

<b>LFC Requester:</b>	
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**AGENCY BILL ANALYSIS  
2019 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)

*and*

[DFA@STATE.NM.US](mailto:DFA@STATE.NM.US)

*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

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

Check all that apply:  
**Original**     **Amendment**      
**Correction**     **Substitute**   

**Date** Jan. 14, 2019  
**Bill No:** HB105

**Sponsor:** William "Bill" R. Rehm  
**Short Title:** Enhanced Penalty for Firearm Used in Crime

**Agency Code:** 264  
**Person Writing** Gail MacQuesten  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		
0	0	n/a	n/a

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
0	0	0	n/a	n/a

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	<b>FY19</b>	<b>FY20</b>	<b>FY21</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	0	0	0	0	n/a	n/a

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB8; HB35; HB40; HB87; HB130; SB8; SB201

Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

HB105 amends Section 31-18-16 NMSA 1978, the firearm enhancement statute, which increases the basic sentence when a firearm was used in the commission of a felony.

Under HB105, the sentence enhancement for a first offense is increased from one year to three years. HB105 removes language that prohibits the enhancement from being suspended or deferred.

For a second or subsequent felony in which a firearm is used, HB105 increases the enhancement is from three years to five years. HB105 leaves in place the language prohibiting the enhancement from being suspended or deferred.

**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.

There are no substantial fiscal implications for the district attorneys. To the extent HB105 results in increased incarceration, there will be increased costs to the state.

**SIGNIFICANT ISSUES**

HB105 increases the firearm sentence enhancement for a first noncapital felony in which a firearm is used from one year to three years. It increases the firearm enhancement for second or subsequent such crimes from three years to five years.

Currently, the enhancements imposed under the statute may not be suspended or deferred. HB105 allows the enhancement imposed on a first offense to be suspended or deferred.

HB105 therefore increases the firearm enhancements, but permits leniency in imposing the enhancement on a first offense.

## **PERFORMANCE IMPLICATIONS**

It is possible that the increase in the potential sentence, with the possibility of having the enhancement suspended or deferred for a first offense, will lead to more plea bargains.

## **ADMINISTRATIVE IMPLICATIONS**

There will not be significant administrative implications for the district attorneys.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

There are a number of bills pertaining to firearms, but none of the other bills relate to the firearm enhancement statute:

HB8: Background checks for firearm sales

HB35: Requiring firearms licensees who buy a gun to request the state Department of Public Safety check to see if the gun is stolen

HB40: Background checks for firearm sales

HB87: Domestic violence and firearm possession

HB130: adding firearms crimes and penalties

SB8: Background checks

SB201: Gun sales

## **TECHNICAL ISSUES**

None noted.

## **OTHER SUBSTANTIVE ISSUES**

None noted.

## **ALTERNATIVES**

None proposed.

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

The firearm enhancement for a first noncapital felony in which a gun is used will remain 1 year; the firearm penalty for a second or subsequent such offense will remain three years. Neither enhancement may be suspended or deferred.

## **AMENDMENTS**

None proposed.