



Duplicates/Conflicts with/Companion to/Relates to: House Bill 248  
Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Synopsis: House Bill 549 creates a new third-degree felony for the crime of Unlawful Carrying of a Firearm While Trafficking a Controlled Substance. This new crime consisting of carrying a firearm while violating the provisions of Section 30-31-20 NMSA 1978 (governing the trafficking of controlled substances). HB 549 also defines “firearm” as a weapon “that will or is designed to or may readily be converted to expel a projectile by the action of an explosion or the frame or receiver of any such weapon.”

The effective date of this legislation is July 1, 2025.

#### **FISCAL IMPLICATIONS**

As penalties become more severe, defendants may invoke their right to trial and their right to trial by jury. More trials and more jury trials will require additional judge time, courtroom staff time, courtroom availability and jury costs. These additional costs are not capable of quantification.

There will be a minimal administrative cost for the statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

#### **SIGNIFICANT ISSUES**

In New Mexico, possession of a firearm is already a crime when it is committed by a person under the age of nineteen (19) years old (Section 30-7-2.2 NMSA 1978); by those listed in Section 30-7-16(B) NMSA 1978 which includes felons, persons subject to an order of protection, and those convicted of certain crimes; or when considered a deadly weapon by being both concealed and loaded (Section 30-7-2 NMSA 1978). When a firearm is brandished in the commission of a noncapital felony, Section 31-18-16 NMSA 1978 provides for firearm enhancements and alterations to the basic sentence for the crime for which the person has been convicted. Under NMSA 1978 Section 31-18-16, “When a separate finding of fact . . . shows that a firearm was used in relation to a drug transaction . . . the basic sentence of imprisonment” shall be increased by one year.” Trafficking of a controlled substance is considered “in relation to a drug transaction” under Section 31-18-16(G)(2) NMSA 1978.

HB 549 makes the mere possession of a firearm while committing trafficking a new crime, whether or not the firearm was loaded, concealed, or brandished. This legislation would make this new crime a third-degree felony, with a basic sentence of three years imprisonment and a fine of \$5,000 or less. Section 31-18-15(A) NMSA 1978

Additionally, HB 549 would require the prosecution to prove the defendant possessed a firearm in addition to proving the elements of the crime of trafficking under Section 30-31-20 NMSA

1978. HB 549 is not clear whether the conviction or admission to this act alone, without a simultaneous conviction for trafficking, would constitute a conviction of trafficking in subsequent prosecutions under Subsection 30-31-20(B)(2).

**PERFORMANCE IMPLICATIONS**

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

**ADMINISTRATIVE IMPLICATIONS** - none identified.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP** - none identified.

**TECHNICAL ISSUES** – none.

**OTHER SUBSTANTIVE ISSUES** - none identified.

**ALTERNATIVES** - none.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL** – none.

**AMENDMENTS** – none.