

LFC Requester: _____

**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 Feb. 2, 2024

Bill No: SB 271-280

Sponsor: Daniel Ivey-Soto
Short Repeat Felony Offender No
Title: Bond Hold

Agency Name and Code LOPD-280
Number: _____
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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: SB 271 would require a defendant to be held in jail without bond until a hearing if that defendant was (1) on pretrial conditions of release for a felony, and (2) is alleged to have violated those conditions by having committed a new felony.

FISCAL IMPLICATIONS

Whether or not a defendant is in custody while awaiting their hearing on an alleged violation of conditions does not directly impact LOPD resources. The resulting hearing already occurs with LOPD representation; the defendant’s custody status should have little impact on the LOPD budget. However, since it would result in more defendants being held in county jail during that time period, county budgets related to detention centers would likely be impacted.

SIGNIFICANT ISSUES

Existing district court rules, specifically Rule 5-403 NMRA, concerns revocation of release. The rule treats all violations the same; a defendant on pretrial release may violate their conditions either by allegedly committing a new crime or simply committing a technical violation by drinking alcohol or straying beyond geographic restrictions. The current Rule does not specifically say whether courts may or must hold people in jail pending a hearing. Under Rule 5-403, if a violation is alleged, either the State may file a motion or the court can act on its own to issue either a summons (for voluntary appearance) or, if the court finds that the interests of justice may be better served by a warrant, then an arrest warrant would result in the defendant’s arrest and detention pending a hearing.

Either way, if a defendant is arrested, Rule 5-403 mandates that the district court must hold a hearing to evaluate the conditions of release within 3 days (if in the local jail) or 5 days (if in a different county’s jail).

This bill would mandate arrest with a no bond hold pending the hearing for every person accused of a new felony. Currently, judges typically *do* order detention for the commission of a new serious crime. However, the mandate of SB 271 includes the felony of simple drug possession. Under current practice, a judge has the discretion to find that simple possession does not implicate the community safety concerns associated with pretrial detention, and might not hold an individual in jail if that is the basis of their violation. This bill would remove that judicial discretion.

Under current law, judges may already order an arrest warrant for a new felony allegation, or the person may be arrested on an independent arrest warrant for the new felony, if formally charged. The overbreadth of mandatory no-bond holds for any felony allegation does not appear necessary as judges already detain individuals accused of new crimes when necessary and appropriate.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

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

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS