
Bill Analysis 2020 Regular Session**SPONSOR:** Representatives Rehm, Schmedes, Gould, Fajardo**SHORT TITLE:** Felon Definition and Firearm Possession

SYNOPSIS OF BILL: Increases penalty for felon in possession of a firearm from a fourth to a third degree felony. Changes definition of “felon” to include anyone with a felony conviction; current law does not define “felon” for these purposes if the individual’s sentence for a felony was completed more than ten years prior. In other words, even if a person’s felony sentence ended more than ten years prior, they would be considered a “felon” for purposes of this crime.

STRENGTHS: Gun violence is an issue in our communities and this bill is one of many policy proposals under consideration to address that issue.

WEAKNESSES: Existing law already penalizes, as a felony, the possession of a firearm by a felon. HB19 (Gentry, Ivey-Soto) was signed into law in 2018 by Governor Martinez and created an enhanced penalty for violent offenders in possession of a firearm. This bill increases the basic sentence for simple possession of a firearm by a felon from a fourth degree felony to a third degree felony. The basic sentence for a fourth degree felony is eighteen months imprisonment while a third degree felony carries a basic sentence of three years.

Notably, this legislation is distinct from the crime of use of a firearm in the commission of a crime, which may tack on between one and three years to a sentence for the underlying crime. The bill also removes the limitation on who qualifies as a “felon” under this statute. Existing law limits the application of that term to people who completed a felony sentence in the past ten years; by expanding the definition of “felon” this bill opens the door to charging individuals for possessing a firearm ten, twenty, even thirty years after a conviction without any other corresponding criminal activity.

Smarter approaches to gun violence would be more narrowly tailored and multifaceted. In order to make smart, evidence based policy decisions on gun violence, there must be an increase in the availability of data and funding to reduce gun violence.

ADDITIONAL INFO: According to the American Psychological Association, the use of a gun greatly increases the odds that violence will lead to a fatality: Firearm prohibitions for high-risk groups — domestic violence offenders, persons convicted of violent misdemeanor crimes, and individuals with mental illness who have been adjudicated as being a threat to themselves or to others — have been shown to reduce violence. The licensing of handgun purchasers, background check requirements for all gun sales, and close oversight of retail gun sellers can reduce the diversion of guns to criminals. Reducing the incidence of gun violence will require interventions through multiple systems, including legal, public health, public safety, community, and health. Increasing the availability of data and funding will help inform and evaluate policies designed to reduce gun violence.¹

Safer	Apolitical	Fiscally-Responsible	Evidence Based	Grade
<p>This bill is not intended for people who commit new crimes while possessing a firearm since existing law already creates penalty enhancements for that situation. Existing law already makes simple possession of a firearm a felony and it is unclear how this increased penalty and the expansion of who is a “felon” would improve public safety outcomes.</p>	<p>Gun violence is an issue in our communities, but since existing law already makes it a felony for a felon to possess a firearm, this bill appears to be designed to send a message to voters. Symbolic legislation that does nothing to increase public safety is part of the reason why we have a system of mass incarceration in the U.S.</p>	<p>At between \$30,000 and \$45,000 per year per inmate, HB 43 would expand the existing 18 month sentence to three years and greatly expand the definition of a “felon” so that potentially more people could be convicted of this crime, a cost primarily borne by the Corrections budget. Such penalty increases also lead to more cases going to trial, meaning additional burdens on the judiciary, prosecutors, and public defenders.</p>	<p>There is little evidence to suggest that this increase in incarceration rates would make New Mexico tangibly safer, especially in light of the myriad other possible policy solutions to get at the issue of gun violence.</p> <p>Instead, increasing the availability of data and funding will help inform and evaluate policies designed to reduce gun violence.</p>	<p>D</p>

1. <https://www.apa.org/pubs/info/reports/gun-violence-prevention>