

LFC Requester:

Scott Sanchez

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

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 X **Amendment** _____
Correction _____ **Substitute** _____

Date Prepared: 1/23/24

Bill No: HB 155

Sponsor: Rep. William Rehm

Agency Name and Code Number: 305 – New Mexico
Department of Justice

Short Title: Three Strikes Law

Person Writing Analysis: Van Snow
Phone: 505-537-7676
Email: legisfir@nmag.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)

	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

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

Under current law, a district court must sentence a criminal defendant to life imprisonment if the defendant has been convicted of three violent felonies that were all part of separate transactions or occurrences. NMSA 1978, § 31-18-23(A). The list of qualifying violent felonies is narrow, and only includes crimes like first and second-degree murder, criminal sexual penetration, and kidnapping resulting in great bodily harm. *Id.* (E)(2). Juvenile convictions do not count. *Id.* (C). Defendants who receive a life sentence under Section 31-18-23(A) become eligible for parole after 30 years. NMSA 1978, § 31-21-10(A).

HB 155 would amend Section 31-18-23 in several ways. First, defendants sentenced to life imprisonment under the statute would not be eligible for parole after 30 years, and could only qualify for geriatric or medical parole. HB 155 would require district courts to count juvenile convictions – provided that the offender received an adult sentence as a serious youthful offender or youthful offender – as prior convictions.

The bill would also increase the number of crimes that count as violent felonies for the purposes of Section 31-18-23, adding, among other offenses, voluntary and involuntary manslaughter, child abuse, and injury to a pregnant woman by vehicle.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

Because HB 155 would treat some juvenile convictions as violent felonies, it is possible that a juvenile offender sentenced as an adult would receive a mandatory life sentence without the possibility of parole for a non-homicide offense. This would violate the Eighth Amendment. *See Miller v. Alabama*, 567 U.S. 460, 479 (2012) (forbidding mandatory life without the possibility

of parole as a sentence for juvenile offenders); *Graham v. Florida*, 560 U.S. 48, 74 (2010) (forbidding the imposition of life sentences without the possibility of parole on juvenile offenders who commit non-homicide offenses).

PERFORMANCE IMPLICATIONS

None for this office.

ADMINISTRATIVE IMPLICATIONS

None for this office.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

Currently, Section 31-18-23 lists “kidnapping resulting in great bodily harm . . . as provided in Subsection B of Section 30-4-1” as a violent offense. This corresponds to a since-superseded version of the kidnapping statute. Under the current version of NMSA 1978, Section 30-4-1(B), kidnapping is a first-degree offense if the captor inflicts “bodily injury or a sexual offense upon the victim.” HB 155 could alter this language to reflect the current version of the kidnapping statute by defining violent felonies to include “first degree kidnapping as provided in Subsection B of Section 30-4-1.”

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None, except as noted above.