

HOUSE BILL 163

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

## INTRODUCED BY

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10 | AN ACT

11 RELATING TO BAIL; DESIGNATING CERTAIN FELONY OFFENSES AS  
12 DANGEROUS OR VIOLENT FELONY OFFENSES FOR THE PURPOSES OF A  
13 HEARING TO DENY BAIL; PROVIDING THAT THE PROVISIONS OF THIS ACT  
14 SHALL BECOME EFFECTIVE UPON THE PASSAGE OF AN AMENDMENT TO  
15 ARTICLE 2, SECTION 13 OF THE CONSTITUTION OF NEW MEXICO.

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

**SECTION 1.** A new section of Chapter 31, Article 3 NMSA 1978 is enacted to read:

"NEW MATERIAL" DENIAL OF BAIL--DESIGNATION OF DANGEROUS OR VIOLENT FELONY OFFENSES.--For the purposes of a hearing to deny bail initiated by a prosecuting authority pursuant to Article 2, Section 13 of the constitution of New Mexico, the following felony offenses are designated as dangerous or violent felony offenses:

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- 1                   A. first degree murder, as provided in Section
- 2                   30-2-1 NMSA 1978;
- 3                   B. second degree murder, as provided in Section
- 4                   30-2-1 NMSA 1978;
- 5                   C. voluntary manslaughter, as provided in Section
- 6                   30-2-3 NMSA 1978;
- 7                   D. third degree aggravated battery against a
- 8                   household member, as provided in Section 30-3-16 NMSA 1978;
- 9                   E. first degree kidnapping, as provided in Section
- 10                  30-4-1 NMSA 1978;
- 11                  F. first and second degree criminal sexual
- 12                  penetration and aggravated criminal sexual penetration, as
- 13                  provided in Section 30-9-11 NMSA 1978;
- 14                  G. second and third degree criminal sexual contact
- 15                  of a minor, as provided in Section 30-9-13 NMSA 1978;
- 16                  H. first and second degree robbery, as provided in
- 17                  Section 30-16-2 NMSA 1978;
- 18                  I. second degree aggravated arson, as provided in
- 19                  Section 30-17-6 NMSA 1978;
- 20                  J. shooting at a dwelling or occupied building, as
- 21                  provided in Section 30-3-8 NMSA 1978;
- 22                  K. shooting at or from a motor vehicle, as provided
- 23                  in Section 30-3-8 NMSA 1978;
- 24                  L. aggravated battery upon a peace officer, as
- 25                  provided in Section 30-22-25 NMSA 1978;

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1                   M. assault with intent to commit a violent felony  
2 upon a peace officer, as provided in Section 30-22-23 NMSA  
3 1978;

4                   N. aggravated assault upon a peace officer, as  
5 provided in Section 30-22-22 NMSA 1978;

6                   O. a felony that was committed while the defendant  
7 brandished or discharged a firearm; or

8                   P. any of the following offenses, if the court  
9 determines that the underlying allegations or resulting harm  
10 are of a dangerous or violent nature:

11                   (1) involuntary manslaughter, as provided in  
12 Section 30-2-3 NMSA 1978;

13                   (2) fourth degree aggravated assault, as  
14 provided in Section 30-3-2 NMSA 1978;

15                   (3) third degree assault with intent to commit  
16 a violent felony, as provided in Section 30-3-3 NMSA 1978;

17                   (4) fourth degree aggravated assault against a  
18 household member, as provided in Section 30-3-13 NMSA 1978;

19                   (5) third degree assault against a household  
20 member with intent to commit a violent felony, as provided in  
21 Section 30-3-14 NMSA 1978;

22                   (6) third and fourth degree aggravated  
23 stalking, as provided in Section 30-3A-3.1 NMSA 1978;

24                   (7) second degree kidnapping, as provided in  
25 Section 30-4-1 NMSA 1978;

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(8) second degree abandonment of a child, as provided in Section 30-6-1 NMSA 1978;

(9) first, second and third degree abuse of a child, as provided in Section 30-6-1 NMSA 1978;

(10) third degree dangerous use of explosives,  
as provided in Section 30-7-5 NMSA 1978;

(11) third and fourth degree criminal sexual penetration, as provided in Section 30-9-11 NMSA 1978;

(12) fourth degree criminal sexual contact of a minor, as provided in Section 30-9-13 NMSA 1978;

(13) third degree robbery, as provided in Section 30-16-2 NMSA 1978;

(14) third degree homicide by vehicle or great bodily harm by vehicle, as provided in Section 66-8-101 NMSA 1978; or

(15) battery upon a peace officer, as provided in Section 30-22-24 NMSA 1978."

SECTION 2. CONTINGENT EFFECTIVE DATE.--The provisions of this act shall become effective upon certification by the secretary of state that the constitution of New Mexico has been amended as proposed by a joint resolution of the second session of the fifty-seventh legislature, entitled "A JOINT RESOLUTION PROPOSING TO AMEND ARTICLE 2, SECTION 13 OF THE CONSTITUTION OF NEW MEXICO TO PROVIDE THAT A COURT OF RECORD MAY DENY BAIL FOR A PERSON CHARGED WITH A FELONY OFFENSE IF THE PROSECUTING

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1 AUTHORITY PROVES BY CLEAR AND CONVINCING EVIDENCE THAT RELEASE  
2 CONDITIONS WILL NOT REASONABLY PROTECT ANY OTHER PERSON OR THE  
3 COMMUNITY OR THAT THE PERSON IS A FLIGHT RISK; ALLOWING THE  
4 COURT TO PRESUME THAT RELEASE CONDITIONS WILL NOT REASONABLY  
5 PROTECT ANY OTHER PERSON OR THE COMMUNITY IF THE PERSON IS  
6 CHARGED WITH A FELONY OFFENSE DESIGNATED BY LAW AS A DANGEROUS  
7 OR VIOLENT FELONY OFFENSE; PROVIDING THAT A PERSON CHARGED WITH  
8 A DANGEROUS OR VIOLENT FELONY OFFENSE MAY REBUT A COURT'S  
9 PRESUMPTION BY A PREPONDERANCE OF THE EVIDENCE.".

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