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HOUSE BILL 198

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Dayan Hochman-Vigil

AN ACT

RELATING TO CRIME; INCREASING THE PENALTY FOR A FELON AND A
SERIOUS VIOLENT FELON FOUND IN POSSESSION OF A FIREARM;
PROVIDING THAT A PERSON CONVICTED OF POSSESSION OF A FIREARM OR
DESTRUCTIVE DEVICE IS NOT ELIGIBLE FOR EARNED MERITORIOUS
DEDUCTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 30-7-16 NMSA 1978 (being Laws 1981,
Chapter 225, Section 1, as amended) is amended to read:

"30-7-16. FIREARMS OR DESTRUCTIVE DEVICES--RECEIPT,
TRANSPORTATION OR POSSESSION BY CERTAIN PERSONS--PENALTY.--

A. It is unlawful for the following persons to
receive, transport or possess a firearm or destructive device
in this state:

- (1) a felon;

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underscoring material = new
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1 (2) a person subject to an order of protection
2 pursuant to Section 40-13-5 or 40-13A-5 NMSA 1978; or

3 (3) a person convicted of any of the following
4 crimes:

5 (a) battery against a household member
6 pursuant to Section 30-3-15 NMSA 1978;

7 (b) criminal damage to property of a
8 household member pursuant to Section 30-3-18 NMSA 1978;

9 (c) a first offense of stalking pursuant
10 to Section 30-3A-3 NMSA 1978; or

11 (d) a crime listed in 18 U.S.C. 921.

12 B. A felon found in possession of a firearm shall
13 be guilty of a [~~third~~] second degree felony and shall be
14 sentenced to a minimum term of nine years imprisonment.

15 C. A serious violent felon that is found to be in
16 possession of a firearm shall be guilty of a [~~third~~] second
17 degree felony, and notwithstanding the provisions of Section
18 31-18-15 NMSA 1978, shall be sentenced to a basic term of [~~six~~]
19 twelve years imprisonment.

20 D. Any person subject to an order of protection
21 pursuant to Section 40-13-5 or 40-13A-5 NMSA 1978 or convicted
22 of a crime listed in Paragraph (3) of Subsection A of this
23 section who receives, transports or possesses a firearm or
24 destructive device is guilty of a misdemeanor.

25 E. A person convicted under this section is not

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1 eligible for earned meritorious deductions pursuant to Section
2 33-2-34 NMSA 1978.

3 ~~[E-]~~ F. As used in this section:

4 (1) except as provided in Paragraph (2) of
5 this subsection, "destructive device" means:

6 (a) any explosive, incendiary or poison
7 gas: 1) bomb; 2) grenade; 3) rocket having a propellant charge
8 of more than four ounces; 4) missile having an explosive or
9 incendiary charge of more than one-fourth ounce; 5) mine; or 6)
10 similar device;

11 (b) any type of weapon by whatever name
12 known that will, or that may be readily converted to, expel a
13 projectile by the action of an explosive or other propellant,
14 the barrel or barrels of which have a bore of more than one-
15 half inch in diameter, except a shotgun or shotgun shell that
16 is generally recognized as particularly suitable for sporting
17 purposes; or

18 (c) any combination of parts either
19 designed or intended for use in converting any device into a
20 destructive device as defined in this paragraph and from which
21 a destructive device may be readily assembled;

22 (2) the term "destructive device" does not
23 include any device that is neither designed nor redesigned for
24 use as a weapon or any device, although originally designed for
25 use as a weapon, that is redesigned for use as a signaling,

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1 pyrotechnic, line throwing, safety or similar device;

2 (3) "felon" means a person convicted of a
3 felony offense by a court of the United States or of any state
4 or political subdivision thereof and:

5 (a) less than ten years have passed
6 since the person completed serving a sentence or period of
7 probation for the felony conviction, whichever is later;

8 (b) the person has not been pardoned for
9 the felony conviction by the proper authority; and

10 (c) the person has not received a
11 deferred sentence;

12 (4) "firearm" means any weapon that will or is
13 designed to or may readily be converted to expel a projectile
14 by the action of an explosion or the frame or receiver of any
15 such weapon; and

16 (5) "serious violent felon" means a person
17 convicted of an offense enumerated in Subparagraphs (a) through
18 (n) of Paragraph (4) of Subsection L of Section 33-2-34 NMSA
19 1978; provided that:

20 (a) less than ten years have passed
21 since the person completed serving a sentence or a period of
22 probation for the felony conviction, whichever is later;

23 (b) the person has not been pardoned for
24 the felony conviction by the proper authority; and

25 (c) the person has not received a

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1 deferred sentence and completed the total term of deferment as
2 provided in Section 31-20-9 NMSA 1978."

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