole is imposed, the court shall include in the  
7 judgment and sentence of each person convicted and sentenced to  
8 imprisonment in a corrections facility designated by the  
9 corrections department authority for a period of parole to be  
10 served in accordance with the provisions of Section 31-21-10  
11 NMSA 1978 after the completion of any actual time of  
12 imprisonment and authority to require, as a condition of  
13 parole, the payment of the costs of parole services and  
14 reimbursement to a law enforcement agency or local crime  
15 stopper program in accordance with the provisions of that  
16 section. If imposed, the period of parole shall be deemed to  
17 be part of the sentence of the convicted person in addition to  
18 the basic sentence imposed pursuant to Subsection A of this  
19 section together with alterations, if any, pursuant to the  
20 provisions of the Criminal Sentencing Act.

21 D. When a court imposes a sentence of imprisonment  
22 pursuant to the provisions of Section 31-18-15.1, 31-18-16 or  
23 31-18-17 NMSA 1978 and suspends or defers the basic sentence of  
24 imprisonment provided pursuant to the provisions of Subsection  
25 A of this section, the period of parole shall be served in

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1 accordance with the provisions of Section 31-21-10 NMSA 1978  
2 for the degree of felony for the basic sentence for which the  
3 inmate was convicted. For the purpose of designating a period  
4 of parole, a court shall not consider that the basic sentence  
5 of imprisonment was suspended or deferred and that the inmate  
6 served a period of imprisonment pursuant to the provisions of  
7 the Criminal Sentencing Act.

8 E. The court may, in addition to the imposition of  
9 a basic sentence of imprisonment, impose a fine not to exceed:

10 (1) for a first degree felony resulting in the  
11 death of a child, seventeen thousand five hundred dollars  
12 (\$17,500);

13 (2) for a first degree felony for aggravated  
14 criminal sexual penetration, seventeen thousand five hundred  
15 dollars (\$17,500);

16 (3) for a first degree felony, fifteen  
17 thousand dollars (\$15,000);

18 (4) for a second degree felony resulting in  
19 the death of a human being, twelve thousand five hundred  
20 dollars (\$12,500);

21 (5) for a second degree felony for a sexual  
22 offense against a child, twelve thousand five hundred dollars  
23 (\$12,500);

24 (6) for a second degree felony for sexual  
25 exploitation of children, five thousand dollars (\$5,000);

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1 (7) for a second degree felony, ten thousand  
2 dollars (\$10,000);

3 (8) for a third degree felony resulting in the  
4 death of a human being, five thousand dollars (\$5,000);

5 (9) for a third degree felony for a sexual  
6 offense against a child, five thousand dollars (\$5,000);

7 (10) for a third degree felony for sexual  
8 exploitation of children, five thousand dollars (\$5,000);

9 (11) for a third or fourth degree felony, five  
10 thousand dollars (\$5,000); or

11 (12) for a fourth degree felony for sexual  
12 exploitation of children, five thousand dollars (\$5,000).

13 F. When the court imposes a sentence of  
14 imprisonment for a felony offense, the court shall indicate  
15 whether or not the offense is a serious violent offense as  
16 defined in Section 33-2-34 NMSA 1978. The court shall inform  
17 an offender that the offender's sentence of imprisonment is  
18 subject to the provisions of Sections 33-2-34, 33-2-36, 33-2-37  
19 and 33-2-38 NMSA 1978. If the court fails to inform an  
20 offender that the offender's sentence is subject to those  
21 provisions or if the court provides the offender with erroneous  
22 information regarding those provisions, the failure to inform  
23 or the error shall not provide a basis for a writ of habeas  
24 corpus.

25 G. No later than October 31 of each year, the

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1 New Mexico sentencing commission shall provide a written report  
2 to the secretary of corrections, all New Mexico criminal court  
3 judges, the administrative office of the district attorneys and  
4 the chief public defender. The report shall specify the  
5 average reduction in the sentence of imprisonment for serious  
6 violent offenses and nonviolent offenses, as defined in Section  
7 33-2-34 NMSA 1978, due to meritorious deductions earned by  
8 prisoners during the previous fiscal year pursuant to the  
9 provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38  
10 NMSA 1978. The corrections department shall allow the  
11 commission access to documents used by the department to  
12 determine earned meritorious deductions for prisoners."

13 SECTION 3. EFFECTIVE DATE.--The effective date of the  
14 provisions of this act is July 1, 2025.