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## FISCAL IMPACT REPORT

**BILL NUMBER:** House Bill 162

**SHORT TITLE:** Motor Vehicle Crimes & Penalties

**SPONSOR:** De La Cruz/ Dixon/ Borrego

**LAST ORIGINAL**  
**UPDATE:** \_\_\_\_\_ **DATE:** 1/26/26 **ANALYST:** Valdez

### APPROPRIATION\* (dollars in thousands)

FY26	FY27	Recurring or Nonrecurring	Fund Affected
	\$250	Nonrecurring	General Fund

\*Amounts reflect most recent analysis of this legislation.

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

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Costs to state (LOPD)	No fiscal impact	\$294	\$294	\$588	Recurring	General Fund
<b>Total</b>	<b>No fiscal impact</b>	<b>\$294</b>	<b>\$294</b>	<b>\$588</b>	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

Relates to an appropriation in the General Appropriation Act

### Sources of Information

LFC Files

#### Agency or Agencies Providing Analysis

Administrative Office of the District Attorneys

Law Offices of the Public Defender

New Mexico Corrections Department

New Mexico Sentencing Commission

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

Administrative Office of the Courts

Department of Public Safety

Department of Transportation

New Mexico Attorney General

## SUMMARY

### Synopsis of House Bill 162

House Bill 162 (HB162) changes the penalty for homicide by vehicle while committing reckless driving (Section 66-8-113) from a third-degree felony to a second-degree felony. In addition, the bill creates the crime of “negligent homicide by vehicle.” This crime is described as the killing of a human being by a motor vehicle while violating Section 66-8-114, which is the careless or reckless driving statute. Those committing negligent homicide by vehicle would be guilty of a fourth-degree felony.

In addition, House Bill 162 appropriates \$250 thousand from the general fund to the Department of Transportation to conduct a statewide education campaign on careless and reckless driving.

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

Incarceration drives costs in the criminal justice system, so any changes in the number of individuals in prison and jail and the length of time served in prison and jail that might result from this bill could have moderate fiscal impacts. The creation of any new crime, increase of felony degree, or increase of sentencing penalties will likely increase the population of New Mexico’s prisons and jails, consequently increasing long-term costs to state and county general funds. LFC estimates a marginal cost (the cost per additional inmate) of \$27.2 thousand per offender per year, based on incarceration costs at the New Mexico’s state correctional facilities. HB162 is anticipated to increase the number of incarcerated individuals.

Based on historic data from NMSC, this analysis assumes that two people will be incarcerated each year for homicide by vehicle while reckless driving. Because this increases the penalty on an existing crime, the marginal cost of this change does not manifest until FY29. This analysis estimates that HB162 will increase annual incarceration costs to the state by at least \$27.2 thousand in FY29 and at least \$81.6 thousand in FY30, eventually increasing to \$ 216.5 thousand per year by FY33 and beyond. In addition, increasing the penalty for this crime makes it more likely that defendants will require more elaborate plea negotiations. This would create greater demand for legal representation, which the Law Offices of the Public Defender (LOPD) estimates would increase their costs by \$23.4 thousand per case.

The other major change to the law in this bill would create a new crime: “negligent homicide by vehicle.” At present, if someone causes a death while driving carelessly, they can already be charged with involuntary manslaughter, which is a fourth-degree felony. Since the new crime would also be a fourth-degree felony, for some offenders (and for the state in those cases), there would be little difference in incarceration and costs to the state. However, per the Administrative Office of the District Attorneys (AODA), convicting a person of involuntary manslaughter would require proving a “gross deviation from the standard of care.” Under the proposed bill, that standard would be lowered to that of the careless driving statute, which states that “Any person who operates a vehicle in a careless, inattentive or imprudent manner, without due regard for the width, grade, curves, corners, traffic, weather and road conditions and all other attendant

circumstances.” The lower standard means that theoretically, more offenders might be charged with the new crime than would have been charged with involuntary manslaughter. This might increase overall incarceration and costs to the state. However, without any reliable estimate of how many offenders would be guilty of the new crime, but would not be guilty under the existing framework, we cannot estimate additional costs.

In addition, LOPD notes:

Increasing the penalty for reckless homicide by vehicle is likely to place undue plea-bargaining power in the hands of prosecutors in cases where fault may be debatable, while simultaneously forcing other cases to trial when defendants are hoping to avoid a lengthy prison sentence. With the creation of a new crime, it can be difficult to predict how often prosecutors will pursue charges, insofar as no statistics exist to suggest how much the previously legal behavior presently occurs. However, this bill essentially expands the scope of criminal liability to any and all motor vehicle accident fatalities since one or more drivers will always be found at fault under a civil negligence standard.

The result of district attorneys charging more crimes as fourth-degree felonies than before is a greater workload for LOPD. The same can be said of the first change in the bill, where defendants are more likely to require greater representation when accused of a second-degree felony rather than a third-degree felony. LOPD estimates the combined impacts of these changes will cost the agency an additional \$294 thousand per year.

The appropriation of \$250 thousand contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY27 shall revert to the general fund.

## **SIGNIFICANT ISSUES**

AODA notes that it is rare under New Mexico law to apply felony penalties to unintentional behavior. The new law of “negligent homicide by vehicle,” which makes it so that careless driving that leads to a death is charged as a felony, would make this unintentional homicide a felony. This would broaden the population of offenders to whom this law might apply and thus increase incarceration. The New Mexico Corrections Department adds that the underlying crime of careless driving (Section 66-8-114) is a misdemeanor under current law. The new law would make this same behavior a felony when it leads to another’s death, potentially increasing the prison population as more offenders are likely to be guilty of the new crime.

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

AODA points out:

By allowing a felony charge for deaths caused by careless driving, the bill functionally removes the need to apply the criminal negligence standard required for involuntary manslaughter under *State v. Yarborough*, 1996-NMSC-068. *Yarborough* held that ordinary negligence cannot support a felony conviction, and this statute creates a separate felony pathway that applies at a lower culpability level.

## **OTHER SUBSTANTIVE ISSUES**

AODA points out:

Cell phone usage while driving will be a likely fact pattern encountered by law enforcement when there are facts giving rise to a possible charge if this bill is enacted. This will require additional investigation and potentially the requirement to obtain warrants for cellular devices.

NMSC points out:

The new Paragraph “I” proposed by HB 162, creating the offense of negligent homicide by vehicle, states that negligent homicide by vehicle “is the killing of a human being by a motor vehicle”. This language may be clearer if it mimics the language used in Paragraph “A” and instead reads, “is the killing of a human being in the unlawful operation of a motor vehicle”.

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