

LFC Requester:	Austin Davidson
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**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}

<i>Check all that apply:</i>				Date Prepared:	2/1/2024
Original	X	Amendment		Bill No:	SB 271
Correction		Substitute			

Sponsor:	Daniel A. Ivey-Soto	Agency Name and Code Number:	305 – New Mexico Department of Justice
Short Title:	Repeat Felony Offender No Bond Hold	Person Writing Analysis:	Peter Valencia
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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

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:

SB 271 proposes to enact a new statute that would require the chief clerk of a court to issue an order that would detain without bond a defendant on pretrial release for a felony if that person is subsequently arrested for a subsequent felony. The detention would be in place until the judge assigned to the defendant’s previous case is able to hold a hearing on the conditions of release violation. Further, SB 271 proposes that due to emergency of public peace that this act take effect immediately.

FISCAL IMPLICATIONS

SIGNIFICANT ISSUES

SB 271 may conflict with existing Rules of Criminal Procedure.

Generally, the Supreme Court is vested with the exclusive power to regulate pleading, practice, and procedure in the courts under N.M. Const. art. III, § 1 and art. VI, § 3. The issue would likely be raised whether the conflict between SB 271 and procedural court rules, if any, would be a matter or procedure or a question of substantive law. “[W]hen a statute conflicts with a Supreme Court rule on a matter of procedure, the Supreme Court rule prevails, and the statute is not binding. *Id.*; see also *Maples v. State*, 110 N.M. 34, 36, 791 P.2d 788, 790 (1990) (stating “the law is clear that on procedural matters ..., a rule adopted by the Supreme Court governs over an inconsistent statute’ ”). On the other hand, if the conflict involves a question of substantive law, the statute prevails, and the Supreme Court rule is not binding. See *State ex rel. Gesswein v. Galvan*, 100 N.M. 769, 772, 676 P.2d 1334, 1337 (1984).” *State v. Valles*, 2004-NMCA-118, 140 N.M. 458, 463, 143 P.3d 496, 501

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

SB 271 requires that “the *chief clerk of the court* shall issue an order for the person to remain in custody without bond.” The chief clerk does not have legal authority to issue orders, as opposed to a judge in the district court. The language should be changed from the “the chief clerk” to the “district court.”

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS