

LFC Requester:

Austin Davidson

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

Analysis.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 16JAN2024

Bill No: HB 69

Sponsor: Mark Duncan, Harlan Vincent
Short Title: Crime of Organized Residential Theft

Agency Name and Code

790-Department of Public Safety

Number:

Person Writing

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|---------------------------|---------------|
| FY24 | FY25 | | |
| NFI | NFI | N/A | N/A |
| | | | |

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------|---------------|
| FY24 | FY25 | FY26 | | |
| NFI | NFI | NFI | N/A | N/A |
| | | | | |

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY24 | FY25 | FY26 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|-------------|-------------|-------------|------------------------------|--------------------------------------|--------------------------|
| Total | NFI | NFI | NFI | NFI | N/A | N/A |

(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

This bill creates a new felony crime of organized residential theft and establishes penalties based on the cumulative value of property stolen within a 365-day period.

As defined in the bill, organized residential theft consists of acting in concert with one or more persons to steal personal property from more than one residence or from a single residence on two or more occasions. The degrees of the crime and penalties are as follows:

- Fourth degree felony when the value of the stolen property is more than \$500 but not more than \$2500
- Third degree felony when the value is more than \$2500 but not more than \$20,000
- Second degree felony when the value is more than \$20,000.

The bill defines “personal property” as chattel of any type or description, including letters, packages or parcels distributed by mail or other means. “Residence” includes a dwelling, the curtilage of a dwelling (area of land immediately surrounding a house and enclosed with it, including auxiliary structures), and shared spaces in a multifamily dwelling.

For anyone charged with the crime of organized residential theft, section C of the bill precludes charging that individual with additional or separate offenses arising under the same action or occurrence.

FISCAL IMPLICATIONS

No fiscal implications to DPS.

SIGNIFICANT ISSUES

Charging Limitation: The charging limitation as outlined in Section C could impact how residential crime is investigated and prosecuted within the state and federal systems, including but not limited to aggravated burglary and possession of a firearm by restricted individuals (felons, minors, etcetera).

Use of “Including” in Definitions: In *State v. Strauch*, the New Mexico Supreme Court held that, with respect to legislative drafting, the use of “including” in statute is a non-exhaustive list. In other words, when statutes use “including” the list of things that follow fall within the definition,

but so do all the things that are unlisted. In this case, personal property would include both letters, packages, or parcels, but also any other chattels of any type or description. Thus, if the intent is for personal property to only be letters, packages, and parcels, the definition should be amended to align with the case law in *Strauch*.

PERFORMANCE IMPLICATIONS

No performance implications to DPS.

ADMINISTRATIVE IMPLICATIONS

No administrative implications to DPS.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

No conflict, duplication, companionship, or relationship issues to DPS

TECHNICAL ISSUES

No technical issues to DPS

OTHER SUBSTANTIVE ISSUES

No other substantive issues to DPS.

ALTERNATIVES

Not applicable as no impact to DPS.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None at this time.