

LFC Requester:	
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**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 X **Amendment**
Correction **Substitute**

Date 1/21/2026

Bill No: HB 74-280

Sponsor: <u> Andrea Reeb </u>	Agency Name and Code:	<u> LOPD-280 </u>
Short Title: <u> Habitual Offender Statute of Limitations </u>	Number:	
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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:

Presently, a district court *must* enhance a felony sentence when the defendant has one or more prior felony convictions and less than ten years have passed since they completed serving the sentence for the prior felony. NMSA 1978, § 31-18-17.

HB 74 would amend the habitual offender statute to remove the ten-year limitation from the definition of “prior felony conviction” so that any prior felony conviction would trigger a mandatory sentencing enhancement, regardless of the age or nature of the prior felony conviction.

FISCAL IMPLICATIONS

Habitual offender enhancement hearings are a separate phase of the trial process, often requiring an evidentiary hearing including challenges to prior convictions. This amendment would significantly increase the number of cases that involve this separate habitual offender process because none would be time barred. An increase in the number of contentious hearings department attorneys must attend and argue increases the amount of work and would undoubtedly require the assistance of investigators, as tracking down older felony convictions can be difficult and labor intensive, making them harder to verify. Any increase in the demand or need for attorneys or other personnel would bring a concomitant need for an increase in indigent defense funding to maintain compliance with constitutional mandates. Additionally, incarceration is an expensive sanction and sentencing people to longer prison terms inevitably results in an increased use of resources.

The LOPD cost for experienced defense attorneys, including salary, benefits, operational costs, and support staff is \$292,080.16 annually in the Albuquerque/Santa Fe areas, and \$300,569.45 in outlying geographic areas. A 2022 workload study by an independent organization and the American Bar Association concluded that New Mexico faces a critical shortage of public defense attorneys. The study concluded, “A very conservative analysis shows that based on average annual caseload, the state needs an additional 602 full-time attorneys – more than twice its current level - to meet the standard of reasonably effective assistance of counsel guaranteed by the Sixth Amendment.”

https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls-

[sclaid-moss-adams-nm-proj.pdf](#). Barring some other way to reduce indigent defense workload, any increase in the number of serious, complex felony prosecutions would bring a concomitant need for an increase in indigent defense funding in order to keep the LOPD's workload crisis from spreading.

SIGNIFICANT ISSUES

Felonies encompass a vast range of conduct ranging from non-violent property or substance related offenses to serious violent crimes. The current statute's ten-year cap acknowledges that those convicted of felonies can face punishment and then reintegrate to become productive members of society. Punishing felonies past the ten-year point would remove this protection for those who actually do manage to turn their lives around following a felony conviction. For example, at present, an addict may be convicted for possession of cocaine, serve the time required by statute, and successfully learn to healthfully manage their addiction. If that individual then relapses or commits another minor felony thirty years later, they would be subject to an automatic enhancement and the court would be unable to consider their specific criminal history, including their achievements over the preceding decades.

The underlying policy justification for habitual offender enhancements is that the "offender is **deemed incorrigible** not so much because he or she has sinned more than once, but because the offender has demonstrated, through persistent criminal behavior, that he or she is **not susceptible to the reforming influence of the conviction process.**" *Koonsman v. State*, 1993-NMSC-052, ¶ 5, 116 N.M. 112 (emphasis added). Removing the time limitation entirely imposes a lifelong one strike rule that provides offenders with no room for error regardless of their circumstances or evidence that they did indeed reform following the much earlier conviction process.

Habitual offender penalties are already steep and are mandatory—sentencing judges may not suspend or defer most habitual time. While a judge is always allowed to consider older convictions as part of a defendant's criminal history in imposing the discretionary portion of a sentence (the basic sentence for the new felony), removing the ten-year limitation further divests the sentencing court from exercising discretion in sentencing and fails to take into consideration that lower-level felonies should be evaluated on a case-by-case basis to determine what particular harm needs to be addressed and what punishment best addresses that harm.

It is also apparent that increased sentences do little to thwart crime and have little to no deterrent value. The severity of punishment may influence behavior only if potential offenders weigh the consequences of their actions and conclude that the risks of punishment are too severe. But human beings are not always rational actors who consider the consequences of their behavior before deciding to commit a crime. When prisoners serve longer sentences, things only become worse. They are more likely to become institutionalized, lose pro-social contacts in the community, and become removed from legitimate opportunities, all of which promote recidivism. The ten-year cap on prior felonies provides felons with an incentive to reform past the ten years, providing a foundation for lifelong rehabilitation. It should be maintained.

PERFORMANCE IMPLICATIONS

While it is likely that LOPD would be able to absorb some increase in work due to the proposed law, the law will likely result in a need for additional staff, particularly investigators. A defendant may be a felon from another jurisdiction, requiring investigation to confirm the legitimacy of prior offenses. Also, research into whether a conviction in another jurisdiction

counts as a felony in our jurisdiction requires additional research and resources.

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL 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.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS