

LFC Requester:	Sanchez, Scott
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

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(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 2/5/25 *Check all that apply:*
Bill Number: SB 244 Original Correction
 Amendment Substitute

Sponsor: Sen. Michael Padilla **Agency Name and Code:** AOC 218
Short Title: Unlawful Transfer of Firearm to a Minor **Person Writing:** Kathleen Sabo
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	Rec.	General

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Conflicts with HB 86, SB 70, SB 74 and SB 255 (also amending Section 30-42-3 NMSA 1978).

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB 244 enacts a new statutory section within the Criminal Code, Section 30-7-2.5 NMSA 1978, to create the second degree felony crime of “Unlawful Transfer of a Firearm to a Minor,” consisting of a person who knowingly transfers a firearm to a minor, except when: (1) the minor is in attendance at a hunter’s safety course or handgun safety course or participating in a legal shooting activity; (2) the minor is engaging in the use of a firearm for target shooting at an established range authorized by the governing body of the jurisdiction in which the range is located or in an area where the discharge of a firearm without legal justification is not prohibited by law; (3) the minor is engaging in an organized competition involving the use of firearms; (4) the minor is participating in or practicing for a performance by an organization that has been granted exemption from federal income tax as a nonprofit; (5) the minor is engaging in legal hunting or trapping activities; (6) the minor is on real property under control of the minor's parents, grandparent or legal guardian and the minor is being supervised by a parent, grandparent or legal guardian; or (7) the transfer occurs from the minor's parent, grandparent or legal guardian to the minor.

SB 244 provides that each firearm transferred in violation of the new statutory section shall constitute a separate offense under Subsection A and that two or more offenses may be charged in the same complaint, information or indictment and shall be punished as separate offenses. SB 244 further provides that mistake of fact as to the minor’s age shall not be a defense under the new statutory section.

SB 244 defines “firearm”, “knowingly” and “minor” as used within the new statutory section. SB 244 also defines “transfer” to mean to voluntarily give possession of a firearm to a minor with or without consideration.

SB 244 also amends Section 30-42-3 NMSA 1978, within the Racketeering Act, to include the crime of unlawful transfer of a firearm to a minor within the definition of “Racketeering”.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for 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 and forfeiture proceedings, and appeals from convictions. 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

- 1) 18 USC Section 922(x)(1) prohibits the sale, delivery or transfer of a handgun or a handgun ammunition to a person under 18 years old. Under federal law, the penalty for selling, delivering or transferring a firearm to a juvenile is up to 1 year of imprisonment. If the individual transferring the weapon had reason to believe the juvenile would commit a violent crime with the gun or ammunition, the penalty is up to 10 years in prison. See

Quick Reference to Federal Firearms Laws, Section VII, <https://www.justice.gov/file/411656/dl#:~:text=SELL%2C%20DELIVER%20OR%20TRANSFER%20TO,up%20to%2010%20years%20imprisonment.>

SB 244 does not invoke an increased penalty for transfers where the transferrer had reason to believe the minor would commit a violent crime with the firearm, but imposes a second degree felony penalty upon any knowing transfer of a firearm to a minor, absent a specified exception.

Pursuant to Section 31-18-15 NMSA 1978, the basic sentence of imprisonment for a second degree felony is 9 years, and the court may also impose a fine of up to \$10,000.

- 2) SB 244 amends Section 30-42-3 NMSA 1978 to add unlawful transfer of a firearm to a minor, as provided in Section 30-7-2.5 NMSA 1978 to the definition of “racketeering”. Section 30-42-4 NMSA 1978 provides second and third degree felony penalties for those engaging in a pattern of racketeering activity, and provides for forfeiture of assets upon conviction, pursuant to the provisions of the Forfeiture Act, Chapter 31, Article 27 NMSA 1978.

Under Section 31-27-4(A) NMSA 1978, within the Forfeiture Act:

A. A person's property is subject to forfeiture pursuant to state law if:

- (1) the person was arrested for an offense to which forfeiture applies;
- (2) the person is convicted by a criminal court of the offense; and
- (3) the state establishes by clear and convincing evidence that the property is subject to forfeiture as provided in Subsection B of this section.

Subsection B provides that following a conviction, a court may order the person to forfeit: (1) property the person acquired through commission of the offense; 2) property directly traceable to property acquired through the commission of the offense; and 3) any instrumentality the person used in the commission of the offense.

Pursuant to Section 31-27-6(B) NMSA 1978, the district courts have jurisdiction over forfeiture proceedings.

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

See “Fiscal Implications,” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with HB 86, SB 70, SB 74 and SB 255 (also amending Section 30-42-3 NMSA 1978).

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS