

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

SPONSOR Lopez ORIGINAL DATE \_\_\_\_\_  
LAST UPDATED 03/03/15 HB \_\_\_\_\_  
SHORT TITLE Firearms Safety Locks and Notices SB 546  
ANALYST Daly

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Public Safety (DPS)  
Administrative Office of the Courts (AOC)  
Administrative Office of the District Attorneys (AODA)  
Attorney General's Office (AGO)

### SUMMARY

#### Synopsis of Bill

Senate Bill 546 requires firearms dealers to post a notice at their places of business that knowingly or negligently failing to safeguard a firearm that endangers the life or health of a child could be a violation of New Mexico law, and that cites the criminal child abuse and abandonment statute.

It also requires a firearms dealer to affirmatively offer a firearm purchaser the opportunity to purchase a safety lock or a locked container for the firearm. The dealer must provide a written form to the purchaser, acknowledging that the dealer provided the buyer with the opportunity to purchase a safety lock or a locked container for the firearm, along with a written form advising the person of safe storage practices for firearms. DPS, after consultation with the Department of Health (DOH), must draft a standard text for these required forms and adopt rules regarding them.

## **FISCAL IMPLICATIONS**

Responding agencies report no fiscal impact on the state.

## **SIGNIFICANT ISSUES**

AOC first points out that Subsection D(1) of the law cited in the required notice (Section 30-6-1 NMSA 1978), which governs abandonment or abuse of a child, provides that abuse of a child consists of a person knowingly, intentionally or negligently, and without justifiable cause, causing or permitting a child to be placed in a situation that may endanger the child's life or health. Section 30-6-1 provides penalties specific to the "intentional" abuse of a child. The sign required by SB 546 does not include the term "intentionally" within the provided text. Further, AGO asserts that, because Section 30-6-1 does not expressly include language that failure to safeguard a firearm that endangers the life or health of a child constitutes abandonment or abuse of a child, enforcement of that statute against a firearms purchaser may prove difficult. However, the definition of "negligently" contained in Section (A)(3) of that statute, which refers to criminal negligence and states it means that a person "knew or should have known of the danger involved and acted with reckless disregard for the safety or health of the child" may help address that concern.

Additionally, AGO, AODA and AOC all call attention to the absence of any enforcement mechanism in the bill. Although DPS is to develop form notices as to the availability of safety locks for purchase and safety practices, and also develop rules concerning those notices, the bill does not authorize that agency, or any other, to enforce failure to provide those notices, or to post the required notice. AOC notes that penalties could be criminal in nature, or provide for imposition of civil fines. If penalties exist under federal law, they may be referenced as well. AGO also notes that there is no requirement that a dealer who provides the required notices to a purchaser maintain records reflecting compliance with the bill's provisions.

AODA also comments on the failure of the sign to mention any other crime that might be committed with a firearm, and the absence of any posting of notice requirement or provision of safety lock notices applicable to firearms sales or transfers by private individuals.

## **RELATIONSHIP**

SB 546 relates to HB 544, Negligent Storage of Firearms.

MD/bb/aml