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## FISCAL IMPACT REPORT

**ORIGINAL DATE**  
**SPONSOR** Rehm **LAST UPDATED** 2/11/16 **HB** 303

**SHORT TITLE** Felon In Possession Of Firearm Penalty **SB** \_\_\_\_\_

**ANALYST** Downs

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

	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	See Fiscal Implications	See Fiscal Implications	See Fiscal Implications	See Fiscal Implications	See Fiscal Implications	See Fiscal Implications

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the District Attorneys (AODA)

Administrative Office of the Courts (AOC)

Public Defender Department (PDD)

### SUMMARY

#### Synopsis of Bill

House Bill 303 does not contain an appropriation. The bill would amend Section 30-7-16 NMSA 1978, Firearms or Destructive Devices, to increase the penalty for a felon receiving, transporting, or possessing a firearm or destructive device from a fourth to a third degree felony.

### FISCAL IMPLICATIONS

The Public Defender Department (PDD) stated that cases involving higher penalties are more likely to go to trial which could result in the need to hire mid-level attorneys to handle the cases. The mid-point salary for an associate trial attorney, according to PDD, is \$93.2 thousand including benefits.

According to the Administrative Office of the Courts (AOC), this bill would have no affect on the judicial branch.

Enhanced sentences over time will increase the population of New Mexico's prisons and long-term costs to the general fund. According to the New Mexico Corrections Department (NMCD), the average cost per day to house an inmate in a state prison is \$123, or about \$45,250 per year. A longer length of stay would increase that cost. In addition, sentencing enhancements could contribute to overall prison population growth, as increased sentence lengths decrease releases relative to the rate of admissions. The NMCD general fund budget, not including supplemental appropriations, has grown \$5 million, or 7 percent, since FY11 as a result of growing prison population.

Conversely, societal benefits, particularly to potential victims, would accrue through enhanced sentences if they reduce or delay re-offenses. LFC cost-benefit analysis of criminal justice interventions shows that avoiding victimization results in tangible benefits over a lifetime for all types of crime, and higher amounts for serious violent offenses. These include tangible victim costs, such as health care expenses, property damage, and losses in future earnings and intangible victim costs such as jury awards for pain, suffering, and lost quality of life.

### **SIGNIFICANT ISSUES**

According to the Administrative Office of the District Attorneys (AODA), the jump from fourth to a third degree felony is a jump from eighteen months in prison and/or a \$5,000 fine, to three years in prison and/or a \$5,000 fine. Additionally, the parole period for a third degree felony is double that of a fourth degree felony.

The bill would still allow judicial discretion, meaning the court would still be able to defer or suspend the sentence depending on the case. This statute doesn't apply to those who have received deferred sentences, those who have been pardoned, or when it has been more than ten years since the last felony conviction.

JD/jo