



Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

##### Synopsis:

HB 166 amends Section 30-7-16(B) NMSA 1978, regarding the possession of firearms by felons, to also prohibit the possession of a destructive device by a felon. HB 46 further amends Section 30-7-16(B) to add that a second or subsequent offense shall be a second degree felony.

HB 166 similarly amends Section 30-7-16(C) NMSA 1978, regarding the possession of firearms by serious violent felons, to also prohibit the possession of a destructive device by a felon. The bill changes the penalty for a serious violent felon in possession from a third degree felony to a second degree felony, and removes the existing special penalty of a basic term of six years imprisonment.

The bill also amends Section 31-18-15 NMSA 1978 to include a third degree felony for possession of a firearm or destructive device by a felon, which would carry a penalty of five years imprisonment.

HB 166 sets an effective date of July 1, 2025.

#### **FISCAL IMPLICATIONS**

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

#### **SIGNIFICANT ISSUES**

In 2021, the New Mexico Sentencing Commission engaged the services of the Robina Institute of Criminal Law and Criminal Justice at the University of Minnesota to analyze the state's Criminal Code for its strengths and weaknesses. One item of concern for the Robina Institute was that the Criminal Code has a number of special statutes that fall out of the normal penalty structure in the state. HB 166 would add an additional special penalty into the Criminal Code through its addition of a five-year third degree felony for felons in possession of a firearm or destructive device. However, HB 166 would also remove a special penalty from the Criminal Code, as it would remove the existing six-year third degree felony for serious violent felons in possession of a firearm or destructive device.

HB 166 would increase the basic term of years of imprisonment for felons and serious violent felons in possession of a firearm, and would also apply the same penalties for felons and serious violent felons in possession of a destructive device. HB 166 would also add an increased penalty for second or subsequent offenses of felons in possession of a firearm or destructive device.

While it is difficult to determine what the effect of passing HB 166 would be on the state's

prison population, it is likely that these changes would lead to more people being incarcerated by the Corrections Department. The average per day cost to incarcerate someone in the state's prison system is \$155.63/day; this average includes private and public facilities.

Section 30-7-16 NMSA 1978 has been amended several times in recent years to increase the penalty for felons in possession of firearms. The Sentencing Commission is currently compiling multi-year data regarding charges and convictions pursuant to Section 30-7-16 to examine whether there is any correlation between the increased penalties and the rate of offense. We will submit a revised FIR with the compiled data as soon as possible.

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

## **AMENDMENTS**