

<b>LFC Requester:</b>	<b>Scott Sanchez</b>
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**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

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

**AgencyAnalysis.nmlegis.gov**

*{Analysis must be uploaded as a PDF}*

**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** 1/18/2024  
**Bill No:** HB 56

**Sponsor:** Cathrynn N. Brown and  
Randall T. Pettigrew and  
Harlan Vincent  
**Short Title:** Clarify Crime of Trespass

**Agency Name and Code**    218 AOC  
**Number:** \_\_\_\_\_  
**Person Writing**    Aaron Holloman  
**Phone:** 505-487-6140    **Email** aocash@nmcourts.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	NFI	NFI	NFI			

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

HB 56 amends NMSA 1978 § 30-14-1, which criminalizes trespassing, to include entering onto unposted property without permission in addition to entering unposted property knowing that the owner did not provide permission to enter. Additionally, the bill increases the penalties for criminal trespass, remaining on land following a request to leave, and for damaging a “no trespass” sign in an amount of more than \$1,000 from a misdemeanor to a fourth-degree felony.

**FISCAL IMPLICATIONS**

There will be a minimal administrative cost for statewide update, distribution, and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws, and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

**SIGNIFICANT ISSUES**

This bill appears to be a response to a 2022 New Mexico Court of Appeals case, *State v. Ancira*, 2022-NMCA-053. In that case, the Court of Appeals overturned the defendant’s criminal trespass conviction because the jury was instructed that he could be convicted if he knew *or should have known* that he was not permitted to enter the property. The court held that the text of the statute only prohibits entry when the defendant actually knew that access was prohibited by the owner not whether a reasonable person would have known it was prohibited. The bill addresses this by changing the standard in the statute from entering another’s property knowing that consent was denied to entering another’s property without having first obtained permission.

This language may create an ambiguity as to what areas of a person’s property first require permission to access (for example, presumably permission is not first required in order to approach a homeowner’s front door). “Without prior permission” is not a phrase that has been litigated or that carries legal significance. When there is ambiguity in a statute, there is inevitably litigation in the courts to resolve the ambiguity. As drafted there would likely be an increase in litigation as the ambiguity is addressed in criminal matters.

Increasing the penalties from a misdemeanor to a fourth-degree felony would remove the state

criminal charge of trespass from the jurisdiction of the magistrate courts, such that the case would have to proceed in district court. This may impact the speed with which a case is resolved.

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

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

## **TECHNICAL ISSUES**

As drafted, the bill proposes to prohibit entering another's property without having first obtained permission. This language may create an ambiguity as to what areas of a person's property first require permission to access (for example, presumably permission is not first required in order to approach a homeowner's front door). The ambiguity may be addressed by incorporating the language that had been examined in the *Ancira* case that a person may not enter another's property when they knew or *should have known* that the owner or lawful occupant did not provide permission to enter.

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

See "Technical Issues" above.

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

## **AMENDMENTS**