

LFC Requester: _____

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

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 Jan. 17, 2024
Bill No: HB 87-280

Sponsor: Cynthia Borego and Joseph L. Sanchez
Agency Name and Code: LOPD 280
Number: _____
Short Title: Combine Motor Vehicle Crimes for Sentencing
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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)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(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:

The bill would eliminate the penalties recited for NMSA 30-16D-1 (unlawful taking of a motor vehicle), NMSA 30-16D-2 (embezzlement of a vehicle or motor vehicle), NMSA 30-16D-3 (fraudulently obtaining a vehicle or motor vehicle), and NMSA 30-16D-4 (receiving or transferring stolen vehicles or motor vehicles). Instead, each statute will point to a new “penalties” section, NMSA 30-16D-4.1. The bill would not change the existing penalties for these statutes, it would only consolidate their location. The bill would, however, add the language “regardless of which crime was the first or second offense” for a third and subsequent offenses and “regardless of which crime was the first offense” for a second offense. This would permit the court to give the sentence regardless of which order the crimes were prosecuted in.

FISCAL IMPLICATIONS

None.

SIGNIFICANT ISSUES

The sentencing scheme for these crimes is to punish repeat offenders increasingly harshly. A first offense is a fourth degree felony (18 months), a second offense is a third degree felony (three years), and a third or subsequent offense is a second degree felony (nine years). It is unclear how common it is for defendants to avoid the internal enhancements by committing slightly different forms of vehicle theft, the only possible issue this bill could be addressing.

The effect of combining instances of embezzlement, fraudulently obtaining, receiving or transferring, in determining a person’s status as a first, second, or third-plus offender in this area is that more people will qualify for the increased penalties of three and nine years in prison. Notably, unlike sentencing schemes like the Habitual Offender Act, which only relies on “prior felonies” within the preceding ten years, there is no temporal limitation on the vehicle theft statutes. Nevertheless, even now under current law, for prior offenses of a different nature that do not qualify for the escalating internal enhancements, if they were within a decade of each other,

defendants are already facing habitual offender enhancements. This bill might actually preclude application of habitual offender enhancements by electing for an internal enhancement scheme instead.

PERFORMANCE IMPLICATIONS

Cases facing higher penalties are more likely to go to trial or can provide the State with undue bargaining power at the plea bargaining stage.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

Analyst is unaware whether this legislation is germane under Art. IV, Section 5. It is not a budget bill and analyst is unaware that it has been drawn pursuant to a special message of the Governor.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The status quo: prior felonies of a differing form of vehicle theft would still trigger habitual offender enhancements.

AMENDMENTS

None.