

LFC Requester:

**AGENCY BILL ANALYSIS
2026 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 01/20/2026

Bill No: HB 59-280

Sponsor: Representative Andrea Reeb
Increase Penalty for Certain
Deaths (Second-degree murder)
Short Title:

**Agency Name
and Code** LOPD-280
Number:

Person Writing Mark A. Peralta-Silva

(505) 369-
Phone: 3604 **Email:** mark.peralta-silva@lopdnm.us

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	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: This proposed bill would amend NMSA 1978, Section 31-18-15 to increase the penalty for a “second-degree felony resulting in the death of a human being” from eighteen (18) years, a change recently adopted, to twenty-five (25) years.

FISCAL IMPLICATIONS

Fiscal implications are based on an assumption that the 25-year penalty would currently only apply to the crime of second-degree murder, and in the future any other crime specifically designated as a “second degree felony resulting in the death of a human being.” *See infra*, Significant Issues (discussion of the 2022 passage of HB 68, clarifying the application of basic penalties in NMSA 1978, § 31-18-15(A)).

The vast majority of second-degree murder convictions are the result of first-degree murder charges either resolved by a plea to the lesser offense or where a jury rejects the first-degree culpability and convicts of second-degree instead. Penalty increases for this “lesser offense” of first degree murder is likely to make at least a significant number of defendants more likely to go to trial rather than accepting a plea agreement to a nearly-equal sentence, while meanwhile providing prosecutors with undue plea-bargaining power when offering a *reduced* sentence.

If more higher-penalty trials result, LOPD may need to hire more trial attorneys with greater experience to ensure compliance with constitutional mandates of effective assistance of counsel. Similar concerns would likely apply to prosecutors (DAs and AGs).

That said, the primary fiscal impact of the penalty increase is likely to fall on Corrections if defendants end up with longer sentences. LOPD does not have accurate data regarding the number of people sentenced to Corrections for second-degree murder, but increasing the duration of the sentence by nearly 40% is certainly going to cost Corrections significantly more.

SIGNIFICANT ISSUES

There are several issues with this proposed penalty increase. First, the penalty for this special felony, “second-degree felony resulting in the death of a human being,” was just recently increased from fifteen (15) years to eighteen (18) years. *See* S.B. 96, 56th Legis., 2nd Sess., (N.M. 2024), <https://www.nmlegis.gov/Sessions/24%20Regular/final/SB0096.pdf>. This change

is therefore less than two years old, the 2024 amendment was effective May 15, 2024, and it is unclear what policy or philosophical arguments have been proffered that would justify this increase. The recent increase to this penalty has not apparently deterred or changed individual behavior and it is unlikely that increasing it further will have any deterrent effect not already seen.

Moreover, other enhancements that commonly apply to this type of felony already provide for lengthy penalties beyond the 18 years. For example, if a defendant had prior felonies, then the habitual offender enhancement act would increase the basic sentence by one-year, four-years, or eight-years, depending on the number of priors. Additionally, recent changes to the firearm enhancement statute, provide a five (5) year penalty enhancement to any non-capital felony involving the discharge of a firearm, so that any second-degree murder committed with a firearm is *already* carrying a 23-year sentence.

Second, the 2022 amendment to this statute, *see* H.B. 68, 55th Legis., 2nd Sess., (N.M. 2022), specified that the basic sentence for each noncapital felony is defined by the “felony classification.” Put another way, every noncapital felony falls under a felony class that is designated in the statute for the crime, and only crimes that are specified to be part of a special felony classification receive a penalty different than the general felony. Under the amended special felony classification, “second degree felony resulting in the death of a human being,” **the only crime that falls under this special felony class is second-degree murder.** *See* NMSA 1978, § 31-18-15(A). *See* NMSA 1978, § 30-2-1(B) (“whoever commits murder in the second degree is guilty of a *second degree felony resulting in the death of a human being.*”) (emphasis added). Thus, this bill essentially amends the penalty for only one crime, second-degree murder. All other second-degree felonies, unless otherwise coming under a different special felony class, are punished by the general nine (9) year basic sentence.

Third, and as is already true of the recently increased 18-year basic sentence, this special felony is a much higher penalty than the penalty for other second-degree felonies. *See* NMSA 1978, § 30-2-1(B) (“whoever commits murder in the second degree is guilty of a second degree felony resulting in the death of a human being.”); NMSA 1978, § 31-18-15(A) (second-degree felony resulting in the death of a human being basic sentence is eighteen years). The general second-degree felony applicable to other felonies like drug trafficking, armed robbery, and aggravated burglary (as examples) is nine years. Currently law already doubles that sentence for a second-degree felony resulting in death. If this bill were to pass and be enacted, the difference between a general second-degree felony and second-degree murder would be *16 years*. It is unclear how this change is necessary or a useful exercise of the Legislature’s police power.

Fourth, a penalty of 25 years comes awfully close to the minimum sentence for first-degree murder. First-degree murder carries a basic sentence of life with the possibility of parole, with eligibility for parole starting after thirty (30) years have been served. Functionally, the penalty for first-degree murder can be thought of as thirty (30) years to life. This proposed change creeps closer to the minimum punishment for first-degree murder, and it is unclear how that is appropriate considering first-degree murder either requires deliberation or a killing in the commission of a felony (felony-murder). Criminal sentencing functions best when the punishment fits the crime and the scheme maintains penalty distinctions along the spectrum of culpability.

PERFORMANCE IMPLICATIONS

As noted above, this increase is likely to result in more trials. For instance, a defendant charged with first-degree murder is unlikely to take a plea to second if he knows the penalty is similar to that of first-degree murder; there simply isn't as much of a "bargain" in the plea from a defendant's perspective. LOPD may need to hire more attorneys with a greater level of experience to take these serious cases.

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

Reviewer is unaware whether this legislation is germane under Art. IV, Section 5. It is not a budget bill, analyst is unaware if it has been drawn pursuant to a special message of the Governor, and it was not vetoed following the previous regular session.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS