



Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

##### Synopsis:

HB59 proposes to increase the basic penalty for second degree felony resulting in the death of a human being from eighteen years to twenty-five years imprisonment.

#### **FISCAL IMPLICATIONS**

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. New laws, amendments to existing laws and new hearings have the potential to increase court hearing time, thus requiring additional resources to handle the increase. Other potential costs noted below in Significant Issues.

#### **SIGNIFICANT ISSUES**

- 1) Adoption of HB59 can be expected to result in litigation over the increase in the basic sentence from 18 to 25 years, while the basic penalty for a second-degree offense is 9 years. The element of death of human being resulting from the second-degree felony appears to satisfy the equal protection analysis provided in *State v. Franklin*, 2018-NMSC-015, para. 17, where the New Mexico Supreme Court considered whether the defendant's equal protection rights were violated because the statute under which he was convicted did not permit him to present evidence to mitigate the mandatory life sentence while other defendants with lesser convictions had that right. The Court held statute did not violate due process because "The imposition of distinct sentencing schemes for first-degree murder and lesser offenses reflects an intent that those convicted of first-degree murder be treated differently from less serious offenders, regardless of the maximum possible penalty. This is a lawful exercise of the legislative authority to distinguish between different levels of offense and establish corresponding sentencing schemes. Because the classes are not similarly situated for these purposes, we do not reach the second step of the equal protection analysis."
- 2) In a challenge to HB59 if adopted, it appears the litigation would consider the legislative determination that second-degree felony resulting in death is different in kind from other second-degree felonies and thus a basic sentence of 25 years is appropriate although most second-degree felonies carry a basic term of 9 years.

#### **PERFORMANCE IMPLICATIONS**

None noted.

#### **ADMINISTRATIVE IMPLICATIONS**

None noted.

#### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None as of January 27, 2026.

**TECHNICAL ISSUES**

None noted.

**OTHER SUBSTANTIVE ISSUES**

None noted.

**ALTERNATIVES**

None noted.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The presumptive penalty for a second-degree felony resulting in the death of a human being will remain 18 years.

**AMENDMENTS**

None noted.