

LFC Requester:

LFC Analyst Felix Chavez

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.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}***Date Prepared:** 13MARCH2025*Check all that apply:***Bill Number:** HJR22Original ☒ Correction ☐Amendment ☐ Substitute ☐**Sponsor:** Rep. Nicole Chavez, Rep.
Andrea Reeb, Rep. William A.
Hall II**Agency Name
and Code****Number:** 790 – Department of Public Safety**Short****Person Writing** Matt Broom, Deputy Chief**Title:** Denial of Bail, CA**Phone:** 5757601485 **Email:** Matthew.broom@dps.nm.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NFI	NFI	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NFI	NFI	NFI	N/A	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Similar to HJR9 (2025)

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Proposes to amend Art. 2, Sec. 13 of the New Mexico Constitution to allow for denial of bail by a court of record for a person charged with a felony offense if the prosecution proves by clear and convincing evidence that release conditions will not reasonably protect the safety of any other person or the community. Provides a presumption that, if the person is charged with a dangerous or violent felony offense, release conditions will not reasonably protect the safety of any other person or the community and the court can deny bail. Establishes that the person charged can rebut the presumption by preponderance of the evidence.

FISCAL IMPLICATIONS

No fiscal implications to DPS.

SIGNIFICANT ISSUES

House Joint Resolution 22 (HJR 22) proposes an amendment to Article 2, Section 13 of the New Mexico Constitution regarding conditions for bail. The resolution modifies prior language to provide clarity and requires that the prosecution prove by clear and convincing evidence that release conditions will not reasonably protect the safety of any other person or the community. Previous language required prosecution to prove that no release conditions will reasonably protect the safety of any other person or the community. This resolution also provides a rebuttable presumption that, if a person is charged with a felony offense that has been designated by law as dangerous or violent, then the court of record may presume that release conditions will not reasonably protect the safety of any other person or the community and can deny bail. However, the resolution also provides that the person charged can rebut the presumption by a preponderance of evidence.

House Joint Resolution 9 (HJR 9), introduced earlier in this legislative session, proposes an amendment to Article 2, Section 13 of the New Mexico Constitution that seeks to expand the circumstances under which bail can be denied, including cases where a person is deemed dangerous, poses a flight risk, or has previously failed to appear before a court. It removes the current limitation that bail can only be denied to those charged with a felony, broadening its application to other offenses under certain conditions. Additionally, it eliminates the requirement that only a court of record can make determinations on bail denial.

While HJR 22 would provide much needed additional language and clarity to the criminal detention process that has been hard to work with since these provisions were originally put into the New Mexico Constitution in 2016, these changes are not as significant as those proposed in HJR 9 that provides for denial of bail for defendants who pose a flight risk or had previously failed to appear in court.

The amendment will be put to a vote by the people of New Mexico in a future election.

Rule 5-409 NMRA will need to be amended to correspond with what is outlined in HJR 22 should the people vote for the change. Rule 5-409 NMRA places the burden on the prosecution to prove by clear and convincing evidence that the defendant is likely to pose a threat to the safety of others if released pending trial and that no release conditions will reasonably protect the safety of any other person or the community. HJR 22 slightly changes prosecution's burden to require that the prosecution proves that release conditions will not reasonably protect the safety of any other person or the community. Rule 5-409 would also need to be changed to comport with the rebuttable presumption added in HJR 22.

PERFORMANCE IMPLICATIONS

DPS supports this bill. The denial of bail for certain defendants is a necessary and objective decision that should be based on the substantial risk posed to public safety. Given the nature of some charges and a defendant's history, releasing them into the community in many cases can endanger the well-being of others. There are many cases where no set of conditions, including electronic monitoring or house arrest, would sufficiently mitigate the threat the defendant poses. The risk of reoffending or causing harm in these cases is too great to be overlooked, and there is a strong need to prioritize the safety of potential victims and the community at large. The current law makes this difficult to do. Allowing many of these defendants to be released would create an undue risk to public safety, and therefore, the court's decision to deny bail is warranted. DPS believes this change to the law could have a very positive impact on overall public safety.

ADMINISTRATIVE IMPLICATIONS

No administrative implications to DPS.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill is similar to 2025 HRJ 9.

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

Dangerous and violent offenders will be allowed bail and continue to be out on the streets committing more crimes and putting the general public at risk. New Mexico statistics show that many crimes that occur are oftentimes committed by repeat violent offenders.

AMENDMENTS

None at this time.