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## FISCAL IMPACT REPORT

**BILL NUMBER:** House Bill 75

**SHORT TITLE:** Alteration of Sentence Based on Circumstances

**SPONSOR:** Reeb/Terrazas

**LAST UPDATE:** \_\_\_\_\_ **ORIGINAL DATE:** 2/2/2026 **ANALYST:** Jacobs

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

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Courts	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
Public Defenders	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
<b>Total</b>	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Agency or Agencies Providing Analysis

Administrative Office of the Courts  
Administrative Office of the District Attorneys  
Law Offices of the Public Defender  
New Mexico Sentencing Commission

#### Agency or Agencies That Were Asked for Analysis but did not Respond

New Mexico Attorney General

### SUMMARY

#### Synopsis of House Bill 75

House Bill 75 (HB75) would amend Section 31-18-51.1 NMSA 1978 to add qualifications to a judge's authorization to mitigate a criminal sentence. HB75 would require a judge to find "clear and convincing evidence" of mitigating circumstances if the judge feels compelled to alter a criminal sentence.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, which is May 20, 2026.

## FISCAL IMPLICATIONS

The Law Offices of the Public Defender (LOPD) notes the amount of mitigating evidence courts would reject under HB75 is uncertain. HB75 could increase the preparation required for sentencing hearings. LOPD anticipates minimal fiscal impact unless implementation shows judges drastically alter evidentiary guidelines.

The Administrative Office of the Courts (AOC) estimates the bill would entail minimal administrative costs to the agency to update and document any rule or statutory changes. An increase in hearings could increase the caseload for courts, which the agency indicates might require additional resources.

## SIGNIFICANT ISSUES

There are currently no statutory guidelines for the standard of proof a judge must use to determine mitigating circumstances. AOC and AODA note the “clear and convincing” standard added by the bill would mirror guidelines for the termination of parental rights, and as a result, AOC reports concerns with proportionality.

AOC reports the U.S. Constitution requires a burden of proof for aggravation but the U.S. Supreme Court has found any burden of proof for mitigation could impinge on judicial discretion and convicts’ rights. AOC also highlights the importance of allocution in the New Mexico judicial system. If a specific burden of proof is imposed on determining mitigating circumstances, this burden could conflict with a defendant’s opportunity to make an allocution, a formal unsworn statement from the defendant allowed before sentencing. AOC notes the inability to make a meaningful allocution could invalidate applicable sentences.

New Mexico Sentencing Commission provides:

The electronic court data possessed by the New Mexico Sentencing Commission for FY24 (the most recent data to which we have access) does not contain any references to Section 31-18-15.1 NMSA 1978 or to alterations of a basic sentence due to mitigating factors more generally. Thus, it is unclear how often that occurs or what impact, if any, the addition of a statutory evidentiary standard would have on the length of a defendant’s sentence.

HJ/hg/sgs