

Relates to: HB 86, SB 70, SB 74, SB 244
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB 255 amends Section 30-7-7.1 NMSA 1978, regarding the unlawful sale of a firearm without a background check, to make it a crime to facilitate the unlawful sale of a firearm without a background check. The bill defines this offense as allowing – or failing to prevent – an unlawful firearm sale “through the operation of a publicly available platform in which reasonable, industry standard steps could be taken to block or limit the unlawful sale of a firearm but, through either action or inaction, the unlawful sale of a firearm without a background check is not prevented.”

As proposed, facilitation of the unlawful sale of a firearm without a background check would be a third degree felony. The same penalty would also apply to the existing offense of unlawful sale of a firearm without a background check, increasing it from a misdemeanor to a third degree felony.

SB 255 also amends Section 30-42-3 NMSA 1978, the definitions section of the Racketeering Act, to add both “unlawful sale of a firearm without a background check” and “facilitation of the unlawful sale of a firearm without a background check” to the list of offenses that can qualify as racketeering under that Act.

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

The definition of “facilitation of the unlawful sale of a firearm without a background check” provided by SB 255 is vague; it is unclear exactly what conduct the bill aims to penalize. No further definitions are provided for included terms like “publicly available platform” and “industry standard steps” that could reasonably be interpreted to include or exclude a variety of conduct.

SB 255 creates a new third degree felony, “facilitation of the unlawful sale of a firearm without a background check”, which carries a basic sentence of three years imprisonment. The bill also increases the penalty for the existing offense of “unlawful sale of a firearm without a background check” from a misdemeanor, which carries a maximum sentence of less than one year, to a third degree felony. For individuals convicted of a third degree felony who were released from NM prisons in FY24, the median length of stay was 19.2 months. It is difficult to determine what the effect of passing SB 255 would be on the state’s prison population, but its addition of a new third degree felony, along with the increased penalty for unlawful sale of a firearm without a background check, would likely 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.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relationship: HB 86, SB 70, SB 74, and SB 244 also add crimes to the definition of "racketeering" in Section 30-42-3 NMSA 1978 and, if passed, may change the enumeration of offenses in that list.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS