

LFC Requestor: SANCHEZ, Scott

**2025 LEGISLATIVE SESSION  
AGENCY BILL ANALYSIS**

**Section I: General**

**Chamber:** House **Category:** Bill  
**Number:** 166 **Type:** Introduced

**Date (of THIS analysis):** 1/29/2025  
**Sponsor(s):** Nicole Chavez, Andrea Reeb, Art De La Cruz  
**Short Title:** FELON IN POSSESSION OF FIREARMS PENALTIES

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**Section II: Fiscal Impact**

**APPROPRIATION (dollars in thousands)**

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 25	FY 26		
\$0	\$0	N/A	N/A

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 25	FY 26	FY 27		
\$0	\$0	\$0	N/A	N/A

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

	FY 25	FY 26	FY 27	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
<b>Total</b>	\$0	\$0	\$0	\$0	N/A	N/A

### Section III: Relationship to other legislation

Duplicates: None

Conflicts with: None

Companion to: None

Relates to: HB38, HB83, SB32

Duplicates/Relates to an Appropriation in the General Appropriation Act: None

### Section IV: Narrative

#### 1. BILL SUMMARY

##### a) Synopsis

House Bill 166 (HB0166) proposes to amend Section 30-7-16 NMSA 1978 and Section 31-18-15 NMSA 1978 to:

- Increase 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 of destructive device for a second or subsequent offense and a new penalty of nine years imprisonment.
- Increase the penalty for a serious violent felon in possession of a firearm or destructive device to nine years imprisonment.

Is this an amendment or substitution?  Yes  No

Is there an emergency clause?  Yes  No

##### b) Significant Issues

##### **Firearm deaths in New Mexico**

New Mexico (NM) has had one of the highest age-adjusted firearm death rates in the United States (US) over the past two decades. Over the past decade (2011-2022):

- NM's age-adjusted firearm death rate increased by 84% (from 14.8 per 100,000 population in 2011 to 27.3 per 100,000 population in 2022).
- NM's rank for age-adjusted firearm death rates went from the 10th highest to 3rd highest in the U.S.
- The gap in the age-adjusted firearm death rate between NM and the US has also widened. In 2011, NM's age-adjusted firearm death rate was 45% higher than the US. In 2022, it was 90% higher.

More recent trends in firearm deaths in NM (2019-2023) indicate that:

- The number of firearm deaths has increased by 7%, between 2019 and 2023. The number of firearm deaths peaked at 562 firearm deaths (in 2021), representing a 19% increase between 2019 and 2021.
- Suicide with a firearm has remained relatively stable between 2019 (285 deaths) and 2023 (273 deaths).
- Homicide with a firearm increased by 29% from 158 (in 2019) to 204 (in 2023). The number of homicides with a firearm also peaked in 2021 (224 firearm deaths), a 42% increase between 2019 and 2021.
  - In 2022, there were a total of 550 firearm-related deaths in NM that included 214 homicides, which represents 39% of all firearm deaths in NM (Unpublished data, [NM BVRHS](#)).
  - In 2022, 77.0% (or 214 out of 278) of homicides involved a firearm (Unpublished data, [NM BVRHS](#)).
  - Over the past several years, firearms have become the leading cause of death for children and adolescents in the US ([Gun Violence: The Impact on Public Health \(nihcm.org\)](#)).

### **Federal Laws & Federal Sentencing Data (on felon in possession of a firearm)**

- Federal law (18 U.S.C 922g) states that: “It shall be unlawful for any person (1) who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year.... to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.”

([Felon with a Firearm Law | 18 U.S. Code § 922g](#))

- The average sentence for felon in possession of a firearm offenders was 60 months in the Federal Fiscal Year (FY) 2021.
- The number of offenders of Felons in Possession of a Firearm has increased from 6,032 in FY2017 to 7,454 in FY2021.
- The number of felons in possession of a firearm offenders peaked in FY2019 at 7,647 offenders.

([Quick Facts on Felons in Possession of a Firearm \(18 U.S.C. § 922\(g\)\)](#))

### **States with Similar Laws (on felon possession of a firearm)**

- 38 states prohibit people with felony convictions from having firearms. ([Felony Prohibitor | Everytown Research & Policy](#))
  - For example, California’s law applies to anyone convicted of a [Felony](#) under the law of *any state, county, or federal* Felony convictions, so long as: the federal crime you were convicted of committing would also be a Felony under California law; OR, you were sentenced to more than thirty days in a federal correctional facility, or fined more than \$1,000; OR, you received both. ([California Felon in Possession of a Firearm Law - California Penal Code Section 29800](#))

- In New York, it is a class D felony to knowingly allow another person [subject to an outstanding warrant issues for a felony or serious offense] to: (a) possess a firearm, rifle or shotgun; or (b) purchase or otherwise acquires a firearm, rifle or shotgun for, on behalf of, or for the use of such other person ([NYS Open Legislation | NYSenate.gov](#))

## **Other Interventions**

Incarceration may not be the best approach since there are potential harms of long-term incarceration on families (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6427226/>) that include:

Broader approaches to supporting upstream interventions can include “community-based” programs and focused policing interventions which have been found to be effective in reducing violence in some settings (e.g., high-risk physical locations) (<https://doi.org/10.17226/18319>).

The CDC acknowledges all forms of violence, including gun violence, as a public health problem and provides guidance on violence prevention broadly. The CDC Division of Violence Prevention website concludes that the significant consequences of experiencing violence “jeopardize the health and well-being of families and communities and cost society hundreds of billions of dollars in medical care and lost productivity. Decades of research have proven that violence is preventable” ([CDC Violence Prevention - Strategic Vision](#)).

## **2. PERFORMANCE IMPLICATIONS**

- Does this bill impact the current delivery of NMDOH services or operations?  
 Yes  No
- Is this proposal related to the NMDOH Strategic Plan?  Yes  No
  - Goal 1:** We expand equitable access to services for all New Mexicans
  - Goal 2:** We ensure safety in New Mexico healthcare environments
  - Goal 3:** We improve health status for all New Mexicans
  - Goal 4:** We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

## **3. FISCAL IMPLICATIONS**

- If there is an appropriation, is it included in the Executive Budget Request?  
 Yes  No  N/A
- If there is an appropriation, is it included in the LFC Budget Request?  
 Yes  No  N/A
- Does this bill have a fiscal impact on NMDOH?  Yes  No

## **4. ADMINISTRATIVE IMPLICATIONS**

Will this bill have an administrative impact on NMDOH?  Yes  No

## **5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP**

- HB166 is related to HB38 which would create a third-degree felony for those with unlawful possession or knowingly transporting a weapon conversion device.

- HB166 is related to HB83 which would legalize permit-less carrying of a firearm by adults by creating a new section of Chapter 30, Article 7 NMSA 1978 that allows the open or concealed carry of a loaded firearm for individuals 18 and older who are not prohibited from possessing or owning a firearm by federal or state law or a court order.
- HB166 is related to SB32 which would make it a fourth-degree felony to possess or knowingly transport a stolen firearm. (Each firearm possessed or transported in violation of this law would be charged as a separate offense.)

## 6. TECHNICAL ISSUES

Are there technical issues with the bill?  Yes  No

## 7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written?  Yes  No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)?  Yes  No
- Does this bill conflict with federal grant requirements or associated regulations?  
 Yes  No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs?  Yes  No

## 8. DISPARITIES ISSUES

### Firearm Deaths for Children and by Race/Ethnicity in New Mexico

- In 2020, firearms surpassed motor vehicle accidents as the leading cause of death for children in the US (under 19 years old). In 2021, firearms has remained the leading cause of death for children ([Gun Violence: The Impact on Society \(nihem.org\)](#)).
- In NM, between 2018 and 2022, there were 117 firearm deaths among children aged 0 – 17, which included 50 suicide deaths and 56 homicide deaths (Unpublished data, [NM BVRHS](#)).
- In NM, between 2019 and 2023, firearm deaths increased by 114% among American Indian and Alaska Natives residents, by almost 40% among Hispanics, and decreased by 11% among non-Hispanic Whites

### Federal Sentencing Disparities by sex, race/ethnicity and age

In Fiscal Year 2021:

- 97.4% of felon in possession of a firearm offenders were men.
- 56.2% were Black, 24.2% were White, 16.2% were Hispanic, and 3.4% were other races.
- The average offender age was 34 years old.
- 95.7% were United States citizens.

## 9. HEALTH IMPACT(S)

### Firearm Deaths in New Mexico

- In 2022, the total annual cost of firearm deaths in NM was \$6.22 billion, representing an annual cost of \$2,943 annually to each NM resident ([CDC WISQARS](#)).

- In 2020, firearms surpassed motor vehicle accidents as the leading cause of death for children in the US (under 19 years old). In 2021, firearms has remained the leading cause of death for children ([Gun Violence: The Impact on Society \(nihcm.org\)](#)).
- In 2022, NM had the third highest age-adjusted firearm death rate among all states in the US (26.5 deaths per 100,000 residents) (Unpublished data, [BVRHS](#)), 84% higher than the national rate (14.4 deaths per 100,000 residents, age adjusted) ([Provisional Mortality Statistics, 2018 through Last Week Request Form \(cdc.gov\)](#)).

## **10. ALTERNATIVES**

None

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

If House Bill 166 (HB0166) does not pass there will be no addition to Section 30-7-16 NMSA 1978 and Section 31-18-15 NMSA 1978 to:

- Increase 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 of destructive device for a second or subsequent offense and a new penalty of nine years imprisonment.
- Increase the penalty for a serious violent felon in possession of a firearm or destructive device to nine years imprisonment.

## **12. AMENDMENTS**

None